

MINDFULNESS AND THE LAW – A DIFFERENT APPROACH TO SUSTAINABLE AND EFFECTIVE LAWYERING

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Study after study has identified that lawyers tend to be unhappy in their work, suffer high rates of depression, anxiety, divorce and substance abuse and have difficulty balancing work and family life. In the face of overwhelming evidence of a mental-health crisis in the law, various legal institutions, including professional associations, individual firms and law faculties both in Australia and overseas, have responded by offering programs to improve mental health. These have included counselling and debriefing services as well as programs to encourage better work practices and to raise awareness and to remove stigma traditionally associated with mental health issues. Mindfulness, or mindfulness-based meditation, has been one tool offered to lawyers and law students as a way to better manage their stress and be more effective and balanced practitioners. But what is mindfulness and why is it particularly suited to legal practice?

I MINDFULNESS

Essentially mindfulness is an awareness-based meditation practice. It is allowing ourselves to use our natural wakefulness to be fully aware of our environment and our inner thoughts, feelings and emotions on a moment-by-moment basis without judgment or criticism.

The reason it is particularly beneficial is that it counteracts our habitual reaction to stress. As we interact with people in distress or unfavourable circumstances, we have a habitual reaction that occurs unconsciously, and depending upon the stressor and our own history and circumstances, the energy in the reaction can range from mild to extreme. When extreme or built-up over time, the result will be a churning of emotions or anguished mental chatter as the force of habit moves us unconsciously from stressor to reaction in a continuous feedback loop.

Mindfulness works as the circuit breaker for the cycle of stressor and reaction. As we shine the torch of our awareness on our inner world, we begin to notice our

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reactivity that had been previously occurring unconsciously. Simply noticing in this way without judgement or criticism releases the tension that is bound up there. Stress is still present, but because we are able to step back from it and see it from a different perspective, our experience of it is completely different.

When we engage in mindfulness we become aware of our tendency to habitually attempt to control our experience, either by chasing after pleasant experiences or pushing unpleasant experiences away. Constantly trying to control what is occurring in this way causes a huge amount of anxiety and suffering. In contrast, mindfulness is a discipline of allowing things to be just as they are without attempting to control anything.

Learning and practicing acceptance therefore is the heart of mindfulness practice. When we are grounded in awareness of experience, and can let it be just as it is, we discover a storehouse of clarity and calm that is not dependant upon external circumstances. Consequently we are able to find peace, not matter what is occurring.

II MINDFUL LAWYERING

Stress and conflict seem to be a daily occurrence in the practice of law – phones ring, emails pile up, deadlines loom, clients cry, partners demand results, magistrates yell, machines break, files are lost, mistakes are made, long hours are worked, cases are lost, etc, etc.

The reality of legal practice is that we are continually confronted with people at their worst in an environment that can be extremely toxic, combative and played at very high stakes. Because legal practice is so often highly charged, our ability to manage our thoughts and emotions when under stress will be the measure of our success or failure as lawyers. Consequently mindfulness is an invaluable practice for lawyers.

Yet mindfulness is more than just stress reduction. By being aware of our thinking and mental patterns, we are able to observe with greater clarity, cutting through the distortions and reactions that habitually form the basis of our thinking. Mindfulness helps us to be fully present, to be aware of our own thoughts and reactions and more in tune with those of others. Consequently we are able to listen with more presence, space-out less, and remain focussed for greater periods of time.

Furthermore, as we observe and let go the prejudices, storylines and judgments of ourselves and others which form the inner dialogue of our conscious experience, we are able to reside naturally in the space of awareness that remains. In so doing we can lessen our reactivity and act from a well-spring of calm. This naturally improves the clarity of our decision-making, allowing our intelligence and wisdom to function fully, which has an enormous practical benefit on our skill base as lawyers.

Furthermore, the more we are mindful, the more external circumstances stop affecting us in the same way they once did. In this way the unpredictability of life

does not dictate our functioning nor cause us the same distress. Consequently, whether we win or lose, how well we slept, whether we receive praise or criticism, is no longer determinate of our level of satisfaction or success.

Simultaneously, we begin to see and react to others differently. We recognise in others what we ourselves are also dealing with – stress, fear, anxiety, excitement, anger, distractedness - and realise that on this basic level, we are all alike. Consequently, we have increased patience with others and our empathy naturally grows. This inevitably positively affects our relationship with our clients, opposing lawyers, co-workers, court staff, the judiciary, as well as family and friends.

III LEARNING TO PRACTICE MINDFULNESS

Practicing mindfulness is essentially a personal discipline based on our own process of enquiry and experience of the results of this enquiry. Consequently no amount of reading or research can teach us what it is about - we need to find out for ourselves through the practice itself; and based on our own subjective experience, determine whether it is effective.

Mindfulness is usually taught to groups as the energy of the group generally assists one to motivate the practice. Furthermore, we can often relate to the experience of others to our own experience to gain greater insight.

Although mindfulness sounds simple enough, as we will discover, in practice, at least initially, it is quite difficult and can take effort, motivation and time. That said, the benefits of mindfulness practice far outweigh our habitual unawareness and cycle of stress reactivity. We need to understand that opening to experience through the practice of mindfulness is a compassionate act, both for ourselves and for those around us. With this understanding, we can be motivated to engage in the practice on our own – setting aside a designated time each day to formally sit and watch the mind and at the same time recognising the opportunity, whenever it presents throughout the day, to practice.

IV CONCLUSION

Poor mental health amongst the profession is about more than the wellbeing of those directly impacted. Given the pivotal role of lawyers in our legal system, it is an issue that has serious implications for the administration of justice, as a dysfunctional and damaged legal profession must inevitably affect legal outcomes.

Offering supports, changing a culture and improving conditions in employment are very necessary for the mental health of lawyers, but can only do so much. It is part of the human condition that we will experience circumstances that will hit us for six. Because mindfulness is not about changing outward circumstances in order to feel better, it is particularly valuable.

In this way mindfulness is a completely different approach to our habitual ways of dealing with life's ups and downs. It does not involve attempting to eliminate

difficulty from our lives by running from a stressful situation or imagining ourselves in a better place. In fact, mindfulness is simply about noticing what is happening in each moment without attempting to change anything.

By tapping into our natural wakefulness there is no need to manufacture relaxation or import peace from somewhere else. We just need to allow ourselves to look closely enough to discover what is already here. In so doing, we open our eyes and ears and hearts with a sense of curiosity and welcome to the world in all its manifestations, and every moment, even the most outwardly stressful, can become filled with wonder and joy. The result is better balance, increased understanding and clarity in our thinking, improved relationships and empathy with others, and an improved overall sense of wellbeing. This is going to result in better outcomes for our clients and for ourselves.