
Kluwer Mediation Blog

Reflecting on the Cardinal Virtues and the Liberal Arts

John Sturrock (Core Solutions Group) · Wednesday, July 28th, 2021

Every now and again something happens to cause me to pause and think - or re-think. Recently, I had that experience at a small ruined castle in the heart of Scotland, near a lovely country town called Edzell.

Edzell Castle, visited by, among others, Mary Queen of Scots and her son, King James VI of Scotland, has a distinctive and well-kept walled garden, which was added to the castle by David, Lord Edzell, in 1604 (just after King James VI became King of England also). It is said that Lord Edzell *"clearly intended to stimulate both mind and senses"*. He certainly achieves the former with a series of carved panels, displayed on the striking walls, which portray the Seven Cardinal Virtues, the Seven Liberal Arts and the Seven Planetary Deities.

I'm not sure I have ever really considered these before now but it was the Virtues and the Arts which got me thinking. I'll leave the planetary gods for another time. To what extent might these ideas from centuries ago still be relevant to our work as mediators?

The Cardinal Virtues are said to be the opposites of the seven deadly sins and include: Faith, Hope, Justice, Charity, Prudence, Fortitude and Temperance.

I suggest that expressing Hope is pretty central to what we do as mediators. For many in dispute, matters have become, or appear to be, hope-less. It is our job surely to underpin what we offer with the hope that those in seemingly intractable disputes can join the millions of others who have nevertheless achieved a satisfactory outcome using mediation. And to persevere with that hope however tough things may seem.

Justice is interesting. One of my favourite writers, the theologian Richard Rohr, writes that *"when we think of justice, we ordinarily think of a balance: if the scales tip too much on the side of wrong, justice is needed to set things right... We define justice in terms of what we've done, what we've earned, and what we've merited. Our image of justice is often some form of retribution... When most people say, "We want justice!" they normally mean that bad deeds should be punished or that they want vengeance."* Rohr contrasts that with what many people now call "restorative justice", contrasted with retributive justice. He speaks of the *"total unconditional giving of love"* and of a time when swords would be beaten into ploughshares, when the predatory people in power would lie down in peace with the vulnerable and the poor, when the broken-hearted would be comforted and the poor would receive good news. All very

theological, I hear you say. However, do these ideas of “justice” in a restorative sense not conform more closely to what we are seeking to achieve as mediators?

It would be interesting to explore the other Virtues but this is a blog, not an essay! Prudence and Fortitude seem useful to a mediator. As for Temperance.....

Returning to the garden walls at Edzell Castle, the Liberal Arts subjects recognised at the time included: Grammar, Rhetoric, Dialectics, Arithmetic, Music, Astronomy and Geometry.

Researching this further, I find that the first three are the “trivium” and the latter four are the “quadrivium”. Dialectics has also been referred to as Logic, which I find helpful as the former word has always seemed rather unclear to me. However, I note that dialectics means *“the art of investigating or discussing the truth of opinions”*, or *“discussion and reasoning by dialogue”* and seems to be associated with what we know as the Socratic method. A dialectic is when two apparently conflicting things are true at the same time. Dialectical thinking refers to the *“ability to view issues from multiple perspectives and to arrive at the most economical and reasonable reconciliation of seemingly contradictory information and postures.”* As a mediator, you’ll see why I was interested... Does this not pretty much sum up what we are trying to help parties in a mediation to achieve?

Rhetoric has always interested me. In a previous career, I was responsible for introducing advocacy skills training at the Scottish Bar. Much of what we focussed on was effective communication or *“creating an event in the minds of the audience in order to persuade”*. Rhetoric is defined as *“the art of creative or persuasive speaking or writing”*, with the rider that it may often appear to lack sincerity or to exploit figures of speech and other techniques. As mediators, do we ever engage in rhetoric – or more likely, observe others doing so (perhaps, for example, in written “position papers” in advance of the mediation day itself)? Can we do more to discuss with others the underlying origins of what we all do and help them to be more thoughtful about how they approach matters?

Again, there isn’t space to explore the other Arts except to say this: how often have we mediators found that a basic grasp of Arithmetic has been the key to unlocking a dispute? Just getting the numbers and calculations down on paper or onto the flip chart can give a whole new perspective – and often show that the difference between them is less than parties imagine. And Music? Mediation is surely more akin to the ebb and flow of a good piece of music than to the precision of Geometry, although that precision has its place. In one of the great songs of the 1970s, John Miles sang: *“To live without my music would be impossible to do; In this world of troubles, my music pulls me through.”*

Reflecting on the historical background to what we experience day in and day out seems helpful to me as a mediator. Just taking time to consider these Virtues and Arts for this blog has been instructive.

As a coda to this piece, by extraordinary coincidence, just two miles further up the country road from Edzell Castle is the lovely country house called The Burn, which

serves as an educational retreat for students and others from around the world. There, many years ago, my mentor, one Michael Westcott, encouraged me to spend two days reflecting on my future career path. That intensive period of creative thinking, in such a beautiful setting, with literally a blank sheet of paper in front of me, set me on my journey from life at the Bar to life as a mediator.

I am forever grateful for these moments of reflection and I am reminded of our individual and collective responsibility to keep re-thinking what we do - and to mentor others to do the same.

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The image shows a promotional graphic for Kluwer Arbitration Practice Plus. On the right, there is a blue background with a white checkmark icon and the text "Explore Practice Plus". Below this, a screenshot of the software interface is displayed. The interface shows a profile for "Gary R. Egan" with a photo and various data points. There are also several circular charts and graphs representing data. At the bottom of the graphic, the text "Kluwer Arbitration" is on the left and the "Wolters Kluwer" logo is on the right.

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