

USING A COMMUNICATION PERSPECTIVE TO TEACH RELATIONAL LAWYERING

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*Communication leads to community—that is, to understanding, intimacy
and the mutual valuing that was previously lacking.—Rollo May¹*

INTRODUCTION

In today's brave new world of legal education, many of us are redefining our goals as educators to include relational competencies, such as empathy, self-awareness, listening skills, and practical judgment.² Recent developments affecting legal education support a growing recognition of a need for teaching relational skills as part of a push for more practical skills training. The American Bar Association is in the process of adopting a requirement that every law school under its jurisdiction provide at least six credits of skills training.³ Many law schools on their own are reforming their curricula to include core courses aimed at teaching relational skills, such as self-awareness, collaboration, and

¹ ROLLO MAY, *POWER AND INNOCENCE: A SEARCH FOR THE SOURCES OF VIOLENCE* 247 (1972).

² For instance, many legal educators are interested in the groundbreaking empirical work of Marjorie Shultz and Sheldon Zedeck, who identify twenty-six characteristics as predictors of effective lawyering. These predictors fall under eight categories, all of which include relational competencies. An entire category is devoted to communication, and another category includes the ability to “see the world through the eyes of others.” Even a category like “intellectual and cognitive,” which suggests traditional, doctrinally-focused attributes, includes relational components, such as creativity and innovation, practical judgment, and problem solving. See Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 *LAW & SOC. INQUIRY* 620, 630 tbl.1, 632 n.5 (2011) (a Powerpoint summary of Shultz and Zedeck's work is also available at <https://cerpp.usc.edu/files/2013/11/ZedeckPPT.pdf>). Shultz and Zedeck's work is being used as a guideline for discussions among many law faculties as they engage in curricular reform processes. It has also been featured during sessions being co-sponsored by several sections at the recent annual meeting of the Association of American Law Schools in January 2015. See ASS'N OF AM. LAW SCH., 2015 ANNUAL MEETING PROGRAM 30 (2015), available at https://www.aals.org/wp-content/uploads/2014/12/Program_Final.pdf.

³ See ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, REPORT TO THE HOUSE OF DELEGATES 26 (Aug. 2014), available at http://www.americanbar.org/content/dam/aba/administrative/house_of_delegates/resolutions/2014_hod_annual_meeting_103a.authcheckdam.pdf.

teamwork.⁴ Outside of legal education, the fundamental importance of these skills is even more well-accepted. An exemplary recent article touts *empathy* as the most important skill that employers will be seeking by the year 2020.⁵

So, now the big questions are: *can we actually teach empathy and other relational skills? And if so, what does it look like to teach them in law school?*

This article offers affirmative and creative responses to these questions. It builds on my two decades of work as a law teacher and scholar that is grounded in prior professional training and experience as a social worker. I started out as a legal scholar by using Therapeutic Jurisprudence (“TJ”),⁶ a field developed to promote wellbeing, to critique child welfare and family law from a social work perspective. The path of TJ eventually led me to team up with Robert Madden, also credentialed in law and in social work, to develop an approach we call “Relationship-Centered Lawyering.”⁷ My purpose in all of this work has been to advance a holistic and humanistic approach to law and lawyering.

The work I have done thus far reaffirms three fundamental beliefs: (1) relational lawyering is teachable and learnable; (2) effective lawyering is as much, if not more, about relationships, as it is about outcomes; and (3) lawyers with strong relational skills are likely to be happier and more satisfied with their careers.

So, how can we teach a relational approach to lawyering? One useful and promising approach is what I am calling a *communication perspective*.⁸ This article describes a communication perspective, and it demonstrates how to use communication as a vehicle for teaching relational skills in several different contexts, including dedicated courses and pervasively throughout law schools. Part I outlines relational lawyering and the need for greater emphasis on teaching relational skills in legal education. Part II defines and contextualizes a communication perspective. Part III describes five core principles of a communication perspective, and provides examples of communication tools and teaching techniques I have used in teaching. Part IV translates the core principles in-

⁴ See, e.g., *The Legal Profession*, IND. U. MAURER SCH. L., <http://law.indiana.edu/instruction/profession/> (last visited May 24, 2015).

⁵ George Anders, *The Number One Job Skill in 2020*, LINKEDIN PULSE (June 11, 2013), <https://www.linkedin.com/pulse/20130611180041-59549-the-no-1-job-skill-in-2020>.

⁶ Therapeutic Jurisprudence is a global movement including legal scholars, judges, and practitioners. TJ is a critical lens that examines the effect of laws, policies, and practices on the wellbeing of members of society. Additional information about TJ, including an extensive bibliography, is available at INTERNATIONAL NETWORK ON THERAPEUTIC JURISPRUDENCE, <http://www.therapeuticjurisprudence.org/> (last visited May 24, 2015).

⁷ See generally Susan L. Brooks & Robert G. Madden, *Relationship-Centered Lawyering: Social Science Theory for Transforming Legal Practice*, 78 REV. JUR. U.P.R. 23 (2009).

⁸ I am borrowing this term from work related to the Coordinated Management of Meaning (“CMM”), one of the communication models I use. The term was coined by W. Barnett Pearce, a co-founder of CMM. See W. BARNETT PEARCE, COMMUNICATION AND THE HUMAN CONDITION 86 (1989). CMM experts view a communication perspective as a way of describing a broad philosophy that says that we are continuously making our social worlds through communication. See *supra* Part III.D.

to a set of eight effective communication practices that every law professor and administrator can use. Part V provides further teaching examples of a communication perspective. Part VI focuses on the use of reflection, and the use of students' written reflection to assess students' relational skills. And finally, Part VII discusses some of the opportunities and challenges of teaching relational lawyering using a communication perspective in the law school context.

I. RELATIONAL LAWYERING AND LEGAL EDUCATION TODAY

Relationship-Centered Lawyering ("RCL") is a three-part framework identifying broad areas of competency every effective lawyer needs, regardless of his or her type of practice: (a) understanding theories about the person-in-context, (b) promoting procedural justice, and (c) appreciating interpersonal, cultural, and emotional issues.

After introducing this framework in 2010, Robert Madden and I collaborated again to explore in depth the epistemological and ethical dimensions of relational lawyering.⁹ This article draws heavily on social work principles and values to discuss the normative dimensions of relational lawyering. It also situates RCL within relevant bodies of literature, including clinical legal scholarship and neuroscience. I have also pursued specific applications of the RCL framework,¹⁰ most recently in the context of legal education. In 2012, I published an article on teaching relational competencies using experiential learning, where I began to explore how this combination of approaches can help students develop a sense of professional identity and purpose.¹¹

A recurring theme of my work on legal education is how little attention we generally devote to helping students with the intra- and inter-personal skills all lawyers need. As I said in my 2012 article, I think experiential courses hold great potential for teaching relational lawyering.¹² Other promising subjects that are currently being offered include interviewing and counseling, mediation and other forms of ADR, interpersonal dynamics, mindfulness/meditation, and professional judgment/decision making. However, we still need a richer, more textured discussion about how to teach law students to be relational. One way much of our curriculum undermines a relational orientation is that it is based on a competing rights model. This adversarial paradigm—the zero-sum game ap-

⁹ See generally Susan L. Brooks & Robert G. Madden, *Epistemology and Ethics in Relationship-Centered Legal Education and Practice*, 56 N.Y.L. SCH. L. REV. 331 (2011/12).

¹⁰ In the legal practice context, I collaborated with an attorney and mediator named David Boulding, who also received a degree in counseling. We explored the application of a relational approach to the specific example of clients affected by brain-based disabilities such as Fetal Alcohol Spectrum Disorders. See generally David M. Boulding & Susan L. Brooks, *Trying Differently: A Relationship-Centered Approach to Representing Clients with Cognitive Challenges*, 33 INT'L J.L. & PSYCHIATRY 448 (2010).

¹¹ See generally Susan L. Brooks, *Meeting the Professional Identity Challenge in Legal Education Through a Relationship-Centered Experiential Curriculum*, 41 U. BALT. L. REV. 395 (2012).

¹² See *id.* at 403–05, 417–35.

proach—is pervasive across the curriculum, even in many of our clinical programs.¹³ “Clinic clients and public interest causes are often treated just like private clients. They are viewed through the lens of autonomous self-interest, and understood to be best represented through aggressive pursuit of their narrow self-interest.”¹⁴ Given the dominant lens of competing rights, the idea of client-centered lawyering can easily be misunderstood to mean that the lawyer’s role is to fight at all costs on behalf of one’s client or cause.

Another challenge is that much of the existing curriculum in law schools, including even courses defined as experiential or skills-related, have an *instrumental* approach to lawyering. For instance, listening skills are often taught as a means to some other end, such as *getting a client to follow the lawyer’s advice*, rather than having their own value in strengthening the lawyer/client relationship. In part, this instrumentalism manifests itself in the suggestion that there is a proper interview script or checklist of questions for keeping a lawyer and client focused on the “legally relevant” facts.¹⁵ Students might then be evaluated based upon their performance of the items on that list in a similar vein to judging an oral argument for a moot court competition.

A truly relational approach is not about performance. “Scripted learning processes are bound to fail, because even if we invent new and better scripts, they remain smaller boxes than lived human experience.”¹⁶ The approach I propose is truly experiential, meaning that the process—how we relate to each other—is as important, if not more important, than the outcome. Another key to this approach is the ability to reflect on and to keep improving relationships in meaningful ways. If the learner can gain greater clarity about communication, he or she can improve self-awareness, which can reduce the defensiveness that often impedes communication. Reflection can also lead to personal growth, which improves our students’ work with clients and others.

To achieve these goals, we—law teachers and administrators—must be willing to look inward and explore our own values. Unfortunately, many law faculty think they are supposed to be neutral, so they shy away from the more

¹³ See Eli Wald & Russell G. Pearce, *Making Good Lawyers*, 9 U. ST. THOMAS L.J. 403, 405, 416–17 (2011). See generally Peter Gabel, *The Spiritual Dimension of Social Justice*, 63 J. LEGAL EDUC. 673 (2014). Gabel critiques the legal system and legal education to the extent that it perpetuates an individualistic, adversarial paradigm, and suggests “reshaping our clinical curricula so that students learn to represent clients in a way that recognizes their full humanity and incorporates spiritual and moral understanding in the healing and repairing of their clients’ circumstances.” *Id.* at 686.

¹⁴ Wald & Pearce, *supra* note 13, at 421 (citing Katherine R. Kruse, *Beyond Cardboard Clients in Legal Ethics*, 23 GEO. J. LEGAL ETHICS 103, 127–28 (2010)).

¹⁵ See, e.g., DAVID A. BINDER ET AL., *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH* 78–92 (3d ed. 2012). When seen in this light, even Binder & Price’s seminal work, which is still probably the leading text in the field, demonstrates this kind of instrumentalism. It sets out a linear, step-by-step “correct” process for client interviewing, which includes a directive to begin every first client meeting with “preliminary problem identification.” *Id.* at 87–89.

¹⁶ Interview with David M. Boulding, Attorney/Mediator (May 7, 2012); see *supra* note 10.

holistic set of values that is essential to relational lawyering.¹⁷ These kinds of values can also be thought of as “intrinsic” or “core” values, and extend further into areas of humanistic thinking and notions of wellbeing than the interpretation of legal ethics taught in many Professional Responsibility courses.¹⁸ Relationship-centered lawyering is inextricably linked to this more expansive set of values, which have been articulated in fields such as social work and psychology, among others. These values include: respecting the dignity of all human beings, believing in client self-determination, being culturally sensitive, and caring about social justice. If we want to impart relational skills to our students and if we want to improve the wellbeing of our profession, we need to embrace these relational values and help students put them into practice. And yet, even lawyers and law professors who might support the idea of teaching these values are likely to be daunted by the question of *how* to impart them to students.

II. DEFINING AND CONTEXTUALIZING A COMMUNICATION PERSPECTIVE

A communication perspective looks at communication as something that people are continuously creating together, rather than simply ideas that are being sent from one person and received by another person. This approach to communication is aimed at creating a meaningful dialogue, as opposed to other one-way forms of communication, such as giving presentations or engaging in oral argument in a courtroom setting. I refer to my approach as a communication *perspective* to emphasize the focus on communication as a way to develop better self-awareness and more meaningful relationships. Using this terminology also reflects that this approach incorporates several different relational communication models.

Teaching relational lawyering through the framework of communication makes sense on a number of levels. First, these skills are easily accessible. Everyone can learn them with a relatively small investment of time. Second, this approach is a highly effective way of integrating relational values into our work as teachers and administrators. And third, the topic of communication is easily sellable. A handful of law schools include wonderful relational approaches, such as courses or programs on mindfulness and contemplative practices. My concern is that these types of offerings will only ever reach a limited audience within law schools and the legal profession. We need an approach that will be palatable to a broad audience of law students and lawyers. Given its successful

¹⁷ The reality, though, is that none of us is ever truly neutral. What is left unsaid may speak just as loudly if not louder than what is spoken. So even in trying to avoid bringing their values into the classroom, those professors are nevertheless conveying values to their students.

¹⁸ See, e.g., Geoffrey C. Hazard, Jr., *Personal Values and Professional Ethics*, 40 CLEV. ST. L. REV. 133, 133 (1992) (“The essential point is that rules of ethics, such as those embodied in the profession’s ethical codes, are insufficient guides to making the choices of action that a professional must make in practice.”); Deborah L. Rhode, *Ethics in Practice* (Stanford Law School Working Paper No. 2, 1999), available at http://papers.ssrn.com/papers.cfm?abstract_id=200728 (providing an overview of critiques of lawyers’ ethical rules in terms of concerns about legal practice and regulation of lawyers’ conduct).

adoption in medical education, business education, and corporate settings,¹⁹ I am convinced of the “sellability” of a communication perspective.

Law schools can provide a range of opportunities for teaching a communication perspective. One potential method is to offer separate courses dedicated to teaching relational communication. For the past three years, I have been offering a class in which this is the primary focus. Optimally, though, law schools also need to integrate a communication perspective widely across the curriculum. Many of the tools and teaching methods discussed here lend themselves easily to the classroom, and can be put into practice to support more deliberate framing of questions and responses to students’ contributions. Additionally, these approaches can be incorporated into what is sometimes referred to as the *informal curriculum*, meaning, at least in part, the interactions that occur on a daily basis between faculty and students outside of the classroom.

In thinking about applying a communication perspective in this pervasive way, I have developed a set of effective communication practices that can be useful in all of our interactions with students, both in and outside of the classroom. Elsewhere, I have referred to these as *healing practices*.²⁰ The term *healing* reflects the idea that we need to be intentional about reshaping the culture of legal education as a necessary step toward improving the culture of the legal profession.

As mentioned earlier, my approach to communication draws upon and integrates several well-developed models that have been created and used across a number of different disciplines. It relies most upon the Haven Communication Model, developed by Drs. Jock McKeen and Bennet Wong, with contributions by Virginia Satir.²¹ It also draws upon the Appreciative Inquiry Model,

¹⁹ See, e.g., *Training to Advance Physicians’ Communication Skills*, AGENCY FOR HEALTHCARE RESEARCH & QUALITY, <https://cahps.ahrq.gov/quality-improvement/improvement-guide/browse-interventions/Communication/Physicians-Comm-Training/> (last visited June 6, 2015) (“[T]he curriculums of most medical schools now include some form of training in communications skills”); Pat Kamalani Hurley, *Why You Should Develop Your Communication Skills*, LEEWARD COMMUNITY C., http://emedia.leeward.hawaii.edu/hurley/ebc10/mod-1/1_readings/1.2_readings_dev-your-comm-skills.htm (last visited June 6, 2015) (“Subscribers to the Harvard Business Review rated ‘the ability to communicate’ the most important factor in making an executive ‘promotable,’ more important than ambition, education, and capacity for hard work.”); *MBA & MSx Communication Programs*, STAN. GRADUATE SCH. BUS., <https://www.gsb.stanford.edu/stanford-gsb-experience/academic-advantages/mba-msx-communication-programs/> (last visited June 6, 2015) (classes include Strategic Communication and Political Communication).

²⁰ See Susan L. Brooks, *Creating a Healing Community in Law*, in TRANSFORMING JUSTICE (Marjorie A. Silver, ed., forthcoming 2015) (manuscript at 14) (on file with author).

²¹ See *The Communication Model*, THE HAVEN, <http://www.haven.ca/downloads/HavenCommunicationModel.pdf> (last visited June 6, 2015) (providing an overview of the model). See generally THE HAVEN, <http://www.haven.ca> (last visited June 6, 2015) (website for the Haven Institute).

originally developed by Dr. David Cooperrider and his colleagues.²² A third important model is the Coordinated Management of Meaning (“CMM”) Model, developed by Drs. Barnett Pearce and Vernon Cronen.²³

All of the models are about creating meaningful dialogue, so their common focus is on inquiry, communication, and creating shared perspectives, rather than finding the “right” answer. The main goal is to attain greater clarity about another person and that person’s context. This change allows both speakers to create positive possibilities and reduce apathy and micro-aggressions. When there is a difference of opinion, the goal is to encourage participants to want to learn more about each other and to be curious about their differences.

In the context of the attorney and client relationship, the goal is to encourage law students to be interested in the client as a human being. The contrast to this approach would be the lawyer who truly is only interested in the *lawyer’s* viewpoint about the client and the client’s actions. As we probably realize, clients are likely to tell us things about their past actions that are difficult to hear and to accept, given our own judgments. At that point many lawyers stop listening. Taking a communication perspective means trying to remain curious and open-minded about the client. Seeing and hearing the client before you requires suspending judgment, and noticing your thoughts and feelings while accepting that you and the client may not agree. A communication perspective is not a truth-finding mechanism. Rather, it offers a way into the client’s experience, a way of appreciating and accepting the client as a whole person.²⁴

In considering a legal framework more generally, if opposing parties are able to see each other as people like themselves, and can incorporate that recognition into their world views, a given conflict may be resolved in a way that is not dependent on a strict competing rights model. In the legal education context, we can use a communication perspective to help our students become lawyers who value relationships, and in the process, we can learn more about ourselves and become better teachers.

In choosing this approach, I recognize that there are other possible ways of framing what I am trying to teach. For example, much of what I am teaching in my communication course could potentially be identified as falling under

²² See Melissa Robaina, *What is Appreciative Inquiry?*, CENTER FOR APPRECIATIVE INQUIRY (Apr. 27, 2011), <http://www.centerforappreciativeinquiry.net/2011/04/27/what-is-appreciative-inquiry/> (providing a brief description). See generally CENTER FOR APPRECIATIVE INQUIRY, <http://www.centerforappreciativeinquiry.net> (last visited June 6, 2015) (website for the Center for Appreciative Inquiry).

²³ See *About CMM*, CMM INST. FOR PERS. & SOC. EVOLUTION, <http://www.cmminstitute.net/about/about-cmm/> (last visited June 6, 2015) (providing a brief description of this approach). See generally CMM INST. FOR PERS. & SOC. EVOLUTION, <http://www.cmminstitute.net/> (last visited June 6, 2015) (website for the CMM Institute).

²⁴ Importantly, though, a communication perspective would also say that neither of these two kinds of lawyers or approaches is *right or wrong*. They are simply different approaches. Nevertheless, if I am succeeding in teaching relational lawyering, I hope that students will be more interested in taking a communication perspective and will value relationships as much as they value legal outcomes.

“Emotional Intelligence” (“EQ”).²⁵ There are two general areas of EQ: understanding yourself, and understanding others.²⁶ While these two areas describe what I teach to some extent, a communication perspective offers a broader and more nuanced approach. Another approach worth mentioning is captured in the book called *Difficult Conversations*, which promotes a model of communication that also “incorporates and builds on ideas from many other disciplines,” including organizational behavior, family therapy, social psychology, and communication theory.²⁷ While I think the approach presented in *Difficult Conversations* is useful, I think the word “difficult” in the title suggests a more negative framing of communication than I wish to convey.

In relational lawyering, the goal is to create a generative dialogue,²⁸ meaning that communication can be a vehicle for generating new possibilities, rather than simply fixing problems. Generative dialogue means finding ways of talking and knowing that allow us to transform who we are and what we do. Generative interactions open up previously unavailable possibilities, and have the potential to change action and the people involved for the better.

It is also important to recognize from the outset that trying to create a generative dialogue may well not fit with every context in which we are acting as law teachers or as lawyers. There may be situations in which we decide on a different approach, such as where we believe harassment or verbal abuse is taking place. An overarching goal of relational lawyering is to aim toward making well-informed and intentional choices, recognizing that we may face a wide range of situations.

III. CORE PRINCIPLES OF A COMMUNICATION PERSPECTIVE

The models that contribute to a communication perspective share five core principles: a) recognizing that each individual brings a context into every interaction; b) focusing on awareness and clarity of communication; c) encouraging kindness, curiosity, and mindfulness; d) creating shared meaning and genera-

²⁵ See William S. Blatt, *Teaching Emotional Intelligence to Law Students: Three Keys to Mastery*, 15 NEV. L.J. 464, 465 (2015).

²⁶ See generally DANIEL GOLEMAN, *EMOTIONAL INTELLIGENCE: WHY IT CAN MATTER MORE THAN IQ* (1995). Goleman, a leading scholar and author in this field, goes on to identify five “domains” of EQ: (1) Knowing your emotions; (2) Managing your own emotions; (3) Motivating yourself; (4) Recognizing and understanding other people’s emotions/Empathy; and (5) Managing relationships (i.e., managing the emotions of others). *Id.* at 43–44.

²⁷ See DOUGLAS STONE ET AL., *DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST* at xix (2d ed. 2010).

²⁸ I am borrowing the term “generative dialogue” from the work of William Isaacs. Isaacs defines generative dialogue as the power to “create entirely new possibilities and create new levels of interaction.” WILLIAM ISAACS, *DIALOGUE AND THE ART OF THINKING TOGETHER* 38 (1999). Isaacs views his work as building upon the work of David Bohm, with whom he worked as a colleague as a part of the Society for Organizational Learning at the Massachusetts Institute of Technology. See generally DAVID BOHM, *ON DIALOGUE* (Lee Nichol ed., Routledge Classics ed. 2004).

tive dialogue; and e) demonstrating to others that they matter. In discussing each of these principles, I will highlight the contributions of particular models.

A. Recognizing the Importance of Context

The Haven Model describes context as the background of our lives.²⁹ The notion of context carries with it the rich array of past and present experiences and influences that come together in different configurations at any given moment. Recognizing the importance of context begins with appreciation of one's own context, and needs to include a similar effort to appreciate the context of another person.

David Raithby, a psychotherapist who is an expert on the Haven Model, suggests that naming our context may be helpful to creating a meaningful dialogue:

Let the other person know what has been going on for you prior to this moment, especially anything that might effect [sic] or colour your communication. For example, you might have had a tough day at work and be feeling irritable or, conversely, you might have just had a wonderful walk and be feeling very relaxed. Make sure to ask them about their context as well.³⁰

The CMM model offers several visual tools for reflecting on and creating deeper appreciation of the role of context in communication and miscommunication. One of these tools is called the Daisy.³¹

Using the Daisy Model, as depicted in Figure 1, creates a method of thinking systemically about the many and varied contexts that shape patterns of communication, thought, and behavior. These influencing drivers can include stories, attitudes, and beliefs. The figure of a daisy allows for depicting of the multiple and many-layered contexts that contribute to a given interaction or situation. In any given interaction, certain contexts, roles or voices present themselves as more in the foreground and others as more in the background.

I have used this model toward the beginning of a class to help students reflect about their own varying contexts. This exercise helps students with self-awareness, and conveys my genuine interest in them as people, and in their wellbeing.³² I ask them to draw a daisy,³³ to place themselves in the center, and

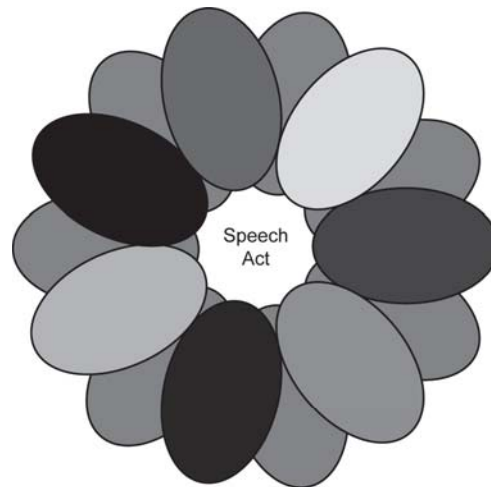
²⁹ For a detailed description of the concepts that inform the Haven Communication Model as well as other models developed at the Haven Institute, see generally BENNET WONG & JOCK MCKEEN, *THE NEW MANUAL FOR LIFE* (1998).

³⁰ David Raithby, *The Haven Communication Model* (2013) (handout, used with permission, on file with author).

³¹ The Daisy Model was originated by W. Barnett Pearce. It is described in PEARCE ASSOCIATES, *USING CMM: "THE COORDINATED MANAGEMENT OF MEANING"* 55 (rev. 2004), available at http://www.pearceassociates.com/essays/cmm_seminar.pdf.

³² I adapted this exercise from a session conducted by Jan Elliott and Erin Kreeger at the Inaugural CMM Learning Exchange, which took place in Tucson, Arizona, in November 2012. For more information about the CMM Institute for Personal and Social Evolution, see CMM INST. FOR PERS. AND SOC. EVOLUTION, <http://www.cmminstitute.net/> (last visited Apr. 24, 2015).

FIGURE 1: THE DAISY MODEL³⁴: Each petal represents a factor that influences how a person or group of people thinks, acts, makes decisions, and so on, about the Speech Act (person, actions, or event) at the center.



then to place in each petal the people and circumstances they are experiencing right now as supportive of their wellbeing. Once they have their visual depiction in hand, I ask them to take a moment and look it over, to honor the complexity of assessing any given situation, including their own. I then ask them to consider their relationship with each petal as to which of them have greater and lesser amounts of influence on their wellbeing, and how they might seek to change any of those relationships to enhance their wellbeing. I also ask them to consider if there are any petals that are missing that might make a difference. Finally, I ask them to think about one thing they might desire and have the ability to change, and to consider actually changing it to improve their situations. The last step of this exercise reinforces the students' sense of agency—that they have the ability to make meaningful changes in their own lives, even if those changes are small. The exercise demonstrates several of the communication

³³ I have experimented with using the Daisy Model in different ways. I have some lingering concern that the idea of a Daisy cuts against my effort to frame the teaching of communication as rigorous and not have it be too "touchy-feely." So, I have also invited students to use another similar type of figure, such as a wheel with a circle in the center and outgoing spokes. I am told that when the founders of CMM first began using this tool, they conceived of it as a starburst, so, to my knowledge, there is nothing particularly sacred about the daisy figure. On the other hand, I think it lends itself nicely to the kinds of reflection one is seeking in using the model, in part because of the way the petals are arranged, with some in the background and some in the foreground, and also because one can also imagine a field of daisies, and use that image in demonstrative ways.

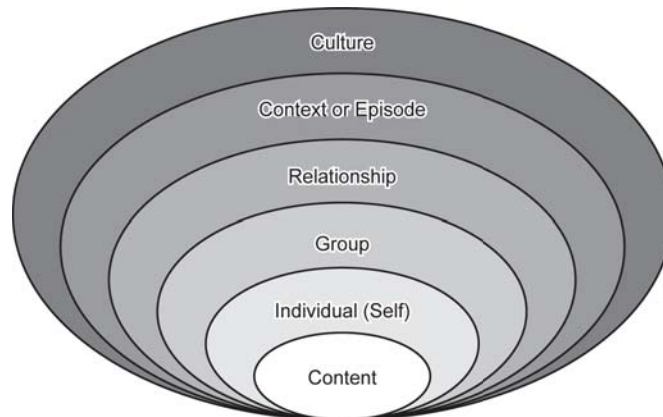
³⁴ This visual depiction of the model was created by Ilene Wasserman, and is reprinted here with her permission. Ilene Wasserman, *Relational Lawyering: Elevating the Best of the Lawyer/Client Relationship-Part II* (Spring 2013) (PowerPoint presentation) (on file with author).

practices I discuss later in this article, including exercising courage and self-compassion, and making room for stillness and reflection.

The Daisy can also be useful in reflecting upon important conversations, such as might occur between a lawyer and client. In one such fictional example we role-played in class,³⁵ the client was seeking asylum in the United States. The lawyer was probing the client about information the client seemed reluctant to provide, possibly because the client was concerned that the information might be a barrier to his asylum petition. I asked the students to draw two Daisies—one for the lawyer and one for the client, and to imagine what roles or influences might have been ‘foregrounded’ or ‘backgrounded’ for each of them in that moment. By trying to appreciate the differing contexts and priorities, the students were able to identify possible gaps between the lawyer and client in that situation. They could then appreciate that if the lawyer and client were able to communicate their contexts to each other, they would have a better chance of creating some sort of shared understanding that would lead to better outcomes.

Another of CMM’s reflective tools that helps students develop a deeper appreciation of context is called the Hierarchy of Meaning.³⁶

FIGURE 2: THE HIERARCHY OF MEANING³⁷: The Hierarchy Model describes the layers of contexts that we foreground or background in how we tell our story and make our interpretations.



This tool helps to illustrate which context is most important to us in a given situation or moment and how that can vary. The Hierarchy of Meaning model “allows us to sort through the subtle and powerful stories that are used to inter-

³⁵ This particular dialogue appears in STEPHEN ELLMANN ET AL., *LAWYERS AND CLIENTS: CRITICAL ISSUES IN INTERVIEWING AND COUNSELING* 227–31 (2009), a text I have at times used as a supplement in my communication class.

³⁶ The Hierarchy of Meaning Model was originated by W. Barnett Pearce. See PEARCE ASSOCIATES, *supra* note 31, at 35–36.

³⁷ This visual depiction was created by Ilene Wasserman, and is reprinted with her permission. See Wasserman, *supra* note 34.

pret and take action on what is happening around us,”³⁸ and offers another way of considering the role of our varying contexts in particular episodes. This model can be used to re-examine an episode in hindsight, or to help plan an upcoming meeting to consider which context or contexts may be more important to ourselves or any of the other participants. For instance, in the previous conversation between the lawyer and the client, this model offers another tool for reconsidering what took place. The concentric circles of the model illustrate the richness and complexity of the contexts that inform our stories and interpretations.

B. Focusing on Awareness and Clarity of Communication

A communication perspective focuses on the developing greater awareness and clarity of communication. The emphasis on awareness and clarity is a dramatic shift from the ways in which we usually think about communication in legal education and in law, which emphasize the rhetoric of argumentation and persuasion. As I alluded to earlier, the road to greater awareness and clarity is through curiosity. Where there are differing perspectives, the goal is to become curious about those differences, which leads to open dialogue. As I said, this type of dialogue may also be called “generative dialogue” because it allows new possibilities to emerge out of the shared meaning parties are able to create. It also allows people to get to know each other and to learn more about themselves in the process. In a generative dialogue, no one is ever right, and no one is ever wrong. We can agree or agree to disagree.

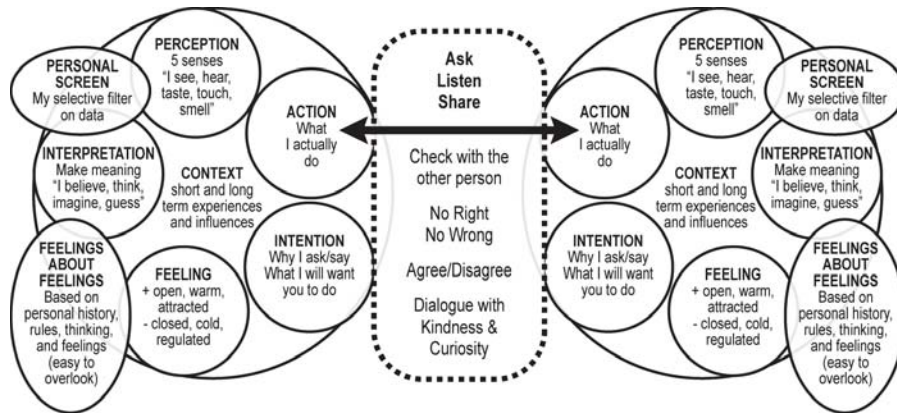
The Haven Model provides a helpful way to focus on clarity by breaking down communication into distinct components, as shown in Figure 3.

The model has five basic parts: intentions, perceptions, interpretations, feelings, and actions. These five elements are presented in a circular fashion to demonstrate that how they arise in communication is not necessarily sequential.

Some people begin an interaction with their feelings, while others may begin by offering their intention. The five elements in the diagram are set against the background of each person’s context. In the middle lies a bridge. At the point of contact, each person has a choice to step onto the bridge and to be relational.

If we can improve our awareness and clarity about what is going on for us as distinct from what is going on for whomever we are speaking with, we can become more intentional in our communication. Perhaps the biggest challenge in this process is to be able to distinguish between our perceptions and our interpretations. Joshua Rosenberg refers to this as distinguishing what is going on

³⁸ *Id.*

FIGURE 3: THE HAVEN MODEL³⁹: Connection & Awareness with Communication

“outside” from what is going on “inside.”⁴⁰ The outside is our perceptions, the raw data—basically what we can observe using our five senses.⁴¹ Our brains are constantly taking in massive amounts of this raw data. The inside is our interpretations, which is the way we make meaning of all of the raw data.⁴² We create meaning by telling ourselves stories to help explain the raw data, and these stories are necessarily influenced by our contexts. In our day-to-day interactions, we generally move instantaneously from perceptions to interpretations, which include our judgments about what we have observed as much as anything else. We fail to recognize that interpretation is taking place, and simply assume our interpretations to be real and true without ever checking them out with the other person.

A communication perspective teaches us to slow down that process, and to try to become aware of our interpretations as distinct from our perceptions.

³⁹ This visual depiction of the Haven Communication Model was created by Cathy and Ernie McNally, and is reprinted with permission by the Haven Institute. The McNallys were and are highly accomplished and esteemed educators at the Haven Institute. Sadly, Ernie McNally died in March 2014. Their interpretation of the model is based on the work of Bennett Wong, Jock McKeen, and Virginia Satir. See *The Communication Model*, *supra* note 21 (providing an overview of the model).

⁴⁰ Joshua Rosenberg is a law professor and scholar who also has a Ph.D. in psychology. He has taught a course on Interpersonal Dynamics at University of San Francisco Law School for over a decade. At the first-ever *Conference on Lawyering and Psychology*, hosted by the University of Nevada, Las Vegas, William S. Boyd School of Law, in February 2014, he presented this information in the form of a power point presentation and using a chart called Inside/Outside (unpublished conference materials on file with author) [hereinafter “Rosenberg unpublished conference materials”]. See also Joshua D. Rosenberg, *Interpersonal Dynamics: Helping Lawyers Learn the Skills, and the Importance, of Human Relationships in the Practice of Law*, 58 U. MIAMI L. REV. 1225, 1236–38 (2004); Joshua D. Rosenberg, *Teaching Empathy in Law School*, 36 U.S.F. L. REV. 621, 625 (2002).

⁴¹ See Raithby, *supra* note 30; Rosenberg unpublished conference materials, *supra* note 40.

⁴² See Raithby, *supra* note 30; Rosenberg unpublished conference materials, *supra* note 40.

This slowing down, if we can achieve it, allows us to suspend our judgments, so we can truly listen to another person.

Another area where we often lack clarity and awareness is the difference between thoughts/interpretations and feelings. As a result of our interpretations, we have feelings, which often go unrecognized. The Haven Model is specific about identifying and trying to locate feelings as bodily sensations. Feelings include those that are more positive, such as experiencing a sense of warmth and closeness, and those that are more negative, such as experiencing coolness or distance.⁴³ “Anger, sadness, happiness, and fear are also feelings, but do not necessarily offer location: saying I feel angry, for example, does not say whether I feel close or distant.”⁴⁴

Many of us have a strong preference for thoughts, so we ignore feelings and miss a lot of communication. Or, as Virginia Satir, a pioneer in the field of family therapy,⁴⁵ expressed, we ignore how we *feel* about having these feelings.⁴⁶ Importantly, the Haven Model offers a way to navigate negative feelings, which are difficult for most of us. The model suggests that negative feelings provide useful information, rather than simply representing some form of rejection of another person. It draws a distinction, and the distinction is helpful information that contributes to greater clarity.

If I am aware and clear about my perceptions, interpretations, and feelings in a given moment, the goal is to try to share them with the other person. In a generative dialogue, the next step is to invite the other person to speak, to share perceptions, interpretations, and feelings in response to what I have said, and also to listen. We move toward clarity when each of us has had the opportunity to share our perceptions, interpretations, and feelings, and has listened to the other. We may end up agreeing to disagree, and we may even feel cool or distant, yet we will be clearer. This clarity will generally lead to greater appreciation and will at least allow the relationship to continue in a constructive manner. As a result of our dialogue, we may also be able to reach a shared understanding, and then we can agree on appropriate next steps or actions.

Another aspect of moving toward greater clarity is to try to be aware of our defenses. For instance, when I find it difficult to listen to a client or an opponent, I am being defensive. There is something about me I am defending. When I am defending, I am not listening. I may be rehearsing a rebuttal or judging the

⁴³ Raithby, *supra* note 30.

⁴⁴ *Id.*

⁴⁵ For additional information related to Virginia Satir and her work, see *About Virginia Satir*, VIRGINIA SATIR GLOBAL NETWORK, <http://satirglobal.org/about-virginia-satir/> (last visited June 7, 2015).

⁴⁶ Satir referred to these dynamics as “metacommunication.” Her ideas about metacommunication have been described in a number of writings and also in a short video. See generally JOHANNA SCHWAB ET AL., *THE SATIR APPROACH TO COMMUNICATION* (1989); ThinkingAllowedTV, *Virginia Satir: Communication and Congruence (Excerpt)—A Thinking Allowed DVD w/ Jeffrey Mishlove*, YOUTUBE (Aug 31, 2010), <https://www.youtube.com/watch?v=vfkWnQNWCRE>.

other person to be wrong. Thus, negative feelings are a way in to understanding one's own context. Another common example of defenses would be: *whenever I hear anyone talk about _____, I tend to shut down and not listen*. The more we are able to reveal to ourselves about such defenses, the greater the chance we can remain open the next time someone brings up that particular subject, and gain greater clarity and self-awareness.

C. Encouraging Kindness, Curiosity, and Mindfulness

Kindness and good will are necessary ingredients for effective communication. Another way of thinking of good will is the idea of “generosity of spirit.” In trying to find the origins of this term, I found a reference to the Yiddish word “*mensch*,”⁴⁷ which has no direct English translation, though I have always understood it as a high compliment—referring to someone as a genuinely good person. I also found generosity of spirit defined as “living life from the inside out” and engaging others with an open heart and mind.⁴⁸ Whether it is called good will or kindness or generosity of spirit, we are talking about good *intention*, as the Haven Model would put it. A communication perspective is most useful for people who have an intention to attain greater clarity and to continue a professional relationship with another person. Before beginning a dialogue, it is helpful to check your own intentions as honestly as possible, and to reveal them to the other person. If your intentions are about good will, kindness, and generosity of spirit, the conditions are conducive to a generative dialogue. If your true intention is less “positive,” or indeed, if either of you is already angry, you may want to choose to wait until another time to have a dialogue.⁴⁹

Kindness and good intentions allow us to stay in a posture of curiosity. Then, we become more willing to accept the general meaning of what has been said and focus our attention on creating understanding and moving forward. When these qualities are lacking, we often become mired in petty details, arguing about the exact words that were spoken and stuck in the proverbial “he said, she said” scenario.

⁴⁷ See *What is Generosity of Spirit?*, HEART, SPIRIT & MIND (Oct. 22, 2011), <http://www.heartspiritmind.com/personal-growth/what-is-generosity-of-spirit/>.

⁴⁸ Edward A. Dreyfus, *Generosity of Spirit*, PSYCHOLOGICALLY SPEAKING, <http://www.docdreyfus.com/psychologically-speaking/generosity-of-spirit/> (last visited Mar. 8, 2015).

⁴⁹ From the standpoint of intentions, there may be times when you may still want to communicate, even if the goal is not a generative dialogue. For instance, you might be clear that your intention is to explain something to another person, or “to prove I am right”, or to “vent my feelings.” Raithby, *supra* note 30. This may seem odd, yet sharing intentions honestly clears the air and gives the other person a chance to decide if they want to participate. And, when you can honestly say that your intention is to get clear, or perhaps to get along better, the other person is more likely to want to participate, no matter how difficult it may be.

Appreciative Inquiry (“AI”) offers both a practical philosophy and a process for dialoguing with kindness and curiosity.⁵⁰ This approach aims to shift our thinking toward identifying and building upon strengths rather than only avoiding risks or fixing problems.⁵¹ AI provides processes for engaging people to build the kinds of relationships, and ultimately the kind of world, they want to create.⁵² In assessing a given situation, we can ask what went well, rather than what did not work. We can choose to put our energy into generating more of what has succeeded rather than putting our energy into avoiding pitfalls or problems.

This strengths-orientation of AI is at least novel, if not radical, in law and lawyering. Law students are generally taught to see problems and issues, and to see themselves as fixing what is broken.⁵³ Unfortunately, in today’s highly competitive legal market, they often see themselves as starting out with deficits, in terms of debt loads and job prospects, rather than assets, such as their sense of hope, commitment to social justice, or creativity. Perhaps for the very same reason, AI provides a foundational component of a communication perspective that by itself can be transformative.

AI rests on two basic principles.⁵⁴ The first is that inquiry creates change, so the act of asking questions influences the outcome in some way. The second is that human systems move in the direction of their images of the future. Positive images lead to positive action. As law teachers, what we focus on with our students shapes their experiences and outcomes. And as lawyers, what we focus on similarly shapes our clients’ experiences and outcomes. These principles suggest we consider the questions we can ask as law professors or as practitioners—where can we focus attention, to generate more of what our students and our clients need.

Table 1 contrasts the AI approach with a Problem Solving Approach.⁵⁵ Seeing the models side by side highlights the limitations of a problem solving

⁵⁰ To appreciate is defined as to value or admire highly; to judge with heightened understanding; to recognize with gratitude. To inquire is to search into, investigate; to seek for information by questioning. For more information about AI, see APPRECIATIVE INQUIRY COMMONS, <http://appreciativeinquiry.case.edu/> (last visited Apr. 25, 2015).

⁵¹ SUE ANNIS HAMMOND, *THE THIN BOOK OF APPRECIATIVE INQUIRY* 6–7 (1996).

⁵² *See id.* at 7.

⁵³ In the field of law, “problem solving” is often touted as an advanced and highly progressive way of thinking about lawyers’ competencies. *See, e.g.*, Carrie J. Menkel-Meadow, *When Winning Isn’t Everything: The Lawyer as Problem Solver*, 28 HOFSTRA L. REV. 905, 905–06 (2000) (advancing good legal problem-solving as a key legal goal for the “modern lawyer”); Kathleen Ellen Vinson, *What’s Your Problem?*, 44 STETSON L. REV. 777 (2015) (claiming the role of problem solver to be a lawyer’s primary role, and promoting the understanding and use of a problem-solving methodology throughout legal education).

⁵⁴ These principles, the Simultaneity Principle and the Anticipatory Principle, were first described by the originators of AI. For more information, see *Principles of Appreciative Inquiry*, CENTER FOR APPRECIATIVE INQUIRY, <http://www.centerforappreciativeinquiry.net/more-on-ai/principles-of-appreciative-inquiry/> (last visited on June 11, 2015).

⁵⁵ HAMMOND, *supra* note 51, at 24.

approach, which narrows thinking rather than allowing for openness and creativity. Further, when considered from the standpoint of clients, AI can help us to consider our clients as people with strengths and abilities rather than simply labeling them as problems or cases to be solved.

TABLE 1: APPRECIATIVE INQUIRY VS. PROBLEM SOLVING

Appreciative Inquiry	Problem Solving
<ul style="list-style-type: none"> • Appreciates—what gives life? • Imagines—what might be? • Determines—what should be? • Creates—what will be? 	<ul style="list-style-type: none"> • Identifies—problem • Conducts—analysis of cause • Brainstorms—solutions • Develops—action plans

One important and useful application of AI is called *appreciative interviewing*.⁵⁶ The techniques of appreciative interviewing tap into the strengths of the interviewee. This type of interviewing also requires us to listen in a way that honors where people are at and normalizes what they are experiencing. Appreciative listeners are genuinely curious and acknowledge the highest intention of the speaker. Another way to think about this approach is to call it *generous listening*. Generous listening can enhance every classroom as well as probably every encounter in our professional lives. Through asking questions with an eye toward finding out what works and listening generously, appreciative interviewing contributes to a generative dialogue.⁵⁷

The following is an exercise I have used with students to teach appreciative interviewing. The exercise also helps students to cultivate resilience, a practice discussed later in this article. Cultivating resilience means helping a person—perhaps a law student or a client—to tap into that person’s full range of resources for getting through critical moments, which could be challenging life experiences or circumstances.

In the exercise, students are asked to find a partner, and encouraged to pair up with someone they do not know well and have not yet paired with in the class thus far. They are asked the following: *Think about a challenging situation you have encountered while doing legal work, and yet you were able to navigate that challenge successfully. What enabled you to do so? What was it about you, or the circumstances, or the people around you?* The students each take turns in their pairs telling their stories and listening carefully to their partners’ stories. Then each pair is asked to join a second pair, so groups of four students are formed. In those new groupings, the students from the original pairings tell the stories of the students they interviewed. Everyone takes turns until all four stories have been shared. The small groups are asked to identify and share common themes or approaches that emerged. Then the class is de-

⁵⁶ See *id.* at 35–36.

⁵⁷ HAMMOND, *supra* note 51, at 32–33.

briefed as a whole with the following additional questions: *What was the experience like? What questions do you have? What might happen next?*

In doing this exercise, a number of students have expressed that they are able to recognize positive qualities in themselves that they may not formerly have noticed. Hearing their partners tell their success stories through the partners' interpretive lenses allows students to gain new insights into their own ability to navigate challenges in the workplace. Students also come up with new strategies and ways of thinking by listening and sharing with their peers. Additionally, the exercise helps to build trust among the participants in the class, as they reveal more of themselves and share vulnerable moments with each other.

In addition to kindness and curiosity, mindfulness is integral to a communication perspective. By being mindful during an interaction, we allow ourselves to pause and to make more deliberate choices. Mindfulness is also essential to improving awareness and clarity. It is only when we slow down, and even pause for a moment, that we are able to notice the distinctions between our perceptions and our interpretations, or between our thoughts and our feelings.

Mindfulness is a vast field that has had a recent burst of popularity, which has been accompanied by a rapidly expanding body of research and other literature across many disciplines and in the popular media. Recent studies demonstrate its ability to alter brain chemistry in positive ways as well as other dramatic benefits, all of which lead to stress reduction and other favorable health outcomes.⁵⁸ Mindfulness is rapidly gaining adherents among many sectors, including the professions. A growing number of lawyers and law professors are integrating mindfulness and also meditative practices into their work and their teaching.⁵⁹

D. Creating Shared Meaning and Generative Dialogue

The aim of a communication perspective is to reframe the goal of effective communication such that the focus is on creating shared meaning, rather than simply transmitting ideas to a listener, or persuading another person of the correctness of one's own position. The Coordinated Management of Meaning

⁵⁸ See, e.g., Heidi Wayment et al., *Doing and Being: Mindfulness, Health, and Quiet Ego Characteristics Among Buddhist Practitioners*, 12 J. HAPPINESS STUD. 575, 576 (2011) (reviewing the literature on key ways mindfulness training increases physical and mental health, including strengthening the immune system and reducing stress, depression, and anxiety); Denali Tietjen, *Mindfulness Meditation Benefits More than the Mind*, BOSTON.COM (June 4, 2014, 3:37 PM), <http://www.boston.com/health/2014/06/04/mindfulness-meditation-benefits-more-than-the-mind/crdobytPKLDVhfRcCWkZ2M/story.html>.

⁵⁹ See, e.g., Charles Halpern, *The Mindful Lawyer: Why Contemporary Lawyers Are Practicing Meditation*, 61 J. LEGAL EDUC. 641 (2012) (lead article in a symposium issue devoted to mindfulness in legal education); Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 535 (2011).

(“CMM”) model offers several important concepts that help illuminate these principles.⁶⁰ CMM emphasizes the relational aspect of communication as well as the idea of agency. We create our realities through the quality and patterns of our interactions with others. This is where the CMM idea of “meaning making” originates. Some of the concepts and tools of CMM allow us to actually *see* the reality we create in our turn-by-turn communication acts with others and the meaning we make from them. This approach highlights our opportunities to reflect, create, alter, and choose how we listen and speak. A goal of CMM is to “shift and expand our taken-for-granted notions of what is possible as we are mindful and intentional about what we create in the process of communicating.”⁶¹

CMM has three central concepts, which help explain the idea of creating shared meaning. The first is *coordination*. CMM views the goal of communication as an effort to coordinate meaning, rather than to achieve the exact same meaning. The second concept is known as *coherence*. As we create shared meaning, and generate new possibilities, we also need to create opportunities to pause and reflect, which will lead to some coherence. The third concept is *mystery*. Mystery helps us to recognize that there is always much we do not know and cannot ever know about another person, and even about ourselves.

These core concepts support the idea of embracing what Martin Buber called “dialogic moments”: holding dearly one’s own perspective side by side with another person’s perspective without needing to resolve them. Buber states that in that moment we are expanded in relationship to the other.⁶² Such dialogic moments reflect the generative nature of a truly open dialogue. For instance, consider the example presented earlier of a lawyer who disapproves of a client’s past behavior. Embracing the dialogic moment would mean being able to hold the client’s story as seen through the client’s eyes, alongside the lawyer’s interpretation and perhaps even disagreement, without having to resolve the differences. The lawyer who can truly hold, appreciate, and honor the client’s story will allow for new possibilities to arise in that relationship. A communication perspective thus approaches interactions with a client as a vehicle for appreciating the client as a whole person, with all of his or her strengths, and aims for co-creating new and shared meanings between the lawyer and client.

⁶⁰ I have studied the CMM Model through the teachings of Ilene Wasserman and Jesse Sostrin, two leaders and avid writers in the field. Dr. Wasserman has assisted me in teaching the CMM Model in my communication class, and we also co-led a day-long continuing legal education program in Philadelphia in November of 2012.

⁶¹ Wasserman, *supra* note 34.

⁶² See generally MARTIN BUBER, I AND THOU (Walter Kaufmann trans., Touchstone 1970) (1923). The dialogic moment is part of what Buber describes as the I-Thou relationship. See also Kenneth N. Cissna & Rob Anderson, *Theorizing about Dialogic Moments: The Buber-Rogers Position and Postmodern Themes*, 8 COMM. THEORY 63 (1998) (including an extensive review of literature on dialogue, and describing Carl Rogers’ work on dialogic moments).

This idea of dialogic moments rests on similar principles to those that have been discussed in clinical legal scholarship about helping law students navigate disorienting moments.⁶³ It has long been recognized that one of the aims of clinical programs and perhaps other forms of experiential education is to maximize the learning potential of the unexpected challenges that are bound to arise in real world legal practice.⁶⁴ Such moments present unique opportunities for student learning as well as professional development.

In order to achieve coordination and coherence, and create new possibilities within relationships, CMM offers reflective tools.⁶⁵ When a “disconnect” happens, these tools can assist us in making sense of it and responding in intentional ways. These tools essentially allow for disentangling the entangled, through naming and framing in a visual form. They include *speech acts*, *episodes*, and *punctuation*. Speech acts are actions, so they are not necessarily spoken through words. A speech act is what we say and do in the turns of a conversation and in patterns of communication, and they may be powerful at times. Examples of common speech acts include promises, threats, compliments, and insults. An episode is a sequence of speech acts that have a distinct beginning and end that are part of a story. Punctuation is the process of dividing and organizing episodes into the search for meaningful patterns. Additionally, CMM talks about “URPs”—unwanted repetitive patterns. By being able to develop new insights about speech acts and episodes, one may be able to avoid URPs.

One activity that makes use of these ideas is to examine a challenging episode, maybe a challenging or tense conversation. In trying to appreciate the lack of coordination and coherence, and perhaps move toward more constructive communication, we might ask, *what were the speech acts that took place?* We might also ask, *when did the episode begin and end, and how was it punctuated for each of the participants?* For instance, in a conversation peppered with threats and insults, one party to the conversation might see the episode as having begun ten minutes earlier when they stepped into that specific interaction, while the other participant might view the episode as having begun ten years earlier. Using the concepts and tools of CMM may therefore uncover some of the mystery behind a difficult interaction in a way that opens up possibilities for greater future coordination and coherence.

⁶³ See generally Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37 (1995). See also Brooks & Madden, *supra* note 9, at 358–59.

⁶⁴ Such disorienting moments can also arise and be utilized for learning purposes in well-constructed simulations.

⁶⁵ See generally PEARCE ASSOCIATES, *supra* note 31.

E. Demonstrating to Others That They Matter

A basic premise of a communication perspective is that all people want to be seen and heard. Another way to express this idea is that everyone needs to matter. Indeed, a well-established theory called “mattering” was developed over two decades ago based upon research with school-age children as well as undergraduate students in universities.⁶⁶ The studies showed that children and youth fared better academically and using other indicators of wellbeing when they experienced themselves as mattering to others, as making a difference in the lives of other people and in their broader sense of their worlds.⁶⁷ “[T]he most important lesson is that even with our differences, we are connected by the need to matter and the need to belong.”⁶⁸ These findings are easily applicable to law students as well as to lawyers and law faculty. They comport with the very recent findings of a study conducted by Larry Krieger and Kennon Sheldon of over six thousand lawyers.⁶⁹ The study compiled the results of lawyers’ self-reports of the aspects of their lives they saw as correlated to their sense of success and wellbeing. The factors with the highest correlation to success and wellbeing were the lawyers’ experience of authenticity, doing work that they defined as meaningful, and their sense of connectedness through positive relationships.⁷⁰

IV. EFFECTIVE COMMUNICATION PRACTICES

A companion piece to my study and teaching of a communication perspective is a set of communication practices that are teachable and learnable among legal professionals across a wide range of settings. These practices can be implemented across the law school curriculum, both formally and informally.

In other writing, I have referred to these as *healing practices*.⁷¹ I use the term *healing* because I believe these practices offer a positive response to the

⁶⁶ See Gregory C. Elliott et al., *Mattering: Empirical Validation of a Social-Psychological Concept*, 3 SELF & IDENTITY 339, 339 (2004) (“Mattering is defined as the perception that, to some degree and in any of a variety of ways, we are a significant part of the world around us.”); see also Nancy K. Schlossberg, *Marginality and Mattering: Key Issues in Building Community*, NEW DIRECTIONS FOR SOC. SERVICES, Winter 1989, at 5, 9 (“Mattering refers to our belief, whether right or wrong, that we matter to someone else.”).

⁶⁷ Nancy Schlossberg, a professor at the University of Maryland, studied mattering in the context of her work with undergraduate university students. Her work was based on the work of Morris Rosenberg and his colleagues, sociologists who first developed this theory in the early 1980s around their study of adolescent behaviors. Schlossberg articulated five areas of mattering: (a) attention; (b) importance; (c) ego-extension; (d) dependence; and (e) appreciation. Schlossberg, *supra* note 66 at 9–11.

⁶⁸ *Id.* at 14.

⁶⁹ Lawrence S. Krieger with Kennon M. Sheldon, *What Makes Lawyers Happy?: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 572 (2015).

⁷⁰ *Id.* at 579, 592, 624.

⁷¹ Susan L. Brooks, *supra* note 20 (manuscript at 14).

much-written-about⁷² toxic culture that often exists within law schools. Students and faculty alike may well experience the classroom as fiercely competitive, isolating, and alienating, which detracts from students' learning and from faculty's achievement of our educational goals. These practices also contribute to students' formation of their professional identities and values, a critically important area in which legal education has been found lacking, according to the Carnegie Report⁷³ and other compelling critiques.

Using my felt experience after twenty years of teaching as a starting point, I have developed this list of practices from the sources of my work on communication, and from the work of other respected scholars from a number of disciplines.⁷⁴ It is also worth mentioning that in a newly published book, called *What the Best Law Teachers Do*, the authors identify many of these practices as qualities and characteristics of the best law professors and their approach to teaching.⁷⁵ In a forthcoming book chapter, I describe these eight practices in depth.⁷⁶ In the following sections, I outline them in a summary fashion to

⁷² Numerous legal scholars have studied the issues surrounding the negative effects of legal education on students' wellbeing. In addition to Larry Krieger and Kennon Sheldon, a sampling of others who have pursued these concerns include Nancy Levit and Douglas Linder, Barbara Glesner Fines, and Eli Wald and Russell Pearce. See, e.g., NANCY LEVIT & DOUGLAS O. LINDER, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* 3–7 (2010); Barbara Glesner Fines, *Fundamental Principles and Challenges of Humanizing Legal Education*, 47 WASHBURN L.J. 313, 315 (2008); Wald & Pearce, *supra* note 13, at 405. The Association of American Law Schools now also has a section devoted to Balance in Legal Education. *Section on Balance in Legal Education*, ASS'N AM. L. SCHS., https://memberaccess.aals.org/eWeb/dynamicpage.aspx?webcode=ChpDetail&chp_cst_key=9fb324e8-e515-4fd3-b6db-a1723feb799 (last visited June 9, 2015).

⁷³ WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 14 (2007). In the Report, the idea of helping law students to develop a sense of professional identity and purpose is called "the third apprenticeship." *Id.* at 28; see also Brooks, *supra* note 11, at 414–16.

⁷⁴ In particular, my ideas about healing practices draw upon the work of Rachel Naomi Remen and Brené Brown. See generally *The Doctor's Dilemma: Returning Service, Grace, and Meaning to the Art of Healing*, interview by Peter Warshall with Rachel Naomi Remen, in *WHOLE EARTH*, Summer 2000, at 4 [hereinafter *The Doctor's Dilemma*]; BRENE BROWN, *THE GIFTS OF IMPERFECTION: LET GO OF WHO YOU THINK YOU'RE SUPPOSED TO BE AND EMBRACE WHO YOU ARE* (2010) [hereinafter BROWN, *GIFTS OF IMPERFECTION*]; BRENE BROWN, *DARING GREATLY: HOW THE COURAGE TO BE VULNERABLE TRANSFORMS THE WAY WE LIVE, LOVE, PARENT AND LEAD* (2012). Dr. Rachel Naomi Remen is a physician who was a founder of holistic medicine. She has continued to be a leader in what is now called "Integrative Medicine," which has inspired the Integrative Law Movement. Her work has many parallels with Relationship-Centered Lawyering. Brené Brown, Ph.D. has written several highly popular and successful books, and also has a strong Internet following for her TED talks and blog called Ordinary Courage.

⁷⁵ See generally MICHAEL HUNTER SCHWARTZ ET AL., *WHAT THE BEST LAW TEACHERS DO* 37–75 (2013) (describing the best law teachers as having the qualities including authenticity, thoughtfulness, positive thinking, empathy, humility, creativity, and attentiveness). The book also highlights that, in their teaching, the best law professors listen carefully, use silence well, and facilitate community and collaboration.

⁷⁶ See generally Brooks, *supra* note 20. Substantial portions of this section are taken from this forthcoming book chapter.

demonstrate further how relational lawyering can be taught pervasively, in addition to the benefits of having a dedicated course on communication.

A. *Creating Safe Space*

Creating a safe space in the classroom may sound simple. Indeed, many of these practices may sound simple. Throughout this discussion, it is important to keep in mind, though, that simple is not easy. Developing the level of safety in the classroom in which teachers and students can be their authentic selves is no small achievement. A first step is to recognize that our dominant culture in the U.S., as well as our dominant legal culture, is driven by our emphasis on individualism and self-sufficiency.⁷⁷ These emphases lead to loneliness and isolation within the legal culture and our legal institutions, including the competitive atmosphere of law schools. Law students respond to this highly competitive culture by becoming guarded and self-doubting. So, the first step is to develop an atmosphere of safety—a “harmless space.”⁷⁸ Having this safe space helps law students, as emerging professionals, to give and get support along with their classmates, and provides a model for the attorney/client relationship. In order to create this safe space, the classroom needs to be experiential rather than didactic or theoretical. Experiential learning can encourage our students to share ideas they might not be able to share elsewhere because they feel safe and because they are with others who can appreciate what they are going through.⁷⁹

For instance, in my communication class, I begin the first session with an express invitation to the students to approach this class differently than perhaps they have approached other law school classes. My invitation is for them to be willing to open up to new ways of thinking, and to bring more of themselves into the classroom. I state my intention and hope of creating a safe space within the classroom with the aim that the class can become a productive and supportive learning community. I then lead an open-ended discussion with the students about what we need to do to create that level of safety in the class and what might get in the way. We talk together about the aspects of law school culture that might make it difficult to share openly and be our authentic selves with each other. The students respond by bringing up aspects of the shadow or

⁷⁷ See, e.g., Peter Gabel, *A New Vision of Justice: From Individual Rights to Beloved Community*, in *ANOTHER WAY OF SEEING: ESSAYS ON TRANSFORMING LAW, POLITICS AND CULTURE* 61, 61–65 (2013) (describing the historical cultural emphasis on individual rights in the US, which has distorted our ability to see ourselves as interconnected beings seeking mutual recognition); Wald & Pearce, *supra* note 13, at 411 (critiquing the dominant culture of autonomous self-interest in United States-based legal education, which tends to produce lawyers who view themselves as atomistic actors, and promoting reforms that would support relational values among legal professionals).

⁷⁸ *The Doctor's Dilemma*, *supra* note 74 at 6. Here and in the rest of this section, I am using Remen's descriptions of the medical culture and drawing direct parallels within law and the legal culture. For instance, I find that Remen's description of the loneliness of the medical education culture applies with equal force to the legal education culture, as I see it.

⁷⁹ *Id.* at 6–7.

shame culture they have experienced in other classes and activities: fear of being judged, or seeming stupid, or silly, or embarrassing themselves, or seeming uncool by participating freely. We then try to establish some positive expectations for how we will try to be with each other in the class—open, honest, kind, respectful, and accepting of differences.

Having focused on this practice in my communication class, I now try to begin each of my classes by discussing the idea of creating safe space in some way. I also try to reinforce a sense of safety throughout the semester. For instance, in teaching family law, I try to be thoughtful and intentional about teaching specific subject matter or covering cases that may be difficult emotionally for some students. First, I try to consider whether the substance or pedagogical value is sufficiently important to warrant the possible emotional difficulty that I may bring about in class. Then, if I do decide that the subject is sufficiently important or necessary, I try to prepare students as much as possible, and I also try to give them room to process whatever may be difficult by taking time to debrief with them after the fact.

On more of an interpersonal level, meaning in one-on-one situations rather than in the classroom, creating safe space includes the idea of asking permission to have a dialogue. David Raithby emphasizes the importance of seeking permission, and explains this idea as making sure you have an agreement to communicate.⁸⁰ It is important to keep in mind, especially if you are entering into a difficult conversation, that while you may be well prepared, the person with whom you want to speak may not be at all prepared for what you want to discuss. Moreover, if that person is introverted, he or she may possibly need additional time to process what is being said separately, and it may be useful to offer to take a break during the conversation. It is generally best to suggest a private location and the amount of time you think will be needed. This approach gives the other person a chance to decide if and how they wish to participate, rather than you just launching into a discussion. If the other person does not want to communicate, it is important to accept that response, and to ask instead if there might be another time and place that will be more acceptable.

B. Encouraging Everyone to Be Fully Present, and Be Their Authentic Selves

Authenticity is a collection of choices we make every day, including the choice to show up and be real, the choice to be honest, and the choice to let ourselves be seen.⁸¹ In order to encourage students to show up and be their authentic selves, as law teachers we need to consider revealing more of ourselves, and perhaps even allowing ourselves to be a little vulnerable with our students. For instance, if I do not know the answer to a student's question, I openly acknowledge it, and let the class know I will seek more information prior to our next meeting, and we will puzzle through the issue together. If I come away

⁸⁰ Raithby, *supra* note 30.

⁸¹ BROWN, *GIFTS OF IMPERFECTION*, *supra* note 74, at 49.

from a class session thinking my presentation of an idea was somewhat confusing, I will bring it up at the beginning of the next class, offer an apology, and try to give a clearer account. Then, I will check in again with the students to make sure they are comfortable with my explanation. While it may be deeply counter-cultural, we need to be willing to own some level of vulnerability, and to embrace it as a sign of strength rather than weakness.⁸² Generally, we admire people, especially our leaders, when they speak “from the heart” and take risks on behalf of others. Creating an atmosphere in the classroom in which everyone is willing to take these kinds of measured risks is a key to creating a more caring and supportive community in law schools, and perhaps over time, in the legal profession.

We can encourage presence and authenticity through how we show up in the classroom and how we engage with students and others in our workplaces. We can be intentional about revealing glimpses of ourselves, which will allow students to connect with us more easily as human beings than if we are fiercely wedded to appearing neutral and distant. Intentional choices, such as asking students to close their laptops, may also encourage students to be more fully present. We need to be able to frame and to explain such measures to students in a positive light, rather than as some form of punishment, or as a reflection of our distrust.

Another technique that encourages presence and authenticity is having students work through questions or problems in pairs or in small groups. Many students, especially those that are more introverted, are more comfortable processing their ideas in pairs or small groups rather than in front of the whole class. “Pairing and sharing” or having students discuss an issue in small groups also allows everyone to participate. Sometimes this technique can be a useful prelude to a larger class discussion, and other times, it may make more sense to make the smaller discussions the primary teaching modality.

C. Cultivating Resilience by Showing Courage and Compassion—Including Self-Compassion—and Fostering Connection

Resilience⁸³ is about the potential for personal and relational transformation and growth that can be forged out of adversity. The literature on resilience refers to protective factors: “things we do, have, and practice that give us the bounce.”⁸⁴ These factors include the ability to sustain a positive outlook in order to cope with stress, recover from crises, and overcome barriers to success.⁸⁵

⁸² *Id.* at 71–72.

⁸³ Resilience has been a popular topic of study since 1970s. *Id.* at 63.

⁸⁴ *Id.*

⁸⁵ See, e.g., Froma Walsh, *Family Resilience: A Framework for Clinical Practice*, 42 *FAM. PROCESS* 1, 1 (2003).

One way to sum up these factors is to talk about courage, compassion, and connection. Practicing courage, compassion, and connection is how we cultivate a sense of our own worthiness. A key word here is practice. The reason for calling all of these ideas *practices* is to emphasize that we cannot simply make them appear at some magical moment, and they do not remain fixed. As such, practicing compassion and connection happens when we act in compassionate ways toward and connect with others.⁸⁶

Courage is about telling our stories, and not being immune to criticism. Being willing to open up and reveal some aspects of our true selves is a risk we have to take if we want to experience connection.⁸⁷ Real compassion happens when we recognize our shared humanity.⁸⁸ The core of compassion is acceptance—of ourselves⁸⁹ and of others. Importantly, acceptance and compassion can co-exist with boundaries and accountability.⁹⁰

We all find greater strength in community than in isolation, by knowing ourselves in connection with larger realities. “Relationship and connection happen in an indefinable space between people, [one] that will never be fully known or understood by us.”⁹¹ As mentioned earlier, CMM refers to this aspect of relationships as “mystery,” recognizing that we can never fully understand what we are hearing in a conversation. There are parts of ourselves and others that will always be beyond our grasp. Acceptance of the inherent mystery enhances our appreciation of ourselves and others.⁹²

Resilient individuals and families hold onto a relational view of strength in contrast to the American cultural ethos of the “rugged individual.” Connection includes the willingness to ask for help. This idea that connection is about receiving as well as giving brings up the idea of the contrast between perfectionism and healthy striving. We need to learn, and to help our students learn, to focus on healthy striving rather than perfectionism. Perfectionism is about seeking to gain acceptance,⁹³ while healthy striving is about trying to be our best selves. Healthy striving requires accepting our imperfection and practicing self-compassion.⁹⁴ The fixation on perfectionism is a big obstacle on the path toward bringing a more relational perspective to legal education. Law professors as well as law students fall prey to the notion they must be perfect and therefore must appear perfect in front of each other. Students may not ask the questions that are really going through their heads and impeding their compre-

⁸⁶ BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 7.

⁸⁷ *Id.* at 53.

⁸⁸ *Id.* at 16.

⁸⁹ See generally THEODORE I. RUBIN, COMPASSION AND SELF-HATE: AN ALTERNATIVE TO DESPAIR (1975).

⁹⁰ BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 17.

⁹¹ *Id.* at 25.

⁹² See RUBIN, *supra* note 89; *supra* text accompanying note 89.

⁹³ BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 56.

⁹⁴ *Id.* at 57.

hension of a subject, and professors may not probe students about their comprehension of the same subject, because each is holding onto the idea that doing so would expose imperfection.

Resilience has also been tied to having shared beliefs that increase options for navigating challenges. These shared beliefs can help individuals to “make meaning of crisis situations; facilitate a hopeful, positive outlook; and offer transcendent or spiritual moorings.”⁹⁵ Spirituality, as it is used here, is about shared and deeply held beliefs, rather than any traditional notion of religion.⁹⁶ Contemporary social justice movements express this core belief that in joining together, individuals strengthen their ability to overcome adversity. A passion for and deep commitment to social justice can therefore be a form of spirituality—a sense of connection and belonging to something greater than ourselves. This sense of connection to something bigger and more meaningful than just ourselves brings healing that contributes to resilience.⁹⁷ It also brings a sense of perspective, meaning, and purpose to our lives.⁹⁸

D. *Sharing Our Stories and Listening Generously to the Stories of Others*

Stories remind us of who we are, what is important, and what we might be and do. A good story points to something that has remained real over time and can be trusted.⁹⁹ The best stories are about the “art of living.” They give us new eyes, meaning they can help us bring new perspectives to reflecting on who we are and on our experiences, which can help us find deeper meaning and satisfaction in our lives.¹⁰⁰ The new and deeper meaning that can come from sharing our stories strengthens us by changing our experience of our lives, rather than changing our actual lives. Finding meaning is about seeing familiar things in new ways.

Generous listening is not about offering advice or solutions, and it is not about persuading the other person, or even sharing your own story that you think is a lot like theirs. It is simply holding the other person’s story, and honoring it and valuing what that person is offering in that moment. As discussed earlier, generous listening is a core aspect of a communication perspective.¹⁰¹ Listening generously can help law students navigate the often-vexing situations that arise when they first start working with actual clients, for instance, in law school clinics, externships, or pro bono experiences. Students frequently struggle with the contrast between their idealized vision of who they thought the client might be, and the real, flawed human being they experience before them. In

⁹⁵ Walsh, *supra* note 85, at 6.

⁹⁶ BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 64.

⁹⁷ *Id.* at 73.

⁹⁸ *Id.* at 64.

⁹⁹ University of California Television (UCTV), *The Art of Living Every Minute of Your Life* at 5:06, YOUTUBE (June 26, 2008), <http://www.youtube.com/watch?v=Q1xBjIHEhtg>.

¹⁰⁰ *Id.* at 3:16.

¹⁰¹ See HAMMOND, *supra* note 51, at 32–33; *supra* text accompanying note 57.

situations where the client's story does not seem to match up to the student's own sense of what occurred, the student may jump to assumptions about a client being manipulative or untruthful.

The CMM concept of mystery also leads to another practice that is an important correlate to generous listening—the idea of cultivating intuition.¹⁰² While we offer our full presence and support for what another person is telling us, we need to notice what is going on for us as the listener at the feeling level, and be willing to accept the uncertainty that goes along with it. Yet, what silences our intuitive voice is often the need for certainty. Most of us, perhaps especially lawyers and law students, are not good at not knowing. We may jump to conclusions, while we often ignore our own knowledge, partly because we may be disconnected from what we truly *feel*. Sometimes our urge toward knowing leads us to ignore what our gut is telling us about slowing down and gathering more information.

The Haven Model encourages learners to seek clarity, then to separate out and try to be aware of aspects of communication that often get muddled together.¹⁰³ As described earlier, this means distinguishing perceptions (what we can gather with our five senses) from feelings (bodily states) and from interpretations (the stories we tell ourselves to make meaning of our perceptions). The goal is to slow down the process so we can use our intuition constructively when we are engaged in conversation, rather than simply assuming our interpretation is correct. So, in the situation with the client whose story does not match up with the student's interpretation, the idea is not simply to suppress those gut feelings. Instead, we need to help the student develop an ability to hold space for uncertainty and remain empathic toward the client and the client's story, as they continue to dialogue with kindness and curiosity.

E. Focusing on Strengths

Focusing on strengths is another core component of the relational communication approaches I teach. In teaching AI to law students, I have realized that shifting our orientation as lawyers to one focused on strengths is truly radical and potentially transformative. Students' ability to recognize their own strengths and the strengths of their peers can translate into their ability to recognize their clients' strengths and to see them as whole human beings rather than simply as cases or files.

¹⁰² BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 87–88.

¹⁰³ See *supra* Part III.B; see also Raithby, *supra* note 30; *The Communication Model*, *supra* note 21.

F. Engendering Hope and Creativity

As seen in the practice of resilience, hope is a future-oriented belief that fuels energy and efforts to rise above adversity.¹⁰⁴ In stressful situations, such as those that law school often presents for students, it is essential to rekindle dreams in order to see possibilities, tap into potential resources, and strive to surmount obstacles toward aspirations.¹⁰⁵ Hope is a cognitive process and not merely an emotion.¹⁰⁶ It requires setting realistic goals; figuring out how to achieve those goals, including staying flexible and developing alternative routes, as well as tolerance for disappointment; and believing in oneself.¹⁰⁷

Creativity is an expression of our originality.¹⁰⁸ What we have to offer to the world is completely original and cannot be compared to what other people offer. When we embrace creativity, we spend less time in the destructive activity of comparing. Comparison is about conformity and competition, which are prevalent and potentially highly damaging parts of the antagonistic and isolating culture of law school and the profession. These cultural elements run contrary to self-acceptance, belonging, and authenticity. We need to help our students to be hopeful, and to believe that they can make a difference through their own unique professional contributions. That uniqueness is what creativity is about. So, we need to encourage our students to find meaningful work that will allow them to experience their own creativity,¹⁰⁹ and that they can embrace as a “calling.”

G. Finding Joy and Gratitude

Practicing gratitude and joy brings healing. Joy is related to happiness, which has been interpreted to have different meanings. Adherents of positive psychology view happiness as a state of being that transcends circumstances and is lasting. Others see joy and gratitude as potentially transcendent and lasting, while happiness may be fleeting. A recent study distinguished two types of happiness: one tied to doing meaningful work with long-term consequences, and the other tied to short term gratification.¹¹⁰ Interestingly, according to the study, those who fit the characteristics of the first form have more positive health indicators than those who fit the second form.¹¹¹

¹⁰⁴ See *supra* Part IV.C.

¹⁰⁵ BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 65.

¹⁰⁶ *Id.*

¹⁰⁷ *Id.* (citing C.R. Snyder et al., *Hope for Rehabilitation and Vice Versa*, 51 REHABILITATION PSYCHOL. 89 (2006)).

¹⁰⁸ *Id.* at 97.

¹⁰⁹ *Id.* at 111–16.

¹¹⁰ Barbara L. Fredrickson et al., *A Functional Genomic Perspective on Human Well-Being*, 110 PROC. NAT'L ACAD. SCI. 13,684, 13,684 (2013).

¹¹¹ *Id.* at 13,687.

Law school and legal practice may breed a mindset that focuses on scarcity because of the high level of fear and anxiety that are a part of the legal culture.¹¹² Instead, we can choose a mindset of sufficiency, which has been defined as an experience and a context we generate, rather than a specified amount of resources.¹¹³ To heal the classroom, we can practice and help our students practice showing joy and gratitude, which may bring us and them closer to a mindset of sufficiency. And rather than aiming only for the happiness that comes with instant gratification, we can aim for doing meaningful work and treating ourselves and others with compassion.

H. Making Room for Stillness and Reflection

A final practice on my list is finding opportunities to cultivate calm and stillness.¹¹⁴ Making time and space for calm and stillness gives students an opportunity to become more fully present, and to set aside whatever else may have occurred before they enter the classroom. Stillness means quieting one's body as a way to deal with stress and anxiety and feeling overwhelmed. It can be achieved by meditation/prayer/periods of quiet reflection and alone time. Stillness is about creating a clearing. The focus is on creating the opportunity for emotional openness, which need not always be through absolute stillness. Some people can achieve that clearing using walking or some other form of movement. Breathing is a great place to start to practice calm reflection and stillness. I have used breathing exercises with students in my communication class, and have encouraged them to try pausing and taking some calming breaths when faced with difficult situations.

V. LESSONS FROM THE CLASSROOM

As mentioned, for the past three years I have offered a course on communication, which is aimed at teaching relational lawyering. The course includes exposure to the three communication models I have discussed, along with sessions on other approaches to communication, including Mindfulness Meditation. The course is freestanding, and is not tied to a particular clinical or other type of field experience, although the participants are upper level law students and most have had real world legal practice experiences to draw upon.

I conduct the class in the spirit of a lab, meaning that in addition to any material I plan to introduce, I make use of what the students bring to the class and what occurs during the class session week by week. Each class session begins with a check-in time. I invite the students to take a moment and settle them-

¹¹² Of course, there are aspects of scarcity that may well be reality-based. And yet, healing practices may help law students generate new and different possibilities as a response to some of these realities.

¹¹³ BROWN, GIFTS OF IMPERFECTION, *supra* note 74, at 83 (citing LYNNE TWIST, THE SOUL OF MONEY: TRANSFORMING YOUR RELATIONSHIP WITH MONEY AND LIFE 44 (2003)).

¹¹⁴ *Id.* at 105–10.

selves into the present moment (and close their laptops). I then invite anyone to share anything that is going on for them in the present, maybe based on experiences from the previous week, or it could be anything that is on their minds as they sit and center themselves on being in the here and now. This check-in time is time for stillness and reflection. It is also a way of bringing mindfulness practices into the class. Early in the class, I let them know that I am comfortable with “awkward silences,” and they usually chuckle a bit. Naming the awkward silence takes the edge off and normalizes the experience for them, so that then when it happens during the class it is an expected thing rather than a sign of something being amiss.

The check-in is also an invitation for the students to share their stories and for generous listening. It encourages students to be a little vulnerable, to open up to each other—to show courage—and to experience compassion and connection. The students see that the tools they are learning are immediately applicable across many contexts.

An illustration of how I teach a communication perspective and integrate healing practices is an exercise I use during the first session called “Reflections on the Journey of Vocation.”¹¹⁵ I ask the students to reflect back and identify decision points/critical moments/influential people in their lives that have led to the present moment, and chart them for themselves or depict them in some other visual way. The students then share their stories with a classmate of their choosing, who is encouraged simply to listen and not ask questions right away. After they each take turns, the listener in each pair introduces his or her partner to the class, and the other student has the chance to ‘edit’ the introduction afterwards. I also share my own chart.

The exercise establishes a foundation for teaching relational communication, and also incorporates many of the healing practices on my list. It invites the students to show up and be fully present, and to share their stories. The students begin practicing generous listening, as classmates are asked simply to listen to each other’s stories, and then to share each other’s stories with the rest of the class. Everyone is seen and is heard. And in sharing their stories, the students are able to reflect on their own and each other’s resilience over the course of their lives. The exercise also offers a way of doing introductions that digs a bit deeper than typical icebreakers.

To demonstrate how students integrate the course material and use class time, the following is a story that a student shared during the check-in time about halfway through the semester the first time I taught the class. This student was enrolled in a legal clinic at the same time as she was taking the class: The clinic client was facing eviction, and the student expressed frustration and her own sense of helplessness because she was convinced the client did not

¹¹⁵ Reflections on the Journey of Vocation (author unknown), also called “Stepping Stones,” distributed at Ethics and Professional Responsibility “Beyond the Rules,” Sponsored by the Center for Law and Renewal, Austin, TX (2007) (handout on file with author).

have any chance of winning his legal case against the landlord. Nevertheless, she decided to try to contact the landlord to see if a solution could be worked out. The client had mentioned that the landlord was a difficult and mean-spirited person, and when the student called the landlord, she also experienced him that way. As she phoned the client to share the disappointing news, the student was filled with dread and a sense of despair at having failed. There was nothing she could do for him. Yet, somehow—and the way she told the story, it was largely because of what we had already discussed in class—she thought to share with the client her own experience with the landlord, that she, too, thought he was a difficult and mean-spirited person. The client immediately responded with gratitude and relief. “That’s all I really wanted,” the client said. “I just needed to know that it wasn’t only me, that I’m not crazy.”

For the student, hearing the client share his sense of relief was a “light-bulb” moment. Although she had commented about the landlord as an attempt to apply the guidance from the class without much conviction that it would help, when it did indeed make a difference, it clicked for her that what a client truly wants and needs from a lawyer may not necessarily be about winning or losing a legal case. For this client, it was much more important to have his sense of reality affirmed—to be seen and heard.

This story demonstrates how teaching relational communication approaches and using healing practices in the classroom help students learn relationship-centered lawyering. By sharing her own similarly frustrating experience with the client’s landlord, the student showed empathy for the client. She also demonstrated her appreciation of the importance of the affective and interpersonal aspects of what was going on for the client, and the injustice the client was experiencing at the procedural level. The healing practices she applied in this situation were all about courage, compassion and connection. They included her willingness to be fully present and be vulnerable with the client by telling him she did not think she could help him on the merits. They also included focusing on the client’s strengths and seeing the client as a whole person, as well as generous listening and sharing her own story.

Here is another story from the class, this time from a student who took the class in its second year: This student came to see me outside of class. She wanted to let me know how useful the class had been to her, and at the same time, she shared that initially, she was a bit unsure of whether it had been a wise decision to take a class on communication rather than an additional area of substantive law. She also shared that her parents had expressed some skepticism when she told them she was taking a course on communication. Then she found herself in a critical moment related to her participation in an extracurricular activity at the law school. The stakes were high for her because the situation not only involved her classmates; it also involved adjunct faculty members who were in charge of the activity. She was upset by the conduct of one of these faculty members, and was struggling about how to state her concern. She said before taking this class, she probably would have just reacted in the mo-

ment, and would have said something she later regretted. Instead, the class taught her to slow down, to pause and reflect before expressing herself. It also taught her to consider how she might reframe her concern in a more positive way, and to use the situation to exercise courage, compassion, and connection, though she did not use these exact words. She said she was able to begin by talking about the professor's strengths and what was going well. She was also careful in the words she chose to express her concerns about what she was hoping might change, to try to be clear about her positive and hopeful intention to improve the group's work and its outcomes. As a result, much to her pleasant surprise, her professor was receptive to her concerns, and she experienced herself being heard by her professor without defensiveness or aggressiveness, as she might have otherwise expected. She came away from the conversation with a sense of satisfaction and greater confidence in her ability to navigate critical moments. After having this successful experience with practicing what she learned in the class, the student said she now believes this course was the most useful class she had in law school, and she has shared that sentiment with her parents as well.

Similar to the first story, this student took the tools and techniques she learned in the class and applied them to navigate a challenging professional situation. This example also demonstrates that the importance of relational skills transcends situations in which a lawyer is interacting directly with a client. While in most professional settings, the work may well be in the service of the client, lawyers need to be able to communicate effectively across a wide range of professional settings and encounters.

The situation also highlights the integration of a number of effective communication practices this student was able to call forward. These included her willingness to be authentic and vulnerable by sharing her concerns with her professor, listening generously, focusing on strengths in reframing her concerns, and using a moment of stillness and reflection to ensure her communication met its intended purposes.

VI. REFLECTION AND ASSESSMENT OF RELATIONAL LAWYERING

Reflection plays a central role in teaching and learning a communication perspective. For instance, the CMM Model provides specific tools for reflecting upon past interactions so that it is possible to make more intentional choices about future interactions. The Haven Model takes apart an interaction to allow the learner to reflect on the different components that are at work. An important skill of a relational lawyer thus is to be able to use reflection to guide future communication, such that there can be an open and genuine dialogue in which participants have the potential to create new and perhaps unseen possibilities.

Reflection and assessment go hand in hand. Both can be viewed as vehicles for informed decision-making. In many ways, assessment, especially *formative*

assessment,¹¹⁶ generates opportunities for reflection. A communication perspective supports the idea that assessment is a co-created process, which means it becomes as much about the give and take in the classroom as it is about students' written products. If we are truly asking, listening, and sharing with our students, assessment can become dynamic and iterative, and can encompass much of what takes place in the classroom. This process can lead to improvements in teaching and learning, including the macro-level, in terms of course design, and the micro-level, in terms of students' individual and group learning experiences.

Bringing a communication perspective to assessment requires law faculty to be willing to take measured risks in the classroom, along with making an ongoing commitment to integrating assessment throughout the life of a course. Faculty need to check in with students on a frequent basis, and be willing to shift their lesson plans or even their course syllabi to be responsive to student feedback. In all of my courses I create frequent opportunities for students to provide feedback to me about what they are learning and how they are experiencing the course material. I routinely begin the first session by seeking anonymous feedback from students about "three things they would like to see happen," and "three things they hope to avoid."¹¹⁷ In addition to regular check-ins, at the midpoint of the semester I do another anonymous informal survey during class and ask about which teaching methods they have found most effective thus far, and which teaching methods they have found least effective.¹¹⁸ I use the information I receive up front to help shape my syllabus and structure the class, and I make adjustments at the midpoint based upon the feedback I receive about teaching methods. I have also used a number of different methods to involve students in planning and presenting or orchestrating course content, such as facilitating small group discussions, or having small groups develop mini-presentations or interactive exercises with my support. These methods offer students opportunities to reflect on the course material they are trying to learn, and also provide useful feedback I can consider as a part of formative assessment.

¹¹⁶ Formative assessment monitors student response to and progress with instruction. It provides immediate feedback to both the teacher and student regarding the learning process. By contrast, summative assessment measures what the student has learned at the end of a unit of instruction or at the end of a grade level (e.g., through grade-level, standardized assessments). Formative and summative assessment contribute in different ways to the larger goals of the assessment process. Evelyn Johnson & Joseph Jenkins, *Formative and Summative Assessment*, EDUCATION.COM (Dec. 23, 2009), <http://www.education.com/reference/article/formative-and-summative-assessment/>.

¹¹⁷ The idea for soliciting this type of feedback from students up front came from the Inaugural Conference of the Global Alliance for Justice Education, Training of Trainers Workshop, Trivandrum, India (1999).

¹¹⁸ The suggestion for phrasing this question came from Sophie Sparrow during a workshop on pedagogy. See also MICHAEL HUNTER SCHWARTZ, SOPHIE SPARROW & GERALD F. HESS, *TEACHING LAW BY DESIGN* 173–74 (2009).

A critically important part of assessment is self-assessment, which can also be seen as a form of reflection. From the standpoint of a communication perspective and healing practices, self-assessment may well offer THE richest opportunities for transformational learning. Faculty as well as students can use self-assessment as a tool for positive growth—building on their strengths and tapping into their core or intrinsic values. I have created and co-authored a number of different self-assessment tools to use in a range of courses, from reflective seminars accompanying clinics and field placements, to a child welfare policy seminar. The Journey of Vocation exercise I described earlier also provides a form of self-assessment. Throughout their legal education it is important that students are encouraged to check in with themselves and their own professional and educational goals. This way of helping students become more intentional about their own professional identity formation is probably most effectively accomplished using a variety of modalities. It is also useful, as others have written, to use self-assessment tools in pre- and post- formats so that students can assess their own growth.¹¹⁹

When it comes to summative assessment, faculty need to emphasize outcomes that reflect deeper learning, including *learning for transfer*,¹²⁰ rather than simply providing a basis for a letter grade. Much has been written about the importance of students' ability to transfer whatever they learn in many different types of law school courses from one context to another. The idea of transfer is equally important—indeed, it is perhaps the only real purpose—for teaching relational lawyering, whether it is taught in a dedicated course or as one area of focus in a course with additional content.

Corie Rosen Felder, whose areas of expertise include teaching legal methods, offers useful guidelines for using written feedback to help achieve successful outcomes with respect to students' relational competencies. Specifically, she recommends simple techniques, such as giving students feedback that is “temporary, specific, and hopeful.” Such techniques have been shown to cultivate an optimistic mindset that will help students to remain resilient despite the challenges they undoubtedly will face throughout their careers.¹²¹

¹¹⁹ ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 190 (2007) (“A most important aspect of assessment is student self-assessment.”). See generally *Assessment*, INST. FOR L. TEACHING & LEARNING, <http://www.lawteaching.org/teaching/assessment/> (last visited Apr. 26, 2015). Our law school has formally incorporated the use of pre- and post- self-assessments into our widely subscribed externship program. We viewed the use of self-assessment as a key component of this program given its heavy emphasis on self-directed learning.

¹²⁰ Learning for transfer means that students are able to understand, remember, and later use what is taught to them. See generally Shaun Archer et. al., *Reaching Backward and Stretching Forward: Teaching for Transfer in Law School Clinics*, 64 J. LEGAL EDUC. 258 (2014); Tonya Kowalski, *True North: Navigating for the Transfer of Learning in Legal Education*, 34 SEATTLE U. L. REV. 51 (2010).

¹²¹ Corie Rosen, *Creating the Optimistic Classroom: What Law Schools Can Learn from Attribution Style Effects*, 42 MCGEORGE L. REV. 319, 338–40 (2011) (embracing an optimistic classroom by drawing from positive psychology).

Felder's suggestions demonstrate the tremendous importance of faculty developing detailed and thoughtful rubrics for assessing students' written reflection in ways that are consonant with effective communication practices. In a recent article, Rachel Spencer, a clinical law teacher and director of clinical programs based in Australia, synthesizes the existing literature on reflection, and offers up her own definition of the goal of reflection for her students.¹²² She refers to the idea of "the integration of calculative and contemplative thinking—transformation of thinking into learning."¹²³ Spencer goes on to assert that to her, "[t]he skills inherent in the act of reflection provide a vehicle for students to engage in a paradigm shift, from passive recipients of information to active learners who ask questions, view information critically and use emotional intelligence."¹²⁴ She thus makes a similar linkage between helping students cultivate their ability to reflect and transformational learning tied to relational lawyering.

Spencer also connects the assessment of students' reflective skills with the goal of helping them to deconstruct "disorienting moments."¹²⁵ As mentioned earlier in the context of the CMM concept of dialogic moments, this term describes the moment of experiencing something jarring to a learner. Disorienting moments often entail encountering two dissonant ideas, and the learner's effort to hold them and try to make sense of them. A communication perspective would say that transformational learning—the paradigm shift Spencer refers to—takes place when, after thoughtful examination, students can articulate their "meaning making" of such jarring moments.

Spencer's article presents a number of rubrics for assessing the quality of students' written reflection taken from different disciplines, including several drawn from legal educators. Since discovering her work, I have begun using one of these rubrics, borrowed from the medical education field, in assessing the content of students' reflection papers. I now share the rubric with students early in the semester so that they are aware of the assessment criteria I will use. Here is a general outline of the rubric:

- Identifying and focusing on salient issues;
- Analyzing your own communication and the communication of others;
- Drawing upon a variety of resources (with appropriate attribution);
- Demonstrating an appreciation of complexity and different perspectives;
- Providing contextualized analysis;
- Identifying your learning achievements and further learning needs and goals; and

¹²² See generally Rachel Spencer, *Holding Up the Mirror: A Theoretical and Practical Analysis of the Role of Reflection in Clinical Legal Education*, 18 INT'L J. CLINICAL LEGAL EDUC. 181 (2012).

¹²³ *Id.* at 193.

¹²⁴ *Id.*

¹²⁵ *Id.* at 194 (citing Jane Harris Aiken, *Striving to Teach "Justice, Fairness, and Morality"*, 4 CLINICAL L. REV. 1, 25 (1997)). See generally Quigley, *supra* note 63.

- Writing clearly and coherently.

This rubric fits nicely with a relational communication perspective, and yet, it is merely one among many potentially useful rubrics. As with other aspects of taking a communication perspective, this discussion is not about right or wrong, and it is not about touting the “best” rubric. Rather, the point is that we need to challenge ourselves to find rigorous ways to assess students’ written reflection. Further, in assessing written reflection as a measure of students’ relational competence, we need to be transparent about the specific criteria we use as well as the weight we assign to each component.

VII. OPPORTUNITIES AND CHALLENGES OF TEACHING RELATIONAL LAWYERING

A. *Opportunities and Benefits of a Communication Perspective*

This discussion has explored many of the opportunities presented by teaching relational lawyering using a communication perspective, as well incorporating effective communication practices into legal education. If law professors and administrators were to receive training in and to adopt a communication perspective, law schools would become more positive and effective teaching and learning environments.

This approach has the potential to contribute significantly to the achievement of many of our current goals, especially in areas where legal education has been found lacking. One such area, which was mentioned earlier, is professional formation: the need to provide greater support and guidance for students’ development of a sense of professional identity and purpose. This critique was a central concern raised in the highly influential Carnegie Report,¹²⁶ which assailed legal education for seriously neglecting this “third apprenticeship,” in contrast to areas such as legal analysis and performance skills.

Other areas of opportunity where there have been longstanding concerns include teaching cultural sensitivity, as well as collaboration and teamwork. The tools and methods, as well as the values inherent in this approach provide a way in to navigating cultural differences. These approaches also tie in with healing practices such as connection and compassion, all of which would contribute to enhancing students’ sense that they, and we, are all in this together.

Returning to the list of relational skills identified at the beginning of this article, bringing a communication perspective to legal education would enhance students’ development of characteristics such as creativity, innovation, and practical judgment. This creativity and innovation would include new appreciative and generative approaches. Other important relational skills and abilities

¹²⁶ SULLIVAN ET AL., *supra* note 73, at 30–33, 56–59, 126–61 (describing need for greater emphasis on third apprenticeship—that of professional identity and purpose—in legal education and illustrating possible implementation strategies).

that are increasingly being touted would be improved under this approach, including interviewing and the ability to organize and manage others.¹²⁷

This approach also can potentially enhance students' professionalism, which is somewhat distinct from issues of professional formation. By professionalism, I am referring to specific behaviors, such as timeliness, thoroughness, humility, respect, and appropriate deference. Law faculty and administrators frequently complain about students' lack of professionalism, and prospective employers have often criticized legal education for not doing enough to graduate students who exhibit highly professional conduct.

One important reason we are falling short in professionalism training is because we are missing opportunities to address unprofessional behavior in the places where it often shows up. These missed opportunities include correspondence, such as e-mail messages, and interactions that take place outside of the classroom. Yet, if law faculty and administrators would receive training in relational communication, these tools and methods could become more pervasive in ways that could potentially make a huge difference in students' level of professionalism.

In my current role as an administrator, I have witnessed these lost opportunities to assist some of our students. Many students present their struggles with being relational *outside* of the classroom, in situations in which they are experiencing distress or discomfort with some aspect of their situation in law school. These students approach a professor or administrator or staff member in an unprofessional manner. We all know and have experienced such students. The moments in which our "difficult" students behave unprofessionally by sending inappropriate e-mail messages or using a disrespectful tone in talking with us about a concern present monumental opportunities to teach relational lawyering. Unfortunately, though, perhaps many if not most of us, including myself at times, would rather find the path of least resistance, and just resign ourselves to the notion that such students will graduate soon. Understandably, part of the issue is that most of us have not received training in a communication perspective, and therefore, we lack the necessary tools and methods. Part of the issue, though, is that we would rather not confront a student if we can avoid it.

Instead, we need to see these encounters as potentially transformative learning opportunities to teach our students to be relational lawyers. We do a disservice to our students *not* to confront them using relational communication tools, such as kindness and curiosity. So, by teaching and learning a communication perspective, and by ensuring that we and our colleagues become versed in it, we may have a tremendous opportunity to help shape the professionalism of our students in a positive direction.

In the moments where I have had the presence of mind and the courage to use a communication perspective with "difficult" students, I have experienced transformational moments. One example involved a student who approached

¹²⁷ See Shultz & Zedeck, *supra* note 2 at 630 tbl.1.

me essentially asking for a favor, and yet her tone was oddly hostile. At first, I noticed the feelings—my chest was tightening and I was literally getting hot under the collar. So, I decided to slow things down. I shared with the student my intention of wanting to be helpful to her. I also shared what I was experiencing by saying that I was experiencing her as disrespectful, though I did not imagine that was her intention. I then suggested to the student that she might want to consider her tone, and start over with me. I must admit that when I spoke those words, I was struggling to hold onto a posture of kindness and curiosity. Fortunately, the student made good use of the “pause” and literally started the conversation over again, this time with a calm and respectful tone. After that incident, we developed a close rapport, and the student has since found a satisfying career, and sent a lengthy message thanking me for my contributions to her pursuit of her professional goals.

In another instance, a student came in to meet with me in the midst of a conflict and recent confrontation with another student. He had sent one of my junior colleagues an angry e-mail message, on which I had been copied. The first word of the message was simply: “Lies!” Together, my colleague and I e-mailed the student and asked to meet with him in person. In this case, I was able to hold on to kindness and curiosity. I spoke to the student in a calm voice, and invited him to share what was going on for him. I also asked him how he imagined we might receive his message. This approach on my part seemed immediately to disarm him. Almost instantly he calmed down and we were able to have a constructive dialogue.

B. Challenges of Teaching Relational Lawyering

The idea of pervasive training and implementation of a communication perspective presents serious challenges on a number of levels. It would require institutional buy-in and a willingness to devote time and resources among stakeholders across legal education including deans, other administrators, faculty, and staff.

Before we even get to the resource allocation question, there might be serious concerns or even objections to some aspects of this approach, which is radically different than reigning approaches in at least some aspects. For instance, the shift from a focus on persuasion to a focus on clarity would be a radical, and perhaps inappropriate, shift to some educators and practitioners.

Another area of possible concern would be how a communication perspective addresses hostile players, those who are unwilling to step onto the bridge. Some in our field would probably say there are times when it is necessary and appropriate to be adversarial and highly competitive, or even to be pessimistic and negative, in order to be effective and proficient in doing legal work.

A third area might be a concern about power differentials and structural inequalities. Understandably, there might be skepticism about whether kindness

and curiosity can help disempowered individuals or groups to communicate effectively and successfully—to truly be seen and heard.

These are all important questions and concerns, and I am not suggesting here that bringing a communication perspective to legal education is an instant panacea. The idea of these models is that adopting a communication perspective opens up new possibilities for building bridges in ways that can ultimately help create structural changes in society. That is not to say that some individuals or groups will choose not to participate in open and constructive dialogue. When all is said and done, we cannot truly ever force anyone onto the bridge.

My own experience with teaching a communication perspective and trying to bring effective communication practices into the classroom suggests that, alongside the rich learning opportunities, at times these approaches are also likely to be met with resistance. Students in law school are highly concerned about appearing competent and in control. They are used to being subjected to critique, and in my experience, they tend to be extremely guarded, even in an ungraded two-credit class.

Here is an example of a specific challenge that has arisen, and some suggestions for working through it in the classroom. In teaching the Haven Model, some law students have presented difficulties with being asked to practice having a dialogue by breaking down communication into its simpler components. Some of them have objected to being asked to notice the raw data exhibited by another student with whom they have been partnered for purposes of this exercise. They seem to believe that they are being asked to be “judgmental.” Other students have resisted being asked to share their interpretations of the raw data, stating that doing so would also be judgmental. The concern about being judgmental is well-taken, given that one of the important themes of a communication perspective is to promote at least a suspension of judgment while remaining open to new information.

Consistent with the Haven Model, there are a number of suggestions for navigating this particular challenge. One suggestion is to help students consider the difference between judgment and discernment. Another is the idea of making whatever judgments we do have explicit—saying them aloud. A third suggestion is to emphasize that the exercise of judgment is always meant to be provisional. If participants state their judgments, and give their context, there can be a shift from a monologue to a dialogue. This provisional quality is made explicit in the Haven Communication Model in the step called “Check it Out.” The speaker can share his or her intentions and feelings, and then ask the listener, *does this fit for you?* When the speaker checks out the interpretation with the listener and openly invites a response, ideally the listener gathers additional raw data and hears the other person’s story. If there is good will, there may be agreement, or there may be agreement to disagree. In the latter situation, the listener/second speaker can share his or her intentions and give the first speaker more information. As long as judgments remain provisional and both parties

maintain good intentions and a posture of curiosity, there can be a dialogue, which can lead to new possibilities for coherence and coordination.

CONCLUSION

When we are no longer able to change a situation . . . we are challenged to change ourselves.—Viktor Frankl¹²⁸

We are living in interesting times. And yet, we can embrace crisis as opportunity. We can choose to respond to the current challenging environment by introducing fresh ideas and approaches to address longstanding concerns about the wellbeing, professional identity, and values of emerging legal professionals. By adopting a communication perspective, as legal educators we have the potential to change the culture of our law schools, to help our students become healthier and happier lawyers, and ultimately, to create a better future for the legal profession.

¹²⁸ VIKTOR E. FRANKL, *MAN'S SEARCH FOR MEANING* 135 (Ilse Lasch trans., Washington Square Press 1985) (1946).