Kluwer Mediation Blog

What's in a name: Taking Contemporary Conversations to the Digital Agora

Ian Macduff (NZ Centre for ICT Law & School of Law, Auckland University) · Saturday, June 27th, 2020

"The greatest single antidote to violence is conversation, speaking our fears, listening to the fears of others, and in that sharing of vulnerabilities discovering the genesis of hope. . . Conversation – respectful, engaged, reciprocal, calling forth some of our greatest powers of empathy and understanding – is the moral form of a world governed by the dignity of difference."

Jonathan Sacks, *The Dignity of Difference*, (London & New York, Continuum International Publishing Group; 2nd edition, 2003) p.2 & 84

"Digital citizens need to develop a new rhetoric
of participatory discourse."

Stephen Coleman & John Gøtze, "Bowling Together: Online Public Engagement in Policy Deliberation" (Hansard Society, ISBN 0 9000432 36 5)]

In the wake of the deadly shooting at two Christchurch mosques on March 15, 2019, and the immediate, compassionate responses of the Prime Minister and citizens alike, and the rapid move to ban assault rifles, one other conversation might have garnered less global coverage: the local and wildly popular rugby football club in Christchurch goes by the name "The Crusaders". Not only that, but much of the symbolism associated with their home games involved caped "crusaders" on horseback galloping around the stadium brandishing swords. It didn't take much reflection to realise that this was not a good look in light of the killing of over 50 Muslims at prayer.

After much consultation with the community, the result was that the club kept its name, but the old logo – of a crusader brandishing a sword – has been replaced by a more neutral and "corporate" logo.

Now, as a reflection of the global wave of revulsion at human rights violations and the killing of George Floyd, revitalising the Black Lives Matter movement, in New Zealand there have been similar protests, with both the international and a local flavour. The local element, in addition to acknowledging that ours is far from an unblemished record on race relations, has taken the form of demands for the removal of statues commemorating colonial figures (with clear echoes of similar demands in the UK and US).

The first step in that direction was the removal, by the local city authorities, of the statue of

Captain John Fane Charles Hamilton from the civic centre of Hamilton. The city took the action in response to the threat from a local M?ori elder that he would remove the statue during a planned protest march.

The response from the Race Relations Commissioner, Meng Foon, was that, while there are clear issues of historical injustice and rectification and the enduring symbolism of the statues to consider – not least as Captain Hamilton was involved in land confiscations and killing of M?ori in the wars of the 1860s – what was needed was dialogue.

Similarly, the Mayor of Hamilton has commented that she has never, in her 20 years in politics, received so much abusive email, nor so many death threats from those objecting to the "erasure" of history. She, too, has called for "courageous conversations".

A parallel issue – and the reason for the first part of this blog title – is the ongoing process of name changes in NZ over recent decades. In a careful process of consultation with local interests and historical records, the Geographical Names Board has restored many names of geographical features – rivers, mountains – which now bear original M?ori names. Of course there were protests: people who had lived their lives in a place with one name now needed to get used to another. But the protests subside; we get accustomed, for example, to Mt Egmont now being (again) Taranaki; and many places are known by both names. Even the name of this country, "Aotearoa-New Zealand", is in common usage.

With the removal of Captain Hamilton's statue, the suggestion was also made that the name of the town Hamilton also needs to be changed, to revert to its original: Kirikiriroa. This, I expect, will take some time and some soul searching.

As a reflection, too, of the awareness of the historical freight that names carry, I now see that some food items might also be renamed – or removed from circulation – as their names are questionable. The two examples that have been mentioned recently are the "Eskimo Pie" ice cream slices and Afghan biscuits. You may well be aware of other examples.

The point here is not to decide the issue or to even present a preferred view, but rather to take the point made by Meng Foon and Mayor Paula Southgate: there is a pressing need for conversations about these residues of history.

The question, however, is how to have those civil and civic conversations? All the more so in these Covid time when, in much of the world, public gatherings are – or ought to be – limited . . . and when, all too often, the "conversation" takes the form of opinion pieces that are not invitations to engage so much as demands for submission.

The remainder of this blog is really just an extended question: in what ways can the tools we already have – and the ones that many of you have found yourselves using, of necessity, during lockdown, be turned to public use? This question follows a Zoom conversation today (26th June) with some of my colleagues in the global ODR network, which was convened in order to begin brainstorming responses to, and research on, the role of digital technologies in the face of human rights abuses. The "parent body" of this ODR network, the National Centre for Technology and Dispute Resolution, recently issued a statement on the potential and obligations of digital technologies in relation to human rights abuses:

"During the global COVID-19 pandemic, and at a time when social distancing is required to save

lives, technology has been vital to human connection. This turn in society has forced even the most reluctant practitioners and overburdened institutions to rely on technology to assist in the handling of disputes. Suddenly, online dispute resolution is at the forefront of conversations about providing access to justice and repair of human relationships from courts to alternative dispute resolution. The National Center for Technology and Dispute Resolution, birthplace of online dispute resolution over twenty years ago, is enthusiastic about this upsurge in its use. And as we stand in solidarity against state brutality, we think it now more important than ever for all of us to work for racial equality and all forms of human rights, further innovating the use of technology in the name of access to justice for all."

This question evokes a discussion of the role of Internet communications in a world of diminished social capital, fractured communities, fragmentation of relations, and the contemporary context of internal and 'intractable' conflicts. Here the potential roles of Internet communication are in facilitating communication, democratisation, and the dissemination of information [Ian Macduff "Mediating Distance: Online Tools for Reconciliation?" *ADR Online Monthly*]. It is this development that highlights the potential of communications technology in facilitating dialogue, reducing information deficits and inequality, and – in its most optimistic moments – fostering democratisation.

I place this discussion of the role of online communication and deliberation alongside commentaries on the erosion of social capital, such as Robert Putnam's discussion of the perceived risks to social cohesion where diversity is poorly managed [See Robert Putnam, "E Pluribus Unum: Diversity and Community in the Twenty-First Century. The 2006 Johan Skytte Prize Lecture", *Scandinavian Political Studies* 30: 137 (2007)]

This potential for online dialogue (and not merely the pushed 'communications' of Facebook, Twitter, Instagram etc) has two emerging and parallel aspects to it. In both cases we turn from the development of tools of dispute resolution and regulation arising from the nature of the Internet itself, to the potential contribution of those tools to the facilitation of communication, trust building, and community development where such interaction has either been fractured by conflict or has become more attenuated through the loss of community participation or citizen disengagement. In the first case, there is an exciting and promising level of development of peace-building through ICT (see ICT4Peace); in the second, the development of e-government, e-governance, and 'teledemocracy' [Ted Becker & Christa Slaton, *The Future of Teledemocracy*, (Praeger Publishers, 2000).] offer pathways for the creation of the 'cyber citizens'.

Mediators, at least in recent months, have had to turn their attention to the ways in which engagement, conversation, participation, attention, deliberation, civility, confidentiality, transparency and trust can be managed via remote and often asynchronous communication. These, typically, are situations where you, the mediator, have been specifically engaged to help in just such a role. Now, in the same way that my ODR colleagues turn their attention to the design of and principles for digital justice going beyond the immediate confines of courts, tribunals and private dispute resolution, the mediation community may now contribute to the design of those vital and courageous conversations on history, identity, and human rights.

"It is hardly possible to overstate the value, in the present state of human improvement, of placing human beings in contact with other persons dissimilar to themselves, and with modes of thought and action unlike those with which they are familiar . . . Such communication has always been, and is peculiarly in the present age, one of the primary sources of progress."

J S Mill, *Principles of Political Economy*, (1848), p.594

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This entry was posted on Saturday, June 27th, 2020 at 12:11 am and is filed under Civil rights, Communication, Conflict, Dialogue, Online Dispute Resolution (ODR), Online Mediation
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