

# Kluwer Mediation Blog

## Quiet, collaborative dissent

Ian Macduff (NZ Centre for ICT Law & School of Law, Auckland University) · Sunday, July 26th, 2020

“The grandchildren put out a treble tongue,  
Law is the senses of the young”  
W H Auden, “Law like Love”

“In a room where people unanimously maintain a conspiracy of silence, one word of truth sounds like a pistol shot.”

? Czesław Miłosz (Polish-American poet, 1911-2004)

A couple of months ago, our 15-year old granddaughter, whom I’ll refer to as “L”, was tasked with preparing a 4- to 5-minute speech to be delivered in front of her class. She and her classmates were given several possible topics or themes from which to choose. After some consultation with her grandmother (“Z”), to whom she often turns at such moments, “L” decided that the topic, “United we stand, divided we fall”, would be the one.

A little nudging from “Z” suggested that that idea might not always be true: “unity” might be an excuse for closed-mindedness, for the exclusion of competing ideas, and the silencing of dissent. A result of such exclusion and silencing might well be flawed decision-making. “L” was pointed in the direction of one familiar example: the fatally flawed “group think” behind the tragedy of the [space shuttle Challenger](#). She was also told about Edward de Bono’s “[six thinking hats](#)”, and especially the “black hat”, the seemingly negative part of the conversation.

For a kid not usually thrilled about the prospect of presenting a speech to her peers or to anyone else, there was something in the direction of these ideas that appealed to “L”, and – as she does love writing – she dived into the task. On the eve of the delivery of her speech, we had a preview; and immediately afterwards we had a breathlessly happy report on how it all went.

What “L” had done was to take a core idea that both highlighted the risks of “unity” and appealed to her own more reticent nature: at the heart of her speech was the argument that decision-making and conversations need to make space for the quieter voices, the ones who typically don’t join the clamour of voices to be heard, but who nevertheless observe, reflect and who do have something to offer.

As a little experiment, early in her speech “L” asked her classmates whether any of them had ever felt not listened to, or that their ideas were not taken seriously. Half-expecting no-one to respond, she had primed one of her friends to raise a hand. To her surprise and delight, almost the whole

audience responded. And, after her speech, a number of classmates came up to “L” to thank her for saying exactly what they had been thinking and what had bothered them about speaking up in class, or in social conversations. This, of course, was a wonderful affirmation and confidence booster. [Parenthetically, I wonder if this is not necessarily the case in social media “conversations” where adding one’s voice doesn’t require speaking up or claiming the floor, and can be engaged in asynchronously.]

“L’s” conclusion was that it was always important to make space for the quiet voice, not only for reasons of inclusion but also – perhaps more so – because that quiet voice might just also be the necessarily dissenting voice. “L’s” conclusion was to turn that aphorism on its head and to suggest that there will be times when “divided we stand, united we fall”.

“There’s zero correlation between being the best talker and having the best ideas”

Susan Cain, *Quiet: The Power of Introverts in a World that Can’t Stop Talking* [Crown Publishing, 2012]

There are two mediation-related points I will draw from this story. The first barely needs elaboration: it is simply that it is essential to create a space in any conversation for the quiet ones. As you will know, whether from being one of those quieter ones or knowing of such friends, it’s often the case that the quieter ones (the introverts in MBTI terms) are not unwilling or unable to contribute, and not without ideas and passion; but it tends to be the case that they/we/you are quietly forming ideas, awaiting the opportune moment . . . which might not come while the more forceful or extroverted are forming their ideas even as (or after) they speak.

For mediators, it is probably easier than in regular conversation: it is the job of the mediator to scan the room for contributions and silences, and to check in with all who are present – and to turn down the volume on some of those who have plenty to say.

The second point concerns the power and importance of dissenting voices (all the more challenging if those voices are the quieter ones). For this point I’m grateful to my good friend and our mediation colleague, Dr Howard Gadlin who, following my previous blog, alerted me to the work of Dr Daniel Kahneman on “adversarial collaboration” [[here](#) and [here](#)]. The simple but powerful idea here is that, where people are divided by ideas, theories or even ‘truths’ to which they are committed, it remains possible – even imperative – to engage in a form of collaboration that, with the right kind of process design and commitment, will allow a consensus to emerge. This is far more than a familiar argument back and forth about the merits of whatever each perspective or conclusion might be: it is an active and deliberate process of shared work on whatever might be the theory or idea in question.

The relevance of this to my main theme is that it is the commitment to collaboration on differences that will specifically allow for and include the quieter voices (or, say, in academic life, the more junior voices who might steer clear of disturbing the hierarchies). It is also the interplay of not-yet-agreed voices that might more effectively imagine different solutions.

One example of this is set out in N Ellemers, S T Fiske, A E Abele, A Koch, V. Yzerbyt, “Adversarial alignment enables competing models to engage in cooperative theory building toward cumulative science”,

[PNAS](#), April 7, 2020 (14), 7561-7567

The process points – and points of principle – that I take from Kahneman’s work and this article

are:

- the importance of a ‘level playing field’: an agreement that all voices carry equal weight;
- a commitment to curiosity rather than contending;
- creation and pursuit of joint tasks – such as writing brief papers – which provide measurable progress markers;
- clear preparation ahead of the meetings; and
- an agreement to delay talking about disagreements: as Kahneman suggests, work on the things you agree on, then shift to the points of difference. To do otherwise is to risk locking in the primacy of disagreements.

This might seem a long way from where I began with my granddaughter’s speech, but not really: the simple and yet perennially challenging task is for us – in conversation and in conflict – to make space for the quiet dissent that might actually enhance collaborative outcomes.

“If I were to remain silent, I’d be guilty of complicity.”

? Albert Einstein

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