

# “IT’S IN THEIR CULTURE”: FAIRNESS AND CULTURAL CONSIDERATIONS IN DOMESTIC VIOLENCE

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This essay attempts to critique the prevailing thinking on culture and cultural competency within the context of domestic violence. Current thinking and presentations of culture usually consists of providing court personnel with essentialist pictures of various groups of people with suggestions on how to work with them. These pictures obscure the reality that cultures are often unstable and generalizations that lead to providing more misinformation. The essay develops a critical framework on the issue and provides specific ways in which a more nuanced understanding of culture is helpful for court personnel as they grapple with how to work with a diverse population.

**Keywords:** *culture; cultural competency; domestic violence; sexual violence; court personnel; cultural misinformation; intersections*

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Culture and cultural competency have emerged as areas of concern for professionals within court systems who have to work with people from different ethnicities and backgrounds. It is truly remarkable that this concern on how to deal with diversity has only recently developed. There has been no sudden increase in large-scale immigration that would make it any more necessary to consider diversity and culture than in the past. Contrary to popular opinion, the United States has always been diverse. However, over the years the issue of culture has been ignored or addressed and tackled ineffectively. In the area of domestic/intimate/family violence, the issue of culture can be contentious. While some groups claim that their practices are culturally sanctioned, their practices may be in direct conflict with how the majority groups act or view the issue. The conflict around cultural practices becomes obvious in the court system when cultural defense arguments are used to bolster particular practices, especially around women and children.

This essay attempts to critique the prevailing thinking on culture and cultural competency within the context of domestic violence. It will develop a critical framework on the issue and provide specific ways in which a more nuanced understanding of culture is helpful for court personnel as they grapple with how to work with a diverse population.

In thinking about intimate partner violence in a cultural context, it is not enough to just theorize male violence as occurring universally in the same manner across cultures. The understanding of intimate partner violence has to be forged within concrete historical and political contexts and interpreted within specific communities and societies. It is critical to consider intersectionality in the following contexts:

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- how these experiences manifest themselves in the population in the area of intimate partner violence,
- how the experiences of the professional can either exacerbate or alleviate the concerns and situation of the victims of domestic violence, and
- how the context within a particular court and court system can structure both the experience of the litigants as well as court personnel.

In order to contend with differing opinions, values, and viewpoints, various agencies have prepared written materials<sup>2</sup> that provide professionals many ways in which they can work with diverse populations. Much of the information centers on individual actions that professionals can undertake in order to become culturally competent. Additionally, some contain information on institutional concerns surrounding diversity. As professionals continue to work on improving their response to diversity, the materials and trainings are useful, but not complete.

The trainings and the materials that are provided to assist court personnel and others who work within the sphere of the courts are flawed. The majority of the materials contain a litany of characteristics of different groups with solutions on how to work with individuals that represent a particular racial or ethnic group. This view of culture and groups that promotes a stable pattern of characteristics is fundamentally essentialist and based upon a binary or dichotomous view of the population—“whatever we are they are not and vice versa.” Certain aspects of a particular culture may be true of particular individuals or families within a particular space and time period. These aspects are not true for everyone from that group at all times and in all locations. Focusing on one or more aspects of a group and holding the generalization to be true of all aspects makes it difficult to truly assess the circumstances of a case because of the difficulty to understand others through the limited lens of the observer. The complexity of culture is enhanced when the issue of domestic and sexual violence is added to the mix and courts attempt to navigate this minefield, establish credibility, and make fair decisions.

Many providers also attend seminars where representatives from these groups provide additional characteristics of behaviors. In the context of domestic violence, cultural competency has meant that court personnel are taught how to understand and assess particular situations, determine feasible solutions, provide referrals, and work with victims, perpetrators and families from different communities using cultural characteristics to shape a just outcome. While using generalized cultural characteristics this may work for professionals in some cases, there are serious gaps, concerns, and challenges with these processes. As stated earlier, much of the material on culture and cultural competency contain stable behavioral characteristics of various groups of people, usually based on race or ethnicity, and then instructions are provided on how to deal with individuals from these various groups.

### **THE PROBLEMS OF “PACKAGED PICTURES OF CULTURE(S)”**

The idea of culture is a few centuries old. Many theories have been generated to explain the notion of culture and what it entails. Over the years, culture has come to be associated with ethnicity and race in order to explain differences between groups of people. Theories associate culture with norms, values, and traditions that are passed from generation to generation. Such theories have led to the development of lists containing characteristics of groups of

people. Such an understanding of culture provides comfort for advocates and professionals working in domestic violence by making immediate sense of behaviors that are different.<sup>3</sup>

While such a formulation was useful at a particular time in history and served many purposes, the relevance of such understanding in the context of complicated global economies is problematic. Thinking of culture as fixed leads us to make generalizations based only upon ethnic or racial identification. Such thinking conveniently overlooks the intersection of other categories such as class, sexual orientation, disability, immigration status, and so on. Further, none of these categories are fixed in time or one-dimensional. All these categories intersect in individuals and groups differently and change over time as the social and political landscape changes.

An essentialist and binary view gives rise to neat and tidy pictures of culture(s) or as Narayan<sup>4</sup> states, "the packaged picture of culture." The essentialist picture represents cultures as being distinct and separate, obscuring the reality that all the boundaries between cultures are human constructs and that time and space bind all labels used to demarcate the boundaries.<sup>5</sup> For example, a construct such as the "West" is bound by the time period in which it was constructed. Although today, the idea of the West contains elements attributed from ancient Greece all the way to the United States, historically this has not been the case. Similar arguments can be made for all other cultural groups. In the same vein, individuals are also assigned to specific cultures in obvious and uncontroversial ways. As a result, we then think that we know as a simple matter what culture or group we belong to. So, when we are assigned to a cultural group such as "American," do we know what we have in common with the million other Americans? Or when we state that African American or Asian victims behave in ways that are true for all of them over time and space? Critical reflection suggests that such assignment is less than simple and is affected by numerous methods of classification.<sup>6</sup>

Assigning traditions, values, beliefs, and practices to any culture as a stable element obscures the ways in which the historical and political process shapes how a particular tradition or practice comes to occupy a central position within a culture. Those with power in communities can take up any practice and discard others at will at the same time disregarding those that might be important to other subgroups. Such a practice is especially true when it comes to women's issues, children's issues, and violence against women, and domestic violence in particular.<sup>7</sup> Numerous studies<sup>8</sup> in various parts of the world reveal ways in which dominant groups undercut struggles around women's rights, violence against women and children, and domestic violence. Changes in practices that affect women are often labeled as cultural loss or betrayal. The packaged pictures of cultures can pose serious problems for women's issues and, by extension, domestic violence.

Therefore it is important to move away from static descriptions of culture that provide homogenous descriptions of people to one that reveals the sharp differences in values among people of the same group. Yet we also need to recognize that there are strong affinities among people of different groups allowing us more hope in developing an agenda on domestic violence across cultures that meet the needs of women in different groups. One of the lessons learned in the early feminist movement(s) was that there was a serious danger of imposing sameness on different groups of women yet there were numerous problems that arose when there was too much focus on difference.<sup>9</sup> While there is a need to account for differences arising from differing contexts, there is an equal risk of replacing female essentialist analysis with culturally essentialist analysis. Both sets of essentialisms can be problematic when it comes to understanding and developing helpful interventions for victims of domestic violence and their offenders.

## II. THE IDEA OF CULTURE

It is with this understanding that an attempt was made to develop a more complex understanding and definition of culture that would encompass the ideas explained above and a set of principles on how to develop competency in the area of domestic violence. A definition of culture that portrayed it as a stable pattern of values, traditions, and beliefs that were handed down from one generation to another so that the second generation could successfully adapt to the first is unacceptable. It was this understanding of culture that has over the past led to the production of the packaged picture of culture based on group characteristics that exclusively focused on the dimensions of race or ethnicity. Such a limited focus means that, over generations, one could trace behaviors or norms or traditions that belonged to any one racial or ethnic group without any analysis of class or gender differences.

A more critical definition that arises out of our current state of knowledge refers to the shared experiences or commonalities that groups and individuals within groups have developed in relation to changing political and social contexts.<sup>10</sup> Critical thinking requires that culture not only has to include the human constructs of race, ethnicity, gender, class, age, sexual orientation, immigration, disability, and all other axes of identification, but also has an analysis of power structures and the historical context of oppression. These categories however, cannot be understood as isolated and discrete from each other but must be examined as they intersect, interlock, and interconnect to produce differences within and between groups. The intersections and interconnections change as the social and political landscape changes.

Intersectionality means that first, we must move away from thinking that culture may be understood only in terms of race and ethnicity and instead think about how all of these categories intersect in complex ways for both individuals and groups. Therefore, how a poor Asian American woman experiences domestic violence in New York City might have certain elements in common with how a lesbian Italian American experiences domestic violence in Iowa but not have much in common with how another Asian American woman might experience violence in California. Similarly, a fourth-generation African American man growing up in Louisiana may share something in common with a young African American lesbian living in Los Angeles and a young Iberian mother who just immigrated to New York City. As a group, these three may also share something in common with a Chinese American gymnast who is an atheist living in Des Moines, Iowa with a young Chinese adopted by Jewish parents, and with a disabled 10-year-old Chinese American girl growing up in Minneapolis, Minnesota.<sup>11</sup>

These examples illustrate that culture and cultural identities are complex, multifaceted, and changing. There is much that we know and much that we do not know or will ever know. In the complex interplay around culture and cultural identity we cannot overlook the long history of oppression in the United States and how each of the groups that are represented in the examples have experienced and may continue to experience varied forms of oppression. While it may appear that a linking factor for marginalized groups is oppression, nevertheless, this factor should always be contextualized through intersectional analysis.

Ethnicity, class, and sexual orientation have commonalities, but individuals and groups experience each and all of these in conjunction in different ways depending upon location and a particular historical context. Space and time therefore bind cultures. In attempting to teach, assess, or intervene it is critically important that the professionals understand the context that produces the different experiences. Intersectional analysis shifts us away from the dichotomous, binary thinking about structures, power, organization, and privilege that

have been far too common in the ways we have conceptualized difference and the resulting challenges in working with different people. Intersectionality focuses attention on specific contexts, distinct experiences, and the qualitative aspects of equality and discrimination. It makes room for understanding complexity including the structural and dynamic dimensions of the interplay of different policies and institutions so that interventions for victims of intimate partner violence can meet the needs of the survivor. Without a complex understanding of the social and cultural factors, interventions and programs cannot achieve their full potential. These issues and concerns cannot be overlooked in any teaching or practice of culture and cultural competency. So, any training on cultural competency has to move away from presenting a packaged picture of cultures to an interrogation of power in the analysis and including material on entangling complex issues without losing the nuances.

The following are some of the principles and assumptions that should guide the work:<sup>12</sup>

- All cultures are contradictory—there may be widespread acceptance of both domestic and sexual violence as well as long-standing traditions of resistance.
- Survivors are not only part of different communities but also unique individuals—their responses to violence and intervention is shaped by multiple factors.
- Competency has to be developed both at the individual and the institutional level—balancing standardization with flexibility. Institutions have to develop policies and protocols that clearly establish the need for building competency at all levels.
- It is absolutely essential that education and training be provided to all advocates and professionals in all fields. Training cannot and should not be a one-time, one-shot deal. Rather there should be training over time and each segment has to build on each other with each level adding complexity.
- While domestic and sexual violence occurs in every community and group, it is critical to recognize and work against institutional disparities that prohibit equal access and/or jeopardize survivors from marginalized communities.
- Competency is a complex process that includes the development of awareness and skills as well as a change in attitudes and biases.
- Information on particular cultures provided by informants or obtained from other sources should always be understood critically. Be particularly aware of stereotypes and the role they play in awareness.
- It is essential to reach out to, work with, and collaborate with different communities and encourage contradictory and diverse perspectives from a variety of people and resource. One voice cannot speak or represent any particular group of people.
- Culture cannot and should not be used as an excuse for essentially bad behavior.

In conclusion, understanding culture, cultural difference, and cultural competency in the context of domestic and sexual violence is challenging work. There are no simple answers that will produce the just outcome that we all want. Engaging in a difficult process through a critical lens and recognizing our own blinding preferences in understanding others may go further than using essentialist notions of particular cultures.

## NOTES

1. For identification purposes only.
2. To name a few such agencies: the Multicultural Institute in Washington DC and The Cross-Cultural Health Care Program in Seattle provide training and technical assistance on the issue. Similarly, authors include

ELIZABETH RANDALL-DAVID, CULTURALLY COMPETENT HIV COUNSELING AND EDUCATION (1<sup>st</sup> ed. 1994); Jo-Anna Rorie et al., *Primary Care for Women: Cultural Competency in Primary Care Services*, 41 J. NURSE-MIDWIFERY 92 (1996); THE CALIFORNIA ENDOWMENT, PRINCIPLES AND RECOMMENDED STANDARDS FOR THE CULTURAL COMPETENCE EDUCATION FOR HEALTH CARE PROFESSIONALS (M. Jean Gilbert ed. 2003).

3. SUJATA WARRIER, CULTURAL HANDBOOK 3 (Marissa Dagdagan ed., Family Violence Prevention Fund 2003).

4. Uma Narayan, *Undoing the "Package Picture" of Cultures*, 25 SIGNS: J. WOMEN IN CULTURE & SOC'Y 1083 (2000).

5. *Id.* at 1083.

6. *Id.* at 1084.

7. There are a number of scholarly works that deal with the use of culture in the discussion of women's issues and violence against women. See KUM-KUM BHAVNANI ET AL., FEMINIST FUTURES: RE-IMAGINING WOMEN, CULTURE AND DEVELOPMENT (2003); CHANDRA TALPADE MOHANTY, FEMINISM WITHOUT BORDERS: DECOLONIZING THEORY, PRACTICING SOLIDARITY (2003).

8. See *supra* note 7. See also SUSAN MOLLER OKIN, IS MULTICULTURALISM BAD FOR WOMEN? (Martha Nussbaum et al. eds., 1995); Martha C. Nussbaum, *Introduction to WOMEN, CULTURE AND DEVELOPMENT: A STUDY OF HUMAN CAPABILITIES 1* (Martha Nussbaum & Jonathan Glover eds., 1996); Martha Chen, *A Matter of Survival: A Women's Right to Employment in India and Bangladesh*, in WOMEN, CULTURE AND DEVELOPMENT: A STUDY OF HUMAN CAPABILITIES 37 (Martha Nussbaum & Jonathan Glover eds., 1996); Onora O'Neill, *Justice, Capabilities, and Vulnerabilities*, in WOMEN, CULTURE AND DEVELOPMENT: A STUDY OF HUMAN CAPABILITIES 140 (Martha Nussbaum & Jonathan Glover eds., 1996); Seyla Benhabib, *Cultural Complexity, Moral Interdependence, and the Global Dialogical Community*, in WOMEN, CULTURE AND DEVELOPMENT: A STUDY OF HUMAN CAPABILITIES 235 (Martha Nussbaum & Jonathan Glover eds., 1996); Amartya Sen, *Gender Inequalities and Theories of Justice*, in WOMEN, CULTURE AND DEVELOPMENT: A STUDY OF HUMAN CAPABILITIES 259 (Martha Nussbaum & Jonathan Glover eds., 1996).

9. See *supra* note 7. See also OKIN, *supra* note 8.

10. SUJATA WARRIER AND JOELLEN BRAININ-RODRIGUEZ, FROM SENSITIVITY TO COMPETENCY: CLINICAL AND DEPARTMENTAL GUIDELINES TO ACHIEVING CULTURAL COMPETENCY (Family Violence Prevention Fund 1998).

11. MARTHA MINNOW, NOT ONLY FOR MYSELF: IDENTITY, POLITICS, AND THE LAW (1997).

12. WARRIER, *supra* note 3.

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