

## **TRAINING FOR MEDIATORS' BRAINS: WHAT IS WORTH DOING IN THE NAME OF CONTINUING EDUCATION**

A workshop at the LEADR National Mediation Conference  
Melbourne, 10 September 2009

As a young undergraduate, I studied linguistics, European languages and literature, at a time when Noam Chomsky was better known for his work in linguistics than his pronouncements about politics. A decade or so ago, I discovered Susan Greenfield's work on the human brain, and since then, Simon Baron Cohen, Stephen Pinker, Louann Brizendine, Norman Doidge and Judith Herman. In search of something truly interdisciplinary, I have tried to put it all together with the help of Martha Nussbaum and Theodor Zeldin. Last year, I found it – and I want to share it.

In November 2008, I was invited to the GEMME conference, *Mediation in the service of peace*, as one of three reporters, the other two being Ken Cloke (USA) and Bill Marsh (UK). GEMME, the European grouping of magistrates for mediation, is an organisation founded by a group of judges (magistrats) with a special warrant that allows them to mediate. Among their members are several sponsors of legislative initiatives in Switzerland and Germany, and they actively seek out the best kinds of mediation to suit different jurisdictions, including family, tenancy and commercial law.

The conference was held in Geneva, home to the National Centre for Competence in Research. Here is how the NCCR (Affective Sciences) describes its mission:

*“Many phenomena, ranging from individual cognitive processing to social and collective behavior, cannot be understood without taking into account affective determinants. Moreover, affective phenomena are complex episodes in human behavior and experience, thoroughly integrated into a social and cultural context, that require study from different research perspectives.*

*The NCCR in Affective Sciences brings together disciplines which study the biological, psychological, and social dimensions of affect. The different scientific projects aim to provide a better understanding of affective phenomena (e.g., emotions, motivations, moods, stress, well-being) from various research perspectives and multiple levels of analysis. With its scientists stemming from various backgrounds such as psychology, philosophy, economics, political science, law, criminology, psychiatry, neuroscience, education, sociology, literature, history, and religious and social anthropology, the NCCR places a particular emphasis on the interdisciplinary and integrative collaboration between these different domains of research.”*

Among their research foci are the study of language and culture, gender, appraisal processes in decision making, empathy and prosocial behaviour.

The afternoon before the conference, a friend who is a lawyer and mediator took me to meet some of the researchers. They showed us around the centre

and described some of their activities and early findings, and we discussed some of the ways in which their research findings might impact upon conflict and its resolution.

I have long said we mediators are messing about with people's lives; I don't know that I truly appreciated the extent to which we are messing about with their emotions. Our meeting with the researchers revealed crucial facts about the need to recognise the role of affect in decision making, something I later discussed with Ken Cloke. In a paper on the neurophysiology of conflict, Ken says this:

*"While people in conflict commonly refer to facts, behaviors, feelings, personalities, or events, for the most part we ignore the deeper reality that these are processed and regulated by the nervous system, and are therefore initiated, resolved, transformed, and transcended largely within our brains.*

*All conflicts are perceived by the senses, manifested through body language and kinesthetic sensations, embodied and given meaning by thoughts and ideas, steeped in intense emotions, made conscious through awareness, and may then be resolved by conversations and experiences, and develop into character, nurture a capacity for openness and trust, and contribute to learning and an ability to change.*

*To explain the etiology of conflict therefore requires us to gain a deeper understanding of how the brain responds to conflict. This should clearly include the ways distrusting personalities are formed, even among primates; the sources of aggressive character traits and the "fight or flight" reflex; the wellsprings of spiritual malaise and hostile gut reactions; and the neurological foundations of forgiveness, open-heartedness, empathy, insight, intuition, learning, wisdom, and willingness to change.*

*While conflict and resolution have yet to be reduced to a simple set of deterministic biochemical events taking place exclusively within the brain, research clearly demonstrates that basic neurological processes provide all of us with alternative sets of instructions that lead either toward impasse or resolution, stasis or transformation, isolation or collaboration. For these reasons, it will serve us well as mediators to understand more about the neurophysiology of conflict. "*

Add to this Norman Doidge's comments on talk therapy from a December 2008 article in the Canberra Times, and I hope you will agree we mediators have much to discuss. As a psychiatrist and psychoanalyst, Dr Doidge became interested in the idea of a changing brain when his patients did not progress psychologically as he had hoped. Dissatisfied with the conventional wisdom that the human brain was hardwired and unchangeable, Dr Doidge "embarked on a journey to investigate the evidence for brain plasticity".

"Dr Doidge also talks about the role of talking therapies and their ability to help rewire the brain. He says, 'We've very much underestimated the role of psychotherapy as a biological intervention. People started to think of talk

therapy, even when conducted by an expert, as 'just talk'. In fact, psychoanalytic, cognitive, and some other forms of therapy have now been shown to rewire the brain, as much as drugs do, and in a different but very specific way. In treatment, when a patient speaks about a problem, they activate the circuits and memories related to that problem. These circuits enter a brief period when they become more plastic, and alterable. Treatments for trauma, for example, don't just make people "stew in their own traumatic juices" needlessly. The patients actually create an opportunity to change how intense their emotional reactions to those traumas are. Brain scans have demonstrated and confirmed this change."

Ken Cloke concludes his paper on the neurophysiology of conflict with these observations:

*"Perhaps the most extraordinary thing about the human brain is its capacity to understand and alter the world, starting with itself. We have begun a period of rapid, perhaps exponential increase in understanding how the brain operates, and a growing ability to translate that knowledge into practical techniques. But without an equally rapid, equally exponential increase in our ability to use that knowledge openly, ethically, and constructively, and turn it into successful conflict resolution experiences, our species may not be able to collaborate in solving its most urgent problems, or indeed, survive them.*

*All of the most significant problems we face, from war and nuclear proliferation to terrorism, greed, and environmental devastation, can arguably be traced to our brain's automatic responses to conflict. Out of the last few years of neurophysiological research has emerged a new hope that solutions may indeed be found to the chemical and biological sources of aggression. These solutions require not only a profound understanding of how the brain works, but a global shift in our attitude toward conflict, an expanding set of scientifically and artistically informed techniques, a humanistic and democratic prioritization of ethics and values, and a willingness to start with ourselves."*

Some ideas to start us talking in this workshop about our own continuing education:

What do we learn about ourselves in continuing education, or is CPD for mediators more focussed on issues and techniques?

What could we be learning, and how should we be learning it?

What do we know about our processes and our approaches and how they might impact on the parties in the mediations we conduct?

How alive are we to our own emotional states? Do we deny them? Is it possible conflict resolvers are conflict avoiders?

Finally, I'd like us to form pairs, tell each other a (difficult/painful/true) story and see what happens in us when an experienced mediator listens, reframes

or paraphrases it for us. Let's debrief what happens in us this time, not the technique itself.

Joanna Kalowski  
September 1 2009