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Education matters column

Case conferencing in a cultural context

Lionel Cranenburgh

The punch thrown with vicious abandon by the Aboriginal student travelled in a looping arc and hit the Year 9 student on his mouth and nose. Blood spurted as the victim's lips exploded like a soft watermelon and he bowed in pain as the blows rained down on his cowering, slumped form. The animal-like, raucous cries of surprise and pleasure that burst from adolescent groups at something that had turned a boring school day into unexpected excitement, acted liked Chum [dog food] to a school of sharks.

Children came running from all sections of the playground towards the violence and soon random, unchoreographed punches were being thrown by supporters of both parties. As suddenly as it had started, it ended. Students slipped away furtively as a teacher appeared, leaving the still form of a student lying in the foetal position on the ground, his face ashen as he cradled a twisted, bent wrist.

As the Deputy Principal tried to resolve the situation he asked the usual questions of the students: Who started it? What was the reason? Who is to blame? He began to realise how difficult it was to unravel cause, rationale and effect. Keen to maintain a zero tolerance policy towards school-yard violence, a phenomenon that has become the biggest issue prompting schools to institute anti-bullying policies, he suspended eight students, most of whom were culturally and linguistically diverse. He then involved the police who considered engaging the Juvenile Justice Department in the matter.

In the meantime, the parents of some of the children were claiming that the Deputy Principal was racist and that the

school was discriminating against its children. As the matter threatened to hit the news media, I received a call from the District Superintendent asking me, as Head Teacher, to sort the matter out, as he did not want it to taint the reputation of the public school system.

In my opinion, the Fisher and Ury 'Getting to Yes' interest-based mediation process, which champions separating people from the problem, focusing on interests rather than positions, inventing options for mutual gain, insisting on the use of objective criteria and so on, does well under many circumstances – but

people requires modified mediation strategies to suit the relevant cultural differences. This makes the issue relevant not just to the school yard, but to corporate boardrooms and management systems of every business or service in WA.

I used an approach that applied interest-based negotiation, but with modifications that recognised cultural differences relating to Aboriginal peoples' sensibilities and world view. The on-going student disputes, which included people from several ethnic minorities, had never been resolved

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not all. It does not work so effectively when, as David Moore points out, there are many disputes, most of which are symptoms of deeper conflict, or when there is complex conflict between groups to which the individuals belong.

According to international mediating columnist, Anita Engilies et al, 'Encouraging the Use of Mediation by Families from Diverse Backgrounds', mediation does not work well when participants speak English as a Second Language or are from socio-economically disadvantaged backgrounds who may not see mediation as an appropriate process. While I do not share some of her views, I found that dealing with culturally and linguistically diverse

appropriately, and were part of the fabric of the community that consequently spilled onto the school environment. The statement-taking from parties was complicated, as the Aboriginal families did not want to come to a 'white fellas' place at the school. This is where I decided on a co-mediation process using an Aboriginal and Islander Education Officer (AEIO), who would be able to relate to the Aboriginal families and assist cultural communication.

- Power issues were important, and I negotiated with the parties to meet in a neutral place suggested by an Aboriginal elder, which turned out to be a sporting playground. I was able



to arrange for a case conference that was unusual by normal standards. Whilst it did not comply with the recommendations of IAMA for the usual technology for communications, it was communicate or not. I chose communication.

- Cultural communication has to be done with great flexibility. As the Kimberley Education District Manual 'Talking Concepts' states, the world view of a culture is reflected in its language. Concepts will only be identified if they are important to the culture.
- Using Plain English, as the IAMA Handbook recommends, will have little consequence to people with a background of English as a Second Language. Language often needs to be translated by a cultural representative into a meaningful cultural context, with linguistic overtones and undertones. It is important for the interpreter to have a relationship or understanding with the mediator and not simply be an interpreter who may inadvertently distort communication.
- When each side put forward their case, some families shouted, were angry and indulged in name-calling. I avoided interfering for several

reasons. Some cultural communities and people are more emotional in their communication. To restrict this may be misinterpreted as racist behaviour, especially when the mediator is not of that culture. Watchfulness and close working with the cultural co-mediator is important in sensing trigger moments.

- Being tolerant of angry adult behaviour was an important issue that could be used later in the mediation agreements, to illustrate how adults could commit the same errors to which the children had fallen prey.
- The presence of the AIEO was an important balance in the power issue, and the use of her language reduced any perceived linguistic power imbalances.
- Moving the parties from the past to the present and toward the future was done over two weeks at several meetings, as time has different connotations for Aboriginal people compared to the Anglo-Australian-European communities. I held the group captive and capable by using the common thread that they all shared – the need for the safety of their children.
- The heads of agreement were

supported without acrimony and almost cathartically as all parties agreed to take part in a Strong Families program with trained facilitators.

- I worked with the Deputy Principal to make sure that the school policy reflected diversity. This aspect has great relevance to the boardrooms of our WA 'Fortune 500' style-companies. Our policy explored what diversity meant, what skills development was needed by staff, how we could support our clients and where we saw ourselves travelling in terms of our future vision. Was this just a school yard scuffle or could it also be a metaphor for boardrooms and offices? As Brutus said to the people: I pause for a reply! ❖

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