

Kluwer Mediation Blog

Civility may not be enough – but it’s a good start

Ian Macduff (NZ Centre for ICT Law & School of Law, Auckland University) · Wednesday, September 26th, 2018

“I hold to the idea that civility, understood as the willingness to engage in public discourse, is the first virtue of citizens.”

Mark Kingwell, *The World We Want: Restoring Citizenship in a Fractured Age*, [Rowman & Littlefield, 2000]

A recent email from a US-based group that specialises in facilitating public dialogues in difficult cases noted that there has been a rise in calls for greater civility in public discourse. In this, they join the growing chorus of voices lamenting the decline in civility – as well as noting the irony that some of the recent calls for a return to civility come from those whose political and public actions have sparked the protests and acts of resistance that are now seen as uncivil. The message in this email, however, that while civility is fundamental, it’s not sufficient, in that civility alone does not ensure the necessary and difficult dialogues.

No doubt, it’s not a new concern to note a coarsening in the quality of public ‘conversation’, though the greater contribution to the contemporary version of the decline is probably provided by the improved access to soapboxes and grandstands: in this, we have at least democratised incivility rather than leaving it to those who might hitherto have had unique access to political, moral and social voice.

As Canadian philosopher, Mark Kingwell, notes in another context:

“Calls for civility are the moment’s keynote. Greater civility is enjoined for public discourse, both on-air or online, in shared spaces, whether physical or virtual, and in common undertakings ranging from the mundane (whether or not to recline your airline seat back) to the essential (whether or not to pay taxes). Civility is thought especially important in those areas where there is no explicit regulation, such that citizens themselves must act to coordinate their actions, or in the spaces that run between explicit regulation and its application in fact, such that citizens must negotiate the precise details of regulatory execution. The urgency of these calls rises in direct proportion to the amount of everyday conflict that is encountered in social life, from shopping malls and corridors to Facebook encounters and Twitter feeds.”
[<https://people.rit.edu/wlrgsh/Kingwell.pdf>]

The point made in the email, however, was in the context of the more pressing need to find ways of fostering and engaging in constructive conversations: “mere” civility, in this respect, might not serve this end and might even mask or silence the dissent that needs to be voiced. The argument for

civility, of course, may be reversed in that we may see that the costs of incivility are borne by the decline of engagement in precisely the kind of conversations that many, before and after Kingwell, have sought: the power of incivility (or brute resistance, reactivity, coarseness etc) is in its capacity to silence, chill or drown out competing views. And the cost of ‘mere’ civility might be to mute critical or competing voices.

As readers of the blogs by my colleagues will well know, one of the tasks of the mediator – in his or her opening “recitation” – is to establish something of the norms of conversation and the “spirit of the room” that might make constructive conversation and collaboration at least more likely, if not always guaranteed. But, as you’ll also know, that’s just the start: the norms of civility don’t provide the content to the conversation.

The odd thing is – re-reading the opening quotation from Kingwell – that it’s not civility per se that is the first virtue of citizens, politics or institutions. Rather, civility is the oil that makes the dialogues of difference – and hence of justice, resolution, participation – possible. After all, re-read that sentence from Kingwell: civility is not to be understood as a collection of virtues of courtesy and so on; it is precisely the willingness to dive into the difficult conversations. And, as Amartya Sen writes in his book *The Idea of Justice*, “justice” is not so much an abstract ideal or a grand Rawlsian scheme of social ordering but rather the regular business of engaging with each other – all the more so as we’re more likely to know what injustice, rather than justice, is.

In this, I’m reminded of the wonderful contribution to management theory by [Charles Lindblom](#), in 1959 in suggesting that what we typically achieve is “muddling through”. For most of us, “muddling through” involves step by step, not always linear, not always successful, process of decision making and deliberation. Critics of this approach saw it as a description of how management goes wrong; those who might more recently [vindicate](#) the approach see it as more likely to work in complex problem solving, as an engaged, incremental, contextual and empirical process.

And all of this is by way of an extended reflection on two recent examples of incivility: one, in a reactive, even aggressive response to decisions that need to be made in relation to resource allocation during a building process; the second, an abrupt and still inexplicable email from a distant colleague relating to an conference contribution. In each case, the reaction seemed odd, out of keeping with the context and request, and certainly counterproductive. In each case, too, the “push back” looked like a way of avoiding a decision without exploring what options there might be. It’s easy to speculate as to what might trigger the “uncivil” reaction: fear, self-interest, a learned experience that this gets results (even if it ruins relationships) . . .

The point in each case, as you will also know in mediation or other dialogue processes, was neither to fight back nor to attempt to coerce the other to some kind of conversational virtue, but rather to sit on the same side of the metaphorical table as the other person, and to explore those pesky options we all talk about. And at least in one case, even the possibility of options lifted the cloud and enabled the “resister” to engage in joint exploration and – a little while later – to come back with appreciation and indeed civility.

The implication here is that civility and dialogue are not joined in a linear fashion but rather feed on each other, each making the other possible – even if in a muddling sort of a way (which sounds uncommonly like a Pooh Bear theory of mediation).

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The graphic features a dark background with white text and a circular icon. The icon depicts a group of five stylized human figures, with a magnifying glass positioned over the central figure. The circle is divided into four colored segments: blue, green, red, and white.

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