

The Impact of South Asian Cultural Dynamics on Family Law Dispute Resolution

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1) Introduction: Dispute Resolution & Canada's South Asian Community

In the practice of dispute resolution ignoring the cultural background of the disputants and its implications for the negotiation is akin to ignoring an elephant in the room. The ability to differentiate your client's individual preferences from their culturally based values is essential to understanding their reality, the underlying interests behind their position, and their alternatives to the negotiation.¹

With Canada's increasing diversity, family legal services that have historically been designed to cater to middle-class North-American Caucasian families must be cultivated to similarly meet the needs of Canada's growing minority demographics. Based on the 2006 census, visible minority communities represent over sixteen percent of Canada's population and South Asians constitute the largest visible minority group in country.² As a result cultural competency is essential to providing meaningful access to dispute resolution alternatives such as mediation, or arbitration, especially in family law.

Culture has dynamic implications and involves a consideration of multiple intersecting variables that shape the identity of individuals and has been described as:

[A] composite structure of beliefs, mythology, religion, ideas, sentiments, institutions and objects internalized in varying degrees by its members, and which guides and regulates their thoughts and conduct. The culture of a given group is the sum of the shared ways of thought, reactions, rituals, customs, habits and behaviour acquired directly or vicariously by its members. It includes child-rearing practices, kinship patterns, marriage rites, diet, dress, music and art. Except for artifacts, most of the elements of a culture are intangible. They are things which its members carry in their minds and as such are a potent or motivational force in moulding and shaping their dreams, aspirations and conduct – their personality. In short, one's cultural background is inseparable from one's psychological processes.³

¹ Jessica R. Dominguez, "Note and Comment: The Role of Latino Culture in Mediation of Family Disputes" (1999) 1 *J. Legal Advoc. & Prac.* 154 at 170.

² Brodie Fenlon, "Canada's visible minorities top five million" *The Globe & Mail* (2 April 2008), online: <http://www.theglobeandmail.com/servlet/story/RTGAM.20080402.wcensusmain0402/BNStory/census2006/home>.

³ Harry Hendrick, eds., *Child Welfare and Social Policy* (Bristol: The Policy Press, 2005) at 179.

Culture also intersects with other multiple descriptors such as socioeconomic status, race, nationality, caste, education, sexual orientation, gender, age, disability and degree of acculturation. Collectively these variables fundamentally affect our values, perceptions, beliefs and behaviour.⁴ Though individual behaviour cannot be predicted based on cultural considerations alone, an understanding of cultural patterns enhances dispute resolution practice by empowering practitioners to better understand their clients' values and interests and achieve enduring settlement outcomes.⁵

This paper aims to contribute to the cultural competency of dispute resolution practitioners by canvassing the distinctive aspects of South Asian culture and their implications for family law dispute resolution. The paper is divided into three parts. The first part of the paper will analyze the risks and benefits of a compartmentalized approach to culture with respect to the South Asian community.⁶ The paper will then outline trends of South Asian perceptions that impact their interactions with Canada's judicial system and briefly discuss the potential benefits of alternative dispute resolution for the community.

The second part of the paper will then canvass three frameworks for the analysis of cultural implications before applying the general themes within them to South Asian and North American cultural trends vis-à-vis the development of self-identity, courting and marriage rites, childrearing and kinship practices. The paper will then discuss the impact of the acculturation

⁴ Cynthia A. Savage, "Culture and Mediation: A Red Herring" 5 *Am. U. J. Gender & Law* 269 (1996) at 273. See also *supra* note 1 at 161.

⁵ Michelle LeBaron, "Mediation, Conflict Resolution and Multicultural Reality: Culturally Competent Practice" in Edward Kruk, ed., *Mediation and Conflict Resolution in Social Work and the Human Services* (Chicago: Nelson-Hall Inc., 1997) at 321.

⁶ Compartmentalization in this context refers to the categorization of cultural trends that may for example be common in a particular country, or geographical region. See also, Christiane Fellbaum, *Wordnet An Electronic Lexical Database for the English Language* (Cambridge Mass: MIT Press, 1998) s.v. "compartmentalization".

process on Canada's South Asian Community, and explicate South Asian perspectives on divorce.

The third part of the paper will discuss the impact of South Asian family dynamics on the practice of family law dispute resolution. The paper will canvas its affect on defining the parties to the dispute, recognizing the disputants' interests, the power relations between them and their best alternatives to the negotiation (BATNA). The paper will conclude that negotiation planning and preparation must include a culturally sensitive approach to all of the aforementioned consideration otherwise dispute resolution practitioners may misinterpret the dynamics at play in the negotiation and ultimately risk doing a disservice to their clients.

2) The Risks and Benefits of a Compartmentalized Approach to Culture

The term South Asian generally refers to immigrants of the South Asian subcontinent.⁷

Statistics Canada defines a South Asian as follows:

[A]ny person who reports an ethnicity associated with the southern part of Asia or who self-identifies as part of the South Asian visible minority group. This definition encompasses people from a great diversity of ethnic backgrounds, including those with Bangladeshi, Bengali, East Indian, Goan, Gujarati, Hindu, Ismaili, Kashmiri, Nepali, Pakistani, Punjabi, Sikh, Sinhalese, South Asian, Sri Lankan and Tamil ancestry. South Asians may have been born in Canada, on the Indian sub-continent, in the Caribbean, in Africa, in Great Britain or elsewhere.⁸

⁷ Salam Rifat, "Am I South Asian? Personal, Organizational and Political Understandings of Second Generation South Asians' Ethnic Identity" (Paper submitted to the 2005 Annual Conference of American Sociological Society) online: allacademicresearch.com

<http://www.allacademic.com/meta/p_mla_apa_research_citation/0/1/9/3/0/pages19309/p19309-1.php>.

⁸ Kelly Tran, Jennifer Kaddatz and Paul Allard, "South Asians in Canada: Unity through Diversity" in Statistics Canada (2005) Catalogue No. 11-008, online: statscan.gc.ca <<http://www.statcan.gc.ca/pub/11-008-x/2005002/article/8455-eng.pdf>> at 21, the article also notes that "according to the 2001 Census, the vast majority of people in the South Asian visible minority group also reported at least one South Asian ethnic origin".

Thus it becomes evident that, though there are common characteristics within the South Asian community, there is significant diversity within and among this minority group.⁹ As a result, it is essential to bear in mind the risks and benefits associated with a compartmentalized approach to cultural sensitivity.¹⁰

First, individual behaviour is not always attributable to cultural association.¹¹ Further, there is a risk of reinforcing stereotypical perceptions of members of minority communities which may inadvertently undermine the object of cultural competency and reinforce prejudice.¹² Overemphasis of cultural differences can also lead us to overlook commonalities, acknowledgment of which often aid in understanding and respecting divergent perspectives.¹³ To equate culture and ethnicity is also a mistake, as it undermines the influence of sub-cultural memberships and other intersecting variables on individual identity.¹⁴

Conversely, heavily weighted consideration of the heterogeneity within minority groups may lead us to ignore apparent general trends with respect to the cultural contexts of family law disputes.¹⁵ A conscious awareness of these trends enables practitioners to develop a better understanding of the culture based values and interests that underscore the client's position, which on a mere cursory evaluation can seem irrational or confusing.¹⁶ It empowers practitioners to ask the right questions and make appropriate power and BATNA analyses' by demystifying cultural dynamics that influence the negotiations.¹⁷ The key is to take a balanced approach to the

⁹ *Ibid.*

¹⁰ *Supra* note 5 at 321, see also *supra* note 6.

¹¹ *Supra* note 5 at 321.

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Supra* note 4 at 273.

¹⁵ Howard H. Irving & Michael Benjamin, *Family Mediation: Contemporary Issues* (Thousand Oaks: Sage Publications, 1995) at 309.

¹⁶ *Ibid.*

¹⁷ *Supra* note 5 at 321.

consideration of culture-based values in the context of the complexity of individual identities.¹⁸ On a broader level, developing cultural competency in the provision of family legal services will enable minority groups to recognize the benefits they might reap from a more tailored form of these services that are at present, significantly under utilized by such groups.¹⁹

a. The Benefits of Alternative Modes of Dispute Resolution for South Asians

Generally speaking, South Asians views Canada's court systems as unwelcoming and are cautious about encountering prejudice within the system.²⁰ They often do not understand the complexities of fair process or its purpose and will invest more authority in professionals than mainstream clients do.²¹ As a result, alternative dispute resolution services could benefit the South Asian community by alleviating or circumventing some of the concerns or apprehension members of the community have regarding more hierarchical and formal judicial processes. As will be revealed, more informal processes of family dispute resolution can go a long way in addressing some of the privacy concerns that resonate with South Asians who may still considered divorce to be a stigmatizing experience and consider family problems as innately private and personal.

¹⁸ *Supra* note 15 at 309.

¹⁹ *Supra* note 5 at 325.

²⁰ Michelle LeBaron Duryea & J Bruce Grundison, *Conflict and Culture* (Victoria: UVic Institute for Dispute Resolution, 1993) at 71-72.

²¹ *Ibid.*

3) East & West Dichotomies: Frameworks for Cultural Considerations

Some of the general dichotomies drawn between cultures of the East as compared to those of the West are relevant to Canada's South Asian minority. It is often the tension between Eastern and Western values that are a basis for conflicts in South Asian families, particularly disputes that are intergenerational in nature or between a second-generation South Asian and his or her first generation partner.²² University of British Columbia Law professor, Michelle LeBaron identifies three dichotomies that broadly differentiate Eastern cultures from Western ones and has labeled them as follows: Individualism vs. collectivism, traditional vs. modern and high context vs. low context.²³ Though there are many similarities between these three comparative models, each is briefly expounded upon below.

Individualist values emphasize independence, self-reliance, self-fulfillment, frankness, and hedonism.²⁴ By contrast collectivist values include modesty, filial piety, harmony, moderation, role based obligations and fulfillment of group needs.²⁵ Though individuals from all cultures have collectivist and individualist tendencies, LeBaron points out that those from Western cultures are generally more individualistic, while those from the East are generally more collectivist.²⁶

The modern vs. traditional dichotomy recognizes similar distinctions as those considered by the individualist/collectivist distinction.²⁷ Modern cultures represent autonomous, goal oriented, formalized and impersonal values that emphasize specialization and professionalism,

²² *Ibid* at 73.

²³ *Supra* note 5 at 321.

²⁴ *Ibid.*, at 321-322.

²⁵ *Ibid.*, at 322.

²⁶ *Ibid.*

²⁷ *Ibid.*, at 323.

while traditional values emphasize a focus on familial dynamics, relationship priorities, implicit and assumed interactions and holistic views.²⁸

The high/low context dynamic differentiates high context cultures as those that similarly are characterized by individualism, overt communication and an emphasis on uniqueness of identities and heterogeneity, while low context cultures feature a collective identity-focus, covert communication and homogeneity.²⁹ These general divisions offer a foundation toward a deeper understanding of South Asian family dynamics and serve as a precursor to the more specific cultural considerations that follow.

a. Comparative Analysis: South Asian Relationships and Marriage

Some of the most fundamental differences between North American relationships as compared to South Asian relationships are the different assumptions that these relationships are based upon.³⁰ North American relationships are premised on a private and mutual courting process which progresses towards a mutually agreed upon interaction that meets the needs of both people.³¹ Though one's partner may be considered an extension of them, neither individual is defined by the relationship and is therefore relatively free to terminate it if their needs are not being satisfied.³² By contrast, South Asian relationships are often defined by a social hierarchy that has predetermined familial roles and expectations.³³ Roles such as husband or wife, mother

²⁸ *Ibid.*

²⁹ *Ibid.*, at 324.

³⁰ Kauser Ahmed, "Adolescent development for South Asian American Girls in Sangeeta R. Gupta, ed., *Emerging Voices* (Walnut Creek: Altamira Press, 1999) at 42.

³¹ *Ibid.*

³² *Ibid.*

³³ *Ibid.*

or daughter, father or son, aunt or uncle, mother-in-law or son-in-law are all scripted and call for very specific behaviours and responsibilities.³⁴

Thus while a North American marriage is often premised on a gradually developed relationship wherein roles are negotiated among them and form the contextual expectations of the relationship, South Asian interactions between husband and wife are guided by cultural scripts, as are expectations of each other within the marriage.³⁵ It is this social and familial system of predetermined interactions that facilitates traditional South Asian courting rites such as arranged, partially arranged, or modern arranged marriage.³⁶

The cultural expectations of family roles are instilled within members of the South Asian community from birth and continue through adulthood. Childhood development, as will be seen, influences the contrast between North American interactions, that offer tremendous control and freedom in the management of familial and romantic relations, and South Asian interactions, which are tightly restricted, with a view to preserving kinship and stability in South Asian social systems.³⁷ As a result decisions are always strongly influenced by considerations of the family as well as the family's pride, honor, and respect within the community.³⁸

³⁴ *Ibid.*, at 42-43. South Asian languages are indicative of the detailed degree to which these relationship interactions are scripted. Whereas in English the terms "Aunt" or "Uncle" are generally used to describe a parents' siblings or close family friends, in most South Asian languages every relationship has its own distinct descriptor by which specific family member relationships are immediately apparent.

³⁵ *Ibid.*

³⁶ The trend of arranged marriages still prevalent in South Asian communities, have evolved to include many variations. As an example, partially arranged marriages are those where the parents simply introduce potential partners to the groom or bride who ultimately makes the final decision. The underlying essence of this type of courtship ritual is that the family is integrally involved in the partner selection process as the partner will be considered an extension of the family. Family considerations are often based on, among other things, socio-economic status, level of education, class, caste and interfamilial compatibility with respect to the potential spouse's family.

³⁷ *Supra* note 30 at 43. Many South Asians attribute the lower comparative divorce rates to these cultural differences.

³⁸ *Ibid.*

b. Comparative Analysis: South Asian Child-Rearing Practices

Marked differences between a North American Upbringing and a South Asian one support the individual/collectivist analysis described above. From early childhood North American children are weaned, toilet trained and disciplined earlier as compared to South Asian children who are often groomed and hand fed by their parents well beyond toddlerhood.³⁹ Further, South Asian children are encouraged to bond with multiple caregivers with a view to fostering group loyalty over individual attachment. As the child grows they begin to assume adult obligations associated to gender roles: while boys are encouraged to cultivate skills that prepare them for the workforce, girls are groomed to maintain household responsibilities.⁴⁰ The girl is considered a temporary member of the family, one whose adult life responsibilities ultimately begin after marriage as a wife, mother and daughter-in-law.⁴¹ It is part of her parents' obligation to cultivate her for this role by instilling attributes prized in a daughter-in-law or wife such as modesty, adaptability, honor and respect, all of which prepare her for life within a new extended-family – that of her husband. Boys, on the other hand, are often prized, as they are the future caretakers, protectors and providers of the family unit, including the parents in old age; they will continue the family traditions and carry forward the name.⁴² It is these foundations that form the basis of an individualist or a collectivist lens fostered in preparation for adulthood in either culture.⁴³ In the South Asian culture the keen awareness of self-interest or individual identity is muted because a South Asian identity is often defined by their roles and relationships within the family and the community, commitments and priorities therefore lie with the family over the self.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, at 41.

⁴¹ *Ibid.*

⁴² *Ibid.*

⁴³ *Ibid.*, at 39-40.

c. Second-Generation South Asians and the Assimilation Process

The traditional South Asian dynamics as explicated above are enormously impacted when taking place within a western context such as Canada. Though the transition has clear impacts on immigrants, the dynamics mostly impact second-generation South Asians who, having grown up in the West, often struggle to reconcile the contrasting expectations of their native cultural heritage with the dominant cultural paradigm in which they live. While their parents continue forward traditions and instill family based cultural values, second-generation South Asians are highly cognizant of the western values that permeate their mainstream social interactions. As are their parents, who actively attempt to preserve and pass on the social values that were present in the South Asian subcontinent when they grew up, even though cultural norms on the subcontinent may not be the same since they immigrated.⁴⁴

This phenomenon is by no means unique to South Asian communities but leads second-generation minorities to face complex and difficult choices, attempting to balance competing expectations of their contrasting paradigms. This balancing is often referred to as a process of acculturation, whereby an individual or group is adapting to another culture by adopting some of its traits or values.⁴⁵ Data indicates that younger generation South Asians are moving towards more egalitarian relationships indicative of assimilation to Western cultural trends.⁴⁶

⁴⁴ Sangeeta R. Gupta, "Walking on the edge: Indian-American women speak out on dating and marriage" in Sangeeta R. Gupta, ed., *Emerging Voices* (Walnut Creek: Altamira Press, 1999) at 122.

⁴⁵ Pratibha Reebye, "Child Custody-Access Evaluation: Cultural Perspectives" online: Priory.com <<http://www.priory.com/psych/custody.htm>>.

⁴⁶ *Supra* note 44 at 137. For example the majority of second generation South Asian women expect to have a career while South Asian men increasingly expect to participate fairly equally in household responsibilities.

d. South Asian Perspectives on Divorce

Theoretically speaking, the concept of divorce strikes at the very root of South Asian cultural values, where the interests of the family take precedent over self interest.⁴⁷ Generally divorce is somewhat accepted in extreme situations such as physical abuse, however, it remains a social taboo and is often considered an option of last resort for South Asians.⁴⁸ It is the women who bear the brunt of the often harsh social stigma associated to divorce; while a divorced man is able to remarry with much less difficulty, a South Asian woman, especially one with children will face extremely difficult prospects for remarriage especially within the community.⁴⁹ However the conception of divorce is quite different for those further on the continuum of acculturation, in fact a survey of South Asian women revealed that ninety-four percent of them believed divorce was an option for an unhappy marriage.⁵⁰ However, while there are strong attitudinal shifts occurring both with respect to marriage and divorce, whereby marriage is increasingly becoming an interaction between two individuals and a basis of companionship rather than a social structure, views regarding divorce remain transitional.⁵¹ Respondents to the same survey, when asked about divorce, specifically mentioned the use of marital counseling to avoid divorce.⁵² Thus ultimately the decision to divorce is made courageously and often in defiance to the family's expectations of working through the difficulties.⁵³ The process is

⁴⁷ Sangeeta R. Gupta, "Forged by Fire: Indian-American women reflect on their marriages, divorces and on rebuilding lives" in Sangeeta R. Gupta, ed., *Emerging Voices* (Walnut Creek: Altamira Press, 1999) at 194.

⁴⁸ *Supra* note 44 at 139.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ *Ibid.* There are many well entrenched traditional dispute resolution mechanism in India that address marital conflict in a more familial way, often elders within the family or village panchayats will mediate or arbitrate the dispute. See Geetha Ravindra, "Institutionalizing Mediation in India" (2002) 10 *Resolutions* online:<<http://www.courts.state.va.us/drs/resolutions/june2002/institutionalizing.html>> .

therefore one that is alienating, stigmatic, painful and contrary to one's culturally inclined sense of identity.⁵⁴

4) Implications for Family Law Dispute Resolution:

The South Asian cultural dynamics as explicated serve to enhance awareness about some of the ways in which those dynamics directly impact dispute resolution in a family law context. Experienced practitioners can utilize this information to conduct culturally sensitive client screenings and in formulating negotiation plans that more thoroughly investigate the implications of culture on the negotiation, some of which are explored in more detail below.

a. Communication in a South Asian Marital Dispute

The cultural implications on communication in South Asian family relationships will inevitably spill over into the mediation context. Communication in Eastern cultures is often indirect and profoundly shaped by role based expectations. South Asian women, taught to be submissive or passive may have a difficult time confronting her soon to be ex-husband or his family face-to-face. Further the extended-families may exert pressure towards reconciliation because they are not aware of intimate problems between the couple that are considered taboo to discuss. The prospect of divorce is often considered a threat to the family's reputation and can accordingly escalate in hostility if each party feels disrespected. Consequently, if children are involved they may be confused by the contrast in the way their parents are responding to the marriage dissolution as compared to their North-American friends whose parents have amicable relations after the divorce. Thus degree of acculturation of the children, and the traditional

⁵⁴ *Supra* note 47 at 195.

values of the parents of a divorcing couple will have a direct affect on considerations regarding the parties interests and alternatives to the negotiation.

b. Defining the Opposing Parties: The Role of Extended-Family

Since extended-families play an integral role in South Asian family dynamics often when a South Asian marriage breaks down, the extended-family plays is intimately involved in the dissolution. In fact extended-family interactions or intergenerational clashes can often be the basis of the termination. Not unlike other Eastern cultures, issues that based on western conceptions might be considered intimate matters between partners, such as whether or not to have children or move away from the extended-family are often family matters in the South Asian context and can actually be extended-family driven disputes. It is then no surprise that extended-families can often be well entrenched in a marriage dissolution process. Further, the prospect of divorce can become a matter of family honour and while parents may support the wishes of their children to dissolve an unhappy marriage, they will take a vested interest in protecting and supporting their divorcing children through a threatening and volatile process. They may want to be involved often because they themselves are burdened with guilt and self-blame over the failure of the marriage. When children are involved, grandparents may also take a strong interest in decisions made regarding custody and access based on strong kinship relations. Thus underlying interests in South Asian family disputes can quite often be based on the interests of the extended-family and its reputation within the community.

c. Recognizing Individual Interests

Much literature concerning negotiation speaks of the tension between competitive moves aimed at gaining individual advantage and cooperation to create value jointly.⁵⁵ The prioritization of individual advantage is at odds with a group-centric culture that inculcates, from a young age, an emphasis of family interest over individual needs. As a result both members of a South Asian couple going through a divorce will have a difficult time with identifying themselves outside of the family context. Since those relations define them, and the marriage is often premised on role based expectations, South Asians will often feel that they have lost their purpose or self-identity when the marriage has failed and that they have failed their family and community. Where children are involved, they may often express an exaggerated shift in their identity focus to their role as parents, giving up on their role as wife or husband. It can be a very difficult comprehensive task for those facing divorce to recognize their individual identities and concomitant individual interests in the negotiation. It may be the case that this is the first time that he or she has been encouraged to consider his or her own needs ahead of the family's and this can be a difficult psychological transition. Conversely when a South Asian marriage fails, the woman may become hypersensitive to her individual interests and needs, as she has just lost her relational identity and may be feeling especially vulnerable to being taken advantage of and alienated based on the inevitable stigma and ostracism she faces as a divorcee.

⁵⁵ Lax D. and J. Sebenius, "The Negotiator's Dilemma: Creating and Claiming Value" in D. Lax and J. Sebenius, *The Manager as Negotiator: Bargaining for Cooperation and Competitive Gain* (New York: Free Press, 1986) at 102.

d. Evaluating Power In Light of Cultural Considerations

Cultural considerations invariably impact the balances of power in disputes related to South Asian marriage dissolution. In fact the social and family shame associated with divorce is so strong that it can have a dramatic impact on power dynamics and motivations within family law disputes. The associated stigma is not only a strong motivator for reconciliation it may lead the parties to consider long term separation as an alternative to a full-fledged divorce. Moreover, a South Asian woman going through a divorce is probably more likely to be in a situation that is intolerable, since the threshold for considering divorce in the South Asian context is generally heightened based on the associated stigma. The threat of shaming one party's family by publicizing the divorce can itself be a tactic of power wielding between the parties and may be completely overlooked by a practitioner who is not sensitive to the culture based values at play. Blame over the dissolution of the marriage and its allocation can have a profound impact on the power interaction between the parties and further, the higher degree of ostracism faced by the woman makes divorce an uglier prospect for her as compared to her male counterpart. This may mean that she will want to get it over with as quickly as possible to move away from the stigma, giving up major concessions in the process contrary to her legal rights or interests.

These examples serve to illustrate some of the key considerations in family law dispute resolution that are impacted by South Asian cultural dynamics. However, cultural considerations will influence every phase of the dispute resolution process from client screening, analysis of

interests and BATNAs of the parties to planning the implementation of the terms of the negotiated settlement.⁵⁶

5) Conclusion: Cultivating Cultural Competency in Dispute Resolution

In family law, dispute resolution practitioners aim to help their client achieve a settlement that they can feel good about, one that satisfies their interests and results in an acceptable and enduring outcome for both parties. This goal is undermined when practitioners lack an appreciation of the culture-based values of the parties involved, and where they fail to recognize their own cultural biases and values that can often make them blind to the limitations of their own perspectives.⁵⁷ Family law dispute resolution practitioners who train themselves to be cognizant of cultural dynamics will be better equipped to service Canada's increasingly diversifying demographics.

This paper has served to illustrate the value of cultural competency in dispute resolution for minority groups such as Canada's South Asian community. Though it is apparent that this community could potentially benefit from alternative modes of dispute resolution, currently South Asian's under utilize these services primarily because these services generally exist to serve a middle-class Caucasian demographic. The paper has emphasized the need for a balanced approach to cultural sensitivity, one that recognizes general cultural trends and their impacts on dispute resolution, while also appreciating the diversity within minority groups such as the South Asian community.

⁵⁶ Alison Taylor, *The Handbook of Family Law Dispute Resolution: Mediation Theory and Practice* (San Francisco: Jossey-Bass, 2002) at 122. Taylor outlines four primary phases of negotiation: Assessment, Pre-mediative phase, Negotiative phase and Follow-Up Process.

⁵⁷ *Supra* note 1 at 166.

Though it is not possible for dispute resolution practitioners to ensure that all disputants' differences are carefully considered, ignoring cultural dynamics can result in grave misunderstandings that ultimately undermine the primary goals of the negotiation. Culturally appropriate dispute resolution services must be cultivated through community partnerships that can build education programs that foster cultural competency among lawyers and dispute resolution practitioners. To offer a mere cursory overview of cultural implications in dispute resolution training is to deny the reality of Canada's increasingly ethnic demographics. We must stop ignoring the elephant in the room by pushing past cultural assumptions that exclude minority members of our community and aim to offer meaningful access to dispute resolution services for all Canadians.