

CULTURALLY SPEAKING

7 metaphors that transform family law practice

In family court, cultural differences shape behavior, communication and perceptions of fairness, and understanding these dimensions helps judges, attorneys and experts interpret testimony accurately and deliver culturally informed justice.

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Culture is invisible yet omnipresent. It shapes how individuals define fairness, loyalty and justice. In family court, cultural differences rarely appear as theory – they emerge as conflict: a husband insisting on mediation through elders, a wife demanding payment of her dowry (*Mahr*), or parents debating which religion or language should guide their child. Judges, forensics and attorneys who understand the cultural dimensions of family disputes can better interpret testimony and avoid unintended harm. Over years of cultural education and expert testimony, I have used metaphors to illustrate how culture operates in court. Each metaphor invites judges, attorneys and experts to see beyond words into meaning.

1. The fish and the pond

Culture is like a pond in which we are born and live. Fish cannot imagine life beyond it. Moving from one culture to another – as immigrants or refugees often do – resembles transferring from a warm pond to a cold ocean. Survival requires adaptation.

Example: A spouse raised where divorce is taboo may face both freedom and fear in California's no-fault system.

A Somali or Afghan immigrant woman seeking divorce may fear ostracism from her community, even



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while legally entitled to support and custody. For her, the new “ocean” of Western law feels both liberating and dangerous. Judges who understand that disorientation can distinguish between resistance and adaptation.

Practice Note: Judges, attorneys and forensics who recognize this transition can distinguish between noncompliance and confusion and design remedies that support adaptation rather than punishment.

2. The transparent backpack

We each carry an invisible backpack filled with beliefs, habits and taboos. Others can see its contents even when we cannot. In court, this “backpack” appears when one party's behavior seems unreasonable under California law but logical under their native norms – such as expecting family elders to settle disputes before litigation, or viewing marriage as an alliance between families rather than individuals.

Example: In an Iranian dowry case, the husband may see the mahr as a symbolic act of respect; the wife views it as an enforceable financial guarantee. Both are acting from what their cultural backpacks contain.

A similar phenomenon appears in East Asian or Latin cultures, where public litigation is viewed as dishonor. A spouse may sign away support rights or remain silent, not from free will but from fear of communal shame. Recognizing this

backpack of learned obedience enables a fairer evaluation of consent.

Practice Note: Attorneys must first identify the backpack – their client’s and their own – before expecting the court to unpack it fairly.

3. The glass wall

Between cultures, communication may seem transparent but is often blocked by invisible barriers. We can see through the “glass,” yet what we see lacks depth and meaning. We imagine what we think we hear and respond to what we think is said.

Example: In cross-cultural family disputes, a judge may interpret a spouse’s silence as consent when, in fact, silence signals resistance or respect. A mental-health evaluator may hear the word honor and assume pride, missing its moral and communal weight.

Like light through glass, language and gesture bend as they pass from one culture to another. The clearer the surface appears, the easier it is to mistake reflection for understanding.

Practice Note: Before reacting to what appears obvious, pause to ask how the speaker defines the same words – *family, divorce, respect*. True communication begins when we stop assuming we already understand.

4. The waterbed reaction

Culture reacts to pressure. Push down on one side, and another rises elsewhere. The harsher the impact, the stronger the response. A restraining order that removes a husband from his home may protect a victim under California’s Domestic Violence Prevention Act, but in honor-based cultures it can trigger shame and retaliation affecting the entire extended family.

Example: In rural Middle Eastern or South Asian communities, exclusion of a father from the home can stigmatize relatives and escalate hidden tensions. In California, the same may manifest as social isolation or reputational backlash.

Likewise, when courts compel family-role reversals – for example, assigning child custody to a mother in a patriarchal community – the cultural “pressure” may shift to other family members, producing unexpected resistance or withdrawal.

Practice Note: When imposing or enforcing protective measures, consider the cultural “waterbed effect.” What stabilizes one system may unbalance another.

5. Walking on eggshells

Dealing with members of other cultures requires delicacy. What appears to be a solid relationship from afar may shatter under one wrong or careless step. Judges, attorneys, and experts addressing religious marriage contracts, same-sex parenting or inter-cultural custody often find that even neutral questions can offend dignity or faith.

Example: In Iranian or South Asian families, asking a wife to testify publicly against her husband may breach modesty codes. In LGBTQ custody cases, misgendering a parent can end trust in the process.

Similarly, in Native or Indigenous families, requiring children to suppress native language or spiritual practice during evaluation may appear neutral but feels like cultural erasure. The expert must walk on eggshells not from fear but from respect for fragility created by generations of misunderstanding.

Practice Note: Cultural sensitivity does not mean avoiding facts – it

means presenting them with respect so that the process remains credible to those affected.

6. Guiding a self-driving vehicle

When navigating on another cultural road, we may believe we are steering, but an invisible social programming determines direction. In dissolution of arranged marriages, decisions may appear voluntary but are steered by family hierarchy. In such cases, silence or deference may be mistaken for consent.

Example: In collectivist societies from the Middle East to Latin America, individual choice is secondary to family harmony. A litigant may seem evasive, not from deceit but from loyalty to parental or clan authority. Understanding who truly “drives” decisions prevent courts from mistaking obedience for agreement.

Practice Note: Judges and attorneys must learn the “operating system” before attempting to redirect it. Effective cultural evaluation requires understanding who or what truly drives the parties’ decisions.

7. Tip of the iceberg

What a client states, the attorney presents and the court rules upon – a document, a testimony, a gesture – represents only a fraction of what lies beneath. Beneath spoken words and visible conduct lie layers of history, religion and communal values. A bride-price in Kenya may appear transactional, yet it affirms kinship and restitution. An Iranian *Mahr* expresses dignity and accountability within marriage. By contrast, an American prenuptial agreement embodies autonomy and equality.

Example: Japanese divorce practices provide another illustration:

Parties may favor a quiet “moral settlement” rather than contested property division, reflecting the Confucian ideal of harmony over confrontation. Without understanding the submerged meaning, Western observers might mislabel such restraint as passivity.

Practice Note: Experts help courts distinguish between cultural form and function – whether a practice enforces inequality or maintains balance within a different moral order.

Conclusion

Culture shapes conduct, communication and the perception of truth. To ignore it is to risk misreading motive; to understand it is to achieve justice that is both fair and informed. These metaphors may provide a shared vocabulary for judges, attorneys and experts striving to practice cultural competency in family law.

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