



Dialogue in the Interests of Justice

Guest post by Robyn Penman

In one way, the link between dialogue and justice seems obvious, at least as far as social justice is concerned. As Kathryn Sorrells (2015) noted in her , intercultural dialogue is critical to both the process and goal of social justice because it enables us to reach across difference to creatively engage with others. Yet even appreciating how critical that link is, there is so much more that needs to be considered. In particular, as Sorrell sums up, there is a critical need for more interdisciplinary work on understanding the importance of communication in building relationships and systems based on social justice.

The critical need for taking communication into account is reflected in such questions as: How exactly does the key role of dialogue for meeting social justice goals get played out in practice? How is it possible to even create the conditions for dialogue in unjust circumstances? And what does dialogue have to do with the common idea of social justice as the equitable distribution of resources and rights? These questions open up a whole new vista of possibilities, even to a re-consideration of what justice itself can mean.

There is significant support for the need to re-consider what Justice can mean in the justice literature itself, especially in that more recent literature with its emphasis on the importance of understanding the lived experience and using a relational approach. There is also considerable questioning of the relevance of the mainstream stories about justice developed in the 20th century (and earlier) for addressing the challenges arising from the many social injustices of the 21st century.

The need to re-consider what justice can mean and to address the importance of communication acts as the departure point for my new book on *Justice in the Making: Relating, Participating, Communicating* (<https://cmminstitute.org/justice-in-the-making/>). When considered together the tripartite terms of relating, participating, and communicating create a seismic shift in what we take to be important when it comes to justice: notably, they shift the idea of justice from an (usually elusive) abstract goal to something we make together in the dynamic process of relating and communicating, with all its uncertainties and open-endedness.

Rather than relying on grand theories and abstract notions, *Justice in the Making* lays out a transformative practical-theoretic approach for understanding the making of justice. A key characteristic of this transformative practical-theoretic approach is the provision of an emergent language for talking about relating and communicating. Some key language elements include the notions of relational responsivity and responsibility and of the moral forces that capture the complex web of intentions, hoped-for responses, justifications and other forms of accounts that

make up the moral realm of obligation in communicating. These new language elements give us the means for differentiating between different patterns of communicating and for exploring their justice implications.

While I have no interest in offering any idealized goal or vision of what justice should be, there is still a need to have some sense of what might be better communication practices when considering justice and injustice. And this is where the idea of dialogue plays a critical role. In my book, I propose that the dialogic form can act as an aspirational model: it is an orientation to a way of communicating, a commitment to doing it better and, only occasionally, an accomplishment.

However, it is unreasonable to expect, or even encourage, the dedicated pursuit of dialogue in all instances and particularly in the public communication contexts in which justice is made. Instead, I draw on the more specific concept of dialogic civility (see Penman, 2014) because while it does not require the achievement of dialogue, it does call for acting in a dialogically civil manner premised on a responsibility to the other.

Being dialogically civil changes our communication practices to ones that fully reflect our fundamental moral obligation to the other—something I contend is a prerequisite for better justice practices. This fundamental moral obligation to the other is also indicated by communicative actions showing respect for the other. Together these two concepts of dialogic civility and respect open up a range of possibilities for exploring the dynamics of justice practices; especially the dynamics of communication patterns indicative of oppression and domination that lie at the heart of all forms of injustices.

In *Justice in the Making*, I draw on the concepts of dialogic civility and the respect-contempt dimension, along with the new relational language and orientation to communication as a dynamic process mentioned earlier, to show how injustices are created and perpetuated in a range of contexts—from social, to racial, to legal and beyond—as well as offer ways of developing potentially more just practices.

When it comes to social justice, injustices can be seen occurring time and time again, even when there are well-intended policy directives or well-intended people trying to ameliorate social inequities. From a relational-communication perspective, these recurrent inequities arise because of a continuing belief in the idea of distributive justice based on a politico-economic framework, when the more fundamental problem is inequalities in how we relate with each other in our social world. These inequalities in the quality of relating are evidenced where dialogic incivility and contemptuous behavior (in varying degrees) are exhibited; especially where they result in communication patterns of domination or oppression.

The same relational-communication view used for social justice contexts is readily applicable to a range of legal communication practices, including that of the adversarial process enacted in courtrooms. While there has been substantial criticism of so much to do with adversarial justice, perhaps the most striking is how unjust it actually is. Put simply, the dynamics of the adversarial process exemplify the antithesis of dialogic civility. In the search for the presumed “truth” of the matter the adversarial system treats all witnesses—accused, victim, or other evidence provider—as worthy of contempt by denying them the capacity to freely negotiate the meanings on which the

legal case rests. The result is the same form of oppressive communication identified for social injustices of all kinds.

There are profound implications for what justice can mean in legal contexts when the communication process used in the adversarial system bears all the hallmarks of an oppressive form. A number of legal reforms, including those falling under the rubric of procedural justice, have been proposed to deal with many of the recognized problems of the adversarial system of justice. From a relational-communication view, however, the reforms still fall short. At the heart of the necessary change is an understanding that communication is a relationally complex dynamic process and that we have a relational responsibility to all the participants in any legal process.

Whether it be in courts of law or in other in social contexts, a relational-communication view shows how we can make justice from the ground up by acting in a relationally responsible manner. This relationally responsible justice manifests itself in relationships in which emergent meanings are collaboratively constructed and, by implication, a better, more dialogically civil form of communicating co-created.

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