

Fourth, the personality issues among lawyers and law students that may impede acquisition of collaborative skills.

Many authors have argued for the importance of interdisciplinary education for a number of different reasons, all of which are related to creative problem solving. Some advocates have expressed the need for training lawyers who can understand the development of legal policy from an interdisciplinary perspective. This approach is analogous to asking that lawyers receive training in a broad liberal arts tradition, to be able to understand the breadth of the origins and consequences of law. There is too much knowledge within the various disciplines to expect any one person to be the master of all fields. Thus, training lawyers to work with professionals from other disciplines in creative problem solving is a more appropriate and practical solution.

Commentators have used the terms 'interdisciplinary' and 'multi-disciplinary' interchangeably, without distinction, to refer to the consideration or inclusion of more than one discipline. Typical multi-disciplinary work is really nothing more than an effort by professionals from a number of disciplines to piece together their individual contributions regarding a common problem. True interdisciplinary work involves communication and understanding among the team members. What has been referred to as interdisciplinary education may often be merely a form of single discipline education or a multi-disciplinary approach that does not help students move beyond their particular professional cultural understanding. Real communication only occurs if there is an understanding of one's own culture and other participating cultures; language, attitudes and behaviours will affect both the sending and receiving ends of the communication. Thus, interdisciplinary education must include attention to this communication process, transmission of cultural understandings, and training in group process.

In regard to content, this interdisciplinary model focuses on knowledge of one's own and other disciplines; attitudes toward interdisciplinary practice, including

respect for and awareness of what each discipline has to offer; and skills in interdisciplinary communication and collaboration. A combination of explicit attention to knowledge about other disciplines and opportunities to interact in problem solving situations with members of other professions is vital.

A number of barriers hinder the ability to effectuate true interdisciplinary training. One significant barrier is the need for students to be grounded in their own professions. The participant must understand that working with others does not diminish his or her professional role. Law students cannot have achieved this posture due to their limited time and exposure to the law and practice. The anxiety of law school continues at least through the first two years of practice. If interdisciplinary training is to occur in law school, legal education must compensate for this lack of grounding in some way. Exposure to professionals or students from other disciplines within a creative problem setting would be useful.

Law students' personality characteristics and the developmental level at which many law students enter school limit measures schools can take to help students learn the skills, behaviours, values and attitudes they need to be creative problem solvers. Although they cannot participate at an optimal level in interdisciplinary collaboration, can students learn skills that will enhance later performance in-group work?

Other considerations also detract from attempts to teach interdisciplinary skills. First, students have come to law school because they want to be lawyers. Hence, they often view efforts to teach them about other disciplines, as well as topics they perceive as irrelevant to practice, as a waste of time. Second, the law school curriculum is so single discipline focused that students see tangential efforts to teach other ways of thinking and acting as aberrational. Third, having invested a great deal of time and money in their legal education, students are often defensive about the profession and blind to its limitations. One of the biggest barriers to providing

interdisciplinary training to law students is law professors' own lack of such training and experience in our own professional lives as lawyers and educators.

Law professors, even those who lack interdisciplinary training and exposure, can do a number of things that will help prepare students for interdisciplinary work. In regard to the need to know how to ask questions, professors are in the position to model questioning behaviour. Professors can also model the important attitude of respect for other professions, discussing the contributions of other disciplines as they are relevant to classroom work and inviting professionals from other disciplines to address the class.

Interdisciplinary practice is a requisite to creative problem solving but there are significant barriers to training future lawyers for such practice. Lawyers usually understand that their clients may have psychological, economic, and other concerns associated with their 'legal' problems. They may not, however, effectively address these concerns for a number of reasons. Further, lawyers often are not skilled at working with professionals from other disciplines in a collaborative effort to meet clients' needs.

Ultimately, what we might hope for is that lawyers who have been trained in creative problem solving, including special training in interdisciplinary work, will have the knowledge, skills, and attitudes to participate effectively in interdisciplinary teams in order to achieve better results for clients. That is the mission of legal education.

## **SKILLS**

### **Teaching NLP for conflict resolution**

J Lee

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Many advocates, practitioners and teachers of conflict resolution would acknowledge that there is more to the field of conflict resolution than just theoretical content. Much of the value of conflict resolution lies in its ability to translate the theories and models into tangible skills for re-

solving conflict. It is therefore an intrinsic part of any course in conflict resolution to teach certain skills to participants so as to assist them in effectively resolving conflicts. Such skills include questioning, listening and reframing skills. However, while the theoretical content in the field has grown, the skill component within the field of conflict resolution has largely stayed the same.

Neuro-Linguistic Programming (NLP) is a relatively young field of study. It was developed in the early 1970s by a Professor of Linguistics and a computer scientist who were intrigued by how certain people could communicate effectively and were successful in changing people in an almost magical way, when others could not. They combined their skills in linguistics, computer programming and psychology and modelled outstanding therapists to identify the patterns of behaviour and language these therapists used. They found that by utilising these patterns of behaviour and language, they could replicate the communication and therapeutic success of therapists.

The patterns of behaviour and language derived from these modelling projects form the body of knowledge currently referred to as NLP. It is important to note, however, that the core of NLP is the process of modelling examples of excellence. Fundamental to any form of conflict resolution is establishing clear channels of communication. Indeed, some conflicts arise by virtue of misunderstandings and garbled communication. The field of NLP offers a unique insight into the workings of how and why misunderstandings occur.

The perceptions of an individual do not accurately represent reality or the truth. In order for this disparity between perceptions and reality to occur, an intervening process must occur between the time when one receives the package of experience through the senses and the time when the brain codes and stores the information in memory as an internal representation. Further, this intervening process must filter information from the package of experience so that what is finally

coded and stored in memory is necessarily less than what was in the package of experience.

This intervening process of filtering is referred to in NLP as the universal human modelling processes which are the processes by which a person builds one's map of the world. These are the processes that allow us to make sense of the world. There are three processes and these are the processes of Deletion, Distortion and Generalisation.

In the context of conflict resolution, knowing that different people may not share the same reference experiences and meanings for the same word can enhance the quality of one's communication in two ways. First, it can assist someone to question many assumptions that are commonly made. Second, understanding the NLP communication model can help a speaker identify the source of a problem when misunderstandings occur.

The ability to build a good working relationship is also fundamental to resolving conflicts. NLP provides an explicit model for building working relationships through the rapport-building model. The basic idea is that people tend to trust people who are similar in behaviour and language. Therefore, rapport is built by being similar to the other person. This process of being similar is generically referred to in NLP as 'pacing' the other person.

To develop rapport by pacing, one has to identify the representational system in which the other person is processing information and speak in a way that matches that representational system. One must constantly assess and pace the representational systems being accessed in order to achieve and maintain rapport.

The NLP rapport-building model provides an effective way of building a working relationship upon which conflicts can be resolved. Before looking at the NLP negotiation model, there are three matters in relation to the NLP rapport-building model that need to be addressed.

First, the goal of pacing is not to mimic the other person. The other person is likely to become aware of any mimicry and

this will lead to a loss of rapport. Second, pacing is only part of the picture. Pacing allows one to achieve rapport. However, the other person's physiology or frame of mind may sometimes not be very conducive to resolving the conflict. Finally, it is a common concern that the techniques contained in the NLP rapport-building model can lead to manipulation. However, the techniques are merely functional. What makes the use of the techniques ethical or negative depends upon the intention and integrity of the user.

The NLP conflict resolution model addresses the substance of the conflict by providing a paradigm for its resolution. This model helps ensure a 'win-win' mindset, which is essential to the ethical use of NLP techniques. The NLP conflict resolution model is based on the understanding that language, concepts and ideas fall within a continuum of communication that ranges from specific details to big picture abstractions.

Many conflicts end up in some kind of compromise which is determined by the will and bargaining position of the parties. Yet, this is only one way of resolving the conflict. The NLP conflict resolution model proceeds by assuming that what people say they want is often what they perceive as *the* way to satisfy a higher need. In other words, what people say they want is often the means to the end and usually not the end in itself.

Starting from this assumption, one can then assist the other person in chunking up and identifying the higher need or end. The purpose of this is to create more flexibility for resolving the dispute. This occurs because there will usually be more than one way to satisfy the higher need or end. All that remains is for the parties to explore the various ways of satisfying the higher need or end and selecting one that is acceptable.

The NLP conflict resolution model provides a process that explains and enhances the interests-based model by putting the conceptual distinctions of positions and interests on a moving scale set against the continuum from specific to abstract. This process assists in the

elicitation of interests, which can increase the chances of resolving many disputes. There is always the danger of manipulation and it is the intention of the user that determines whether the use of a tool is ethical. Further, NLP models should be used with respect and with the interests of the other party in mind.

### **Teaching practical legal problem solving skills: preparing law students for the realities of legal life**

C Hammond

10 *Legal Educ Rev* 1, 2000, pp 191-207

In 1998 the Law Society of Western Australia banded together with Women Lawyers of Western Australia to commission a consultant to better understand the reasons for the apparently high rate of people leaving the pro-fession. A final report was published the following year. The report investigates why young lawyers, particularly women lawyers, were exiting legal practice within the 3-7 year post admission stage. The report's findings show that lack of fulfilment, stress, onerous working conditions and general quality of life issues are the key factors behind the migration from legal practice.

The report contains 27 recommendations for improvement directed to the legal profession, law schools, and legal firms. The recommendations fall into the categories of Professional Growth and Development, Career Improvement, Quality of Life and Organisational Culture. Four of the recommendations listed under the Professional Growth and Development category are pertinent to university law schools.

The recommendations largely target three key critical concerns of traditional law school education: (a) the selection processes for entering law school; (b) the 'gap' between traditional legal education and the realities of legal practice; and (c) the need for a law degree to provide a liberal education, rather than be seen simply as leading to life in a legal practice.

The criticism that legal education fails to prepare law graduates for legal prac-

tice is not new. The Pearce Report of 1987 stated that most Australian law schools teach neither theory nor practice, but doctrine. The traditional approach depended upon an exposition of substantive doctrine with little or no practical or critical perspective.

When drafting the Notre Dame College of Law curriculum in 1995 and 1996, the College of Law Advisory Board recognised the competing goals of providing a liberal education and training professional lawyers. To achieve the goal of training professional lawyers and narrowing the gap between legal education and legal practice, the curriculum drafters emphasised the inclusion of 'practical' skills and ethics throughout the substantive units of the degree, and included a compulsory third-year one semester subject called Legal Problem Solving. This course was designed to be an integrated and practical course where students could learn legal skills, such as client interaction and problem solving. To achieve these goals, it was decided that the course should be structured as closely as possible to a simulation of the real life world of private legal practice. While the pressures and strains of legal practice are difficult to emulate, it was decided that strict time limitations, group work and time accountability could assist in the simulation.

The course was designed to run as an intensive one week experience for the students. This required planning and consideration as to what could and should be expected within that time period. Finally, as with all law subjects, the skills and materials covered had to be assessable and the assessment criteria had to be open to scrutiny and discussion.

The key objectives of the course were identified and articulated to the students at the start of the course as being: to introduce students to effective and professional interview techniques and to develop client interaction skills; to develop students' abilities to elicit and identify relevant factual material from clients; to develop students' problem solving skills; to develop a 'self-learning' approach; to develop general communication skills; to

develop students' abilities to work in a group; and to encourage students to think laterally.

Two weeks prior to the commencement of the course, students were given the course outline and a reader containing materials covering interview techniques, the lawyer-client relationship and communication skills, both oral and written. No textbooks were prescribed. However, students were referred to certain texts as useful and helpful source books.

The Legal Problem Solving Course was designed to achieve one goal: namely, bridging the wide gap between university legal education and 'real life' law. The feedback received so far is generally positive, but the extent to which the goal has been achieved will only be truly assessable with the passing of time and graduation of the students involved from university to legal practice. While there is only so much that 'real life' simulation can achieve, the incorporation into the course of group work and time limits, coupled with the emphasis on skills and self-directed learning should help to prepare the ground in some respects for law students intending practice, if only to raise their awareness as to the expectations, pressures and strains which exist. However, the need to prepare students for the practice of law should not be emphasised to the exclusion of actually making changes to the profession. Graduates need workplaces which offer a more diverse, more inclusive, more supportive and more flexible environment.

## **TEACHING METHODS & MEDIA**

### **Enhancing student learning of law by involving students (and colleagues) in developing multi-media teaching and learning materials**

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Efforts to improve the quality of teaching and learning have been a hallmark of the 1990s tertiary educational landscape in