

Why Cultural Fluency is Important for Family Law

Fareen Jamal, LL.B L.L.M

Collaborative Law Attorney, Accredited Family Law Mediator, recipient, Heather McArthur Memorial, Young Lawyer of the Year Award, 2014

Cultural fluency is particularly important for family law as it is often precisely within the parameters of the marital relationship that individuals are motivated to practice their normative culturally determined ethics. Identity is a very personal and, at the same time, a very collective matter. The formation of cultural identity is fluid, and its relationship to self-esteem and perception is complex.

Throughout history marriage and morality have been intertwined, such that most major family law reforms have been accompanied with great controversy and concern from religious leaders about the decline of marriage and morality. Family is a contentious and emotive subject. Controversies about “the family” touch deep emotional commitments that shape the social and political positions people take and their willingness to defend their position or to compromise. These commitments are culturally informed and raise debates about the kind of society we value and aspire to.

There is greater diversity in family forms and practices than ever before. These changes have precipitated a more complex and nuanced way of thinking about families. But changing the way we think about families – in our own lives, in popular culture, in public policy, in law and in beliefs and practices – is challenging.

Differing parenting styles, and different family structures, informed by different cultural underpinnings, are often misunderstood and judged as inappropriate without a deeper cultural understanding of the multi-layered impacts and intersections of identities. Family law lawyers must be open to the different contexts in which their clients define “family” based on their backgrounds, values and beliefs.

A lawyer's cultural fluency impacts the public's perceptions of the fairness or openness of the Canadian legal system. Lawyers play a vital role in fostering confidence and respect for Canadian legal institutions. A client's experience with the Canadian justice system often starts in the lawyer's office. The lawyer

is the entry point into the system. As a lawyer's professional obligation, it is incumbent upon each lawyer to become culturally fluent.

Failing to become culturally fluent will not result in Samuel Huntington's famed "Clash of Civilizations" but rather a "Clash of Ignorance."

Sample Client List — Keynotes and Training Programs

- Speaker, *Pathways to Power: Female Founders*, Ontario Bar Association, 2017
- Moderator, *Islamic Perspectives on Conflict Resolution*, Ismaili Centre, Toronto, January 30, 2016
- Speaker, *Enforcing Mahr in Canadian Courts*, Six-Minute Family Lawyer, December 1, 2015
- Speaker, *Law Society in the Family and Elderly Law Program*, June 9, 2015
- Keynote Speaker, *Cultural Fluency*, Simcoe County Children's Aid Society, November 26, 2014
- *Cultural Fluency*, Simcoe County Law Association Annual Family Law Program, June 13, 2014
- Speaker, *Cultural Fluency*, Judicial Development Institute (Ontario Court of Justice), January 15, 2014
- *Cultural Fluency for Family Law Professionals*, Association of Family and Conciliation Courts, Los Angeles, May 29 – June 1, 2013
- Master of Ceremonies, *Dispute Resolution in Pluralistic Societies*, Aga Khan Shia Imami Ismaili National Conciliation and Arbitration Board for Canada, February 5, 2013
- Speaker, *Diversity and Cultural Fluency*, Nutshell Program: Best Practices for Family Lawyers in Toronto's Multicultural Society, Toronto Lawyers Association, September 20, 2012
- Speaker, *Cultural Fluency in the Practice of Family Law*, 6th Annual Family Law Summit, Law Society of Upper Canada, May 10/11, 2012

Publications

- Enforcing Mahr in the Canadian Courts”, *Six-Minute Family Lawyer*, (Toronto: Law Society of Upper Canada, December 2015)
- “Enforcing Mahr in Canadian Courts”, *Canadian Family Law Quarterly*, Vol. 32, No. 1 (Toronto: Carswell, March 2013), pp 97-115
- “Cultural Fluency for Family Lawyers”, *Canadian Family Law Quarterly*, Vol. 31, No. 2 (Toronto: Carswell, September 2012)
- “Enforcing Mahr in the Canadian Courts”, *Matrimonial Affairs*, Vol. 24, No. 3 (Toronto: Ontario Bar Association Family Law Section, June 2012)
- “Cultural Fluency for Family Law Lawyers”, *6th Annual Family Law Summit*, (Toronto: Law Society of Upper Canada, May 2012)