

Cases

SF and the Intellectual Property Rights (IPRs) of Indigenous Peoples

Using SF to Facilitate a Challenging Symposium

John Brooker

The head of a charity wanted to facilitate a Symposium in a way that would challenge conventional thinking and enrich the debate on the topic of the Intellectual Property Rights (IPRs) of indigenous peoples. She wanted to ensure that “it would be different to conventional symposia, that it would be a closed and informal environment, that it encouraged dialogue, built relationships and had maximum benefit.” Facilitating a workshop on this contentious issue in a problem focused way can lead to disagreement, hostility and broken relationships. This article illustrates step by step how we used an SF Approach to facilitate the Symposium. It explains the issues that arose, how we dealt with those issues and the successful impact the Symposium has had on the charity.

Background

Fiona Darroch is the founder of Protimos, an organisation of lawyers who work to provide access to law for indigenous and marginalised communities in the developing world. Intellectual Property Rights (IPRs) are a legal issue, as well as a powerful economic force for development. Protimos was founded to promote greater equality between stakeholders in issues surrounding IPRs and biodiversity.

A sponsor gave Fiona the opportunity to run a Symposium

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with leading experts in the field at an elegant country house hotel in the Cotswolds, England. Previous symposia on this topic had been very conventional; a speaker presented a paper and it was discussed. Unfortunately, because of the nature of the topic, these discussions had sometimes ended up in an “us v them” situation with criticism on all sides.

Fiona wanted a different approach, one that would seek common ground through informed and informal dialogue, on the subject of the IPR’s of indigenous people over their natural and cultural heritage.

Earlier in the year, she had participated in a workshop I had facilitated on SF. Fiona thought that SF would be an unusual and useful approach for her Symposium and approached me to design and facilitate it. The interesting challenge persuaded me and the venue was a bonus!

Before the Symposium

I met Fiona for a discussion and used SF tools to build a platform. The participants were to be indigenous people, lawyers, academics, pharmaceutical company representatives and charity workers. Whilst she thought the Symposium would achieve a significant outcome, she also had concerns. In her words, these included: “Egos. Intellectual snobbery. Individuality. Tension between leaders. The fact that it was not to be a conventional Symposium and that people would stomp off”.

Having elicited these concerns, I asked her to imagine it was the end of the Symposium and that she had achieved the outcomes she wanted; what would it be like? She did not want the Symposium to change the world; rather she wanted people to have:

- created meaningful relationships leading to the formation of a secretariat (to ensure that people would continue to communicate with each other)
- agreed to hold a series of such forums in the future
- ideally to have begun to find common ground.

After the workshop she wanted people to be conciliatory, trusting and to quote her, “inspired would be brilliant”. She was uncertain about the effectiveness of SF in this situation and I sought to reassure her that with her communication skills and expertise (she is a barrister specialising in environmental law) and my experience with facilitating SF, it would work.

The Symposium

We held the Symposium over two days, from lunchtime to lunchtime, with eighteen people attending. Some people were unable to attend because of time pressure, but others had declined because of the hostile atmosphere at previous symposia on the topic. During the Symposium we used a conventional approach to SF as follows:

Focus

OUTCOME: THE GROUP IS FOCUSED ON THE SYMPOSIUM AND IS MOTIVATED TO MAKE IT OUTSTANDING

With a diverse range of people we wanted to ensure that we broke down barriers and relaxed people from the start. We spent the first hour rotating people in small teams to:

- have people relate to each other (though they had attended other symposia, many people did not know each other personally)
- have them set the rules of behaviour for the Symposium
- establish what they wanted to achieve as individuals
- clarify what they would be doing and how they would be doing it.

There was a very positive feeling at the end of this exercise.

Constructive Rant

OUTCOME: THE GROUP HAS BUILT A PLATFORM FROM WHICH IT CAN PROGRESS

In pairs, the Group went for a stroll in the grounds to vent their frustrations/annoyance/irritation about the topic in a controlled way. Each person had three minutes to say what he or she thought without interruption from the other. Next, they swapped round.

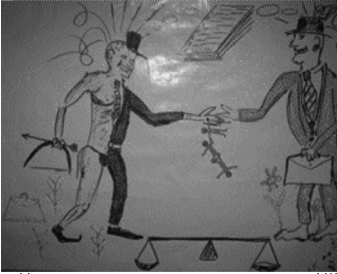
This can seem like a very non-SF way to work; however, it is in fact compatible with SF.

- Experience has shown that allowing people to vent their concerns puts most of them into a much better state.
- The three minutes of being listened to, uninterrupted by another person, is similar to Nancy Kline's "Thinking Environment" and enables people to order and articulate their thoughts, sometimes for the first time.
- Pairing people prevents the negative thoughts "contaminating" the whole group and is much quicker than a whole group discussion.

On their return they wrote on a card what they wanted to happen and we displayed these on a board for Group review, clarifying each point. We limited each person to two cards due to time and the Group was pleased to see common themes running through what individuals wanted.

Shaping the Future

OUTCOME: THE GROUP HAS A CLEAR DESCRIPTION OF WHAT IS HAPPENING WHEN ALL PARTIES ARE WORKING WELL TOGETHER ON THE TOPIC OF THE IP RIGHTS OF INDIGENOUS PEOPLE



The Group split into five teams to develop pictures of a perfect future “in which people are working well together.” The intent was not to ensure that everyone agreed on what the perfect future is. Rather, it was to obtain different perspectives of it that the Group could work towards, step by step.

Drawing the pictures produced lively discussions and humour. However, when using pictures you can meet resistance. Therefore, when introducing the exercise I explained that:

- they will enjoy the exercise
- we use our analytical and verbal skills so often, it is good to use another part of the brain to consider the situation
- pictures can help us to think metaphorically and this can provide new insights.

After drawing a picture, each team explained their image in written bullet points in a positive way e.g. what they are doing; what others are doing; what people are saying; etc. This gave the Group something tangible to take away. Again, there were similar themes running through the different pictures and people raised a number of issues that we recorded.

Affirmative Indicators

OUTCOME: THE GROUP HAS EVIDENCE OF FACTORS THAT EXIST TO HELP ACHIEVE THE PERFECT FUTURE

It is tempting, when dealing with complex situations like this, to imagine that all is going wrong. However, if the perfect future is a “10” then we rarely start at “0”. Some factors are likely to be going well. Again in small teams, the Group considered the following:

- What parts of their perfect future had happened already? What else? What evidence is there?

- What skills and resources exist to help them achieve the perfect future? What else?

We recorded 21 points here, e.g. *“In Canada, New Zealand and the USA, inherent sovereignty recognition by treaty has enabled effective “consent to use” and allowed benefit sharing with indigenous communities.”*

REBELLION!

The step-by-step explanation indicates that the Symposium ran very smoothly. This was not the case. After Affirmative Indicators, which ended the first day session, there was considerable disquiet amongst some of the participants because the Group was not working to identify the key problems. A frequently heard phrase was, “We must identify the causes!” and there was pressure to spend the next morning doing so. This is a common response to an SF Approach, especially within a group with many highly trained analytical thinkers including lawyers, academics and scientists.

The danger of reverting to this problem focused approach was that the goodwill and harmony developed would evaporate as people began to defend their positions, possibly developing a blame culture within the Group and failing to meet the client’s outcomes.

As a facilitator I dealt with it by:

- staying calm, using “anchors” (in Neuro Linguistic Programming terminology) to retain confidence
- not being egotistical, listening, accepting the comments in a neutral way and not defending
- trusting in the SF approach, asking people to do so and reassuring the Group that the work the next morning would bring tangible outcomes
- refusing resolutely to seek the causes of problems and working closely with the client to reassure people
- encouraging those who were happy with the SF approach the opportunity to voice their views.

Despite further calls on Day 2 to identify the key issues and seek the root cause, we maintained the SF approach as follows:

Scaling

OUTCOME: THE GROUP IS AWARE ON A SCALE OF 1 – 10, HOW INDIVIDUALS CONSIDER THE SITUATION, WITH REGARDS TO THE PERFECT FUTURE

If the perfect future were “10” on a scale, how far up that scale did each individual think the situation was currently? Individuals stood on the scale ranging between 1 and 7. Each person was asked, “What has got you up to this point?”

We did not record these responses assuming that they would be similar to items raised in Affirmative Indicators. However, many were different and in hindsight we should have had participants record their responses to add to the Affirmative Indicators.

Next, we asked, “What would move you just one step up the scale?” Each attendee recorded the output, e.g. “If there were one lawyer for the indigenous community, a trained specialist.”

Small Action

OUTCOME: THE GROUP HAS A SMALL ACTION EACH ATTENDEE CAN TAKE TO MOVE THE SITUATION FORWARD

I noted in the previous step that all of the points that would move people forward were dependent on other people. For that reason I adjusted the next step to reflect what small action the individual might take.

To move the situation forward, we asked each attendee to commit to one small action. This exercise produced a number of practical actions. For example, one offered to train an indigenous lawyer and another offered to ask his Chambers to provide a placement for an indigenous lawyer.

Reflections

Those experienced in SF may note that I have not mentioned the Affirmation tool in this session. Whilst I am happy to affirm a group and individuals, I admit I find asking people to affirm each other difficult, feeling that it can be contrived and embarrassing. However, I trusted that Group affirmation would arise naturally during this Reflections session and it did.

The Group split in to teams of six. Each person had two uninterrupted minutes to reflect on the Symposium. The teams recorded their thoughts on flip charts and we reviewed these with the Group. Examples were:

- Unexpected level of stimulation from diversity
- Disciplines and backgrounds that usually do not mix – led to a feeling that this Group is a very good idea
- Specific actions very helpful and actionable
- Commitment from all to make positive solutions was valuable
- Process was nonconventional but by the end, produced interesting ideas
- The place, atmosphere, exchanges, meeting different backgrounds, was very positive
- Emergence of a Group with a mechanism for keeping in touch
- Loved enchanted landscape and village and using different aspects of ourselves e.g. walking, painting, swimming as well as the talking, eating and sleeping.

Reflection Post Event

Client

To quote the client a year after the Symposium:

“The Symposium built really good future relationships that are now (12 months later) bearing fruit. And perhaps most important of all, the people who came realised that there

were different approaches which could be taken to address the challenge. The whole Symposium challenged the existing orthodoxies in people's minds, and the positive effects of that will be felt for a long time yet. All those who came to the Symposium seem to have spread the word that the work was really good and the consequence is that those who couldn't come then have been moved by the positive feedback of the Symposium to engage with us further, in the next stages of the process."

"I liked the risks which we took in designing and running the Symposium. They were honest and as we felt them, either when huge issues suddenly arose, or when someone challenged the SF approach out of defensiveness or obstinacy, they were really well resolved, with no sense of pressure or compromise. I liked the continual change of pace, the use of physical space and the care which was taken to ensure that all participants had a fair share of the air time."

Facilitator

I have already identified learning in the main body. However, to summarise my key points:

- It is important to accept that many people wish to investigate the problem – this approach has served them well over many years – so resistance to an SF approach can arise. It is important not to take it personally, not to defend and to consider the whole group, not just a few individuals. Trust in the approach; it works much more often than not.
- Use SF with the client when planning.
- The SF approach is flexible. Be prepared to flex the tools that you use based on the outcomes you are achieving during your workshop and on the time available.

To Close

Based on this case study and many other workshops, SF is an excellent approach to facilitate challenging meetings when there is (amongst other issues) underlying conflict, differing perspectives and low motivation to take constructive action. Very quickly it can build optimism, a team understanding of the situation and the motivation to succeed without endless problem discussion and identification of bogus root causes. Its focus on small steps by many avoids overwhelming the few with huge actions that they must take as well as their normal duties, ensuring that change happens and importantly that it is maintained.

References

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