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How a dose of humour may help mediators and disputants in conflict

Clare Coburn, Becky Batagol and Kathy Douglas*

The use of humour by mediators has been relatively little explored in empirical research yet it offers potential benefits for both disputants and mediators. This article investigates literature on the psychology of humour, and the possible encouragement of diverse perspectives and integration that may be fostered by the appropriate use of humour. The exploration of the topic is supported by empirical data on the use of humour from interviews with Australian mediators on a panel of the Victorian Civil and Administrative Tribunal.

INTRODUCTION

In June 2011, Australian television host Karl Stefanovic¹ tried a joke at the beginning of his interview with the Dalai Lama that famously fell flat. The television host said to the perplexed spiritual leader: “The Dalai Lama walked into a pizza shop and asked, ‘Can you make me one with everything?’” This exchange illustrates the risk that humorists take: a joke can break through barriers or it can heighten them. We may chuckle at the dual meaning in this attempted jest even though the Dalai Lama failed to see its humour. Stefanovic probably intended it as an ice breaker – a way to initiate a light-hearted conversation with a man widely noted for his giggle as much as for his spiritual wisdom – or he may have enjoyed the opportunity to demonstrate his own wit. When it works, humour seems to allow us to take a different path. It provides light and delight, allows us to frame things differently and helps us to view problems, challenges and events from a fresh perspective.

As mediators, we can choose to use humour in a number of different ways. When used appropriately, it serves to provide relief, strengthen relationships and increase co-operation; it may encourage a sense of fun and enthusiasm and offer a release in stressful situations.² Humour also allows those who perceive it to recognise vulnerability, humility and cohesion. Certain forms of humour may have the opposite effect, instead creating a sense of exclusion and negativity. This article will investigate the purpose and function of humour, consider when it may be used in mediation, and give some examples of the ways that experienced mediators use or avoid humour in their mediation practice. This article draws on data from a study of a community of mediators in Melbourne, Australia. Mediators’ use of humour is investigated by self-reports from interviews with mediators on the panel of the Victorian Civil and Administrative Tribunal (VCAT).

THE PSYCHOLOGY OF HUMOUR: WHAT IS HUMOUR?

Martin³ described humour as deriving from the cognitive experience of non-serious incongruity, leading to the emotional feeling of mirth and the expression of laughter. Humour can offer benefits to mediation and other social experiences because it leads to a positive emotional response,⁴ but it must

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¹ IwakeupwithToday, *The Dalai Lama Walks into a Pizza Shop...*, YouTube (9 June 2011), <http://www.youtube.com/watch?v=xIIRI80og8c> viewed November 2012.

² Forester J, “Responding to Critical Moments with Humour, Recognition and Hope” (2004) 20 *Negot J* 221 at 221.

³ Martin RA, *The Psychology of Humor: An Integrative Approach*. (Elsevier, Burlington, MA, 2007) p 114.

⁴ Maiese M, “Engaging the Emotions in Conflict Intervention” (2006) 24 *Conflict Resolut Q* 187; Scclavi M, “The Role of Play and Humor in Creative Conflict Management” (2008) 24(2) *Negot J* 157.

be used carefully because cultural constructs affect the ways that individuals perceive attempts at humour.⁵ Humour can also be used in ways that lead to negative emotional responses and may be used oppressively.⁶

When someone tells us a joke, picks up on an unintentionally humorous notion, or speaks with wit, we begin to perceive a situation from two completely different perspectives.⁷ In the unsuccessful joke made by Stefanovic, there are two interpretations of the question “Can you make me one with everything?” We can see it as a request for a pizza with anchovies, pineapple, olives, extra cheese, ham, pepperoni – the works. Alternatively, we can think of it as a spiritual request to achieve unity with all other beings. These two different ways of viewing the joke encourage us to perceive from two places at once. One perspective may be more familiar or concrete and the other absurd or theoretical. There is something in this movement from a single perspective to more than one that is characteristic of many forms of humour.

Koestler defined this experience of competing perspectives as bisociation. He sees humour as bringing together “two self-consistent but incompatible frames of reference”.⁸ This experience allows the arousal of unforeseen possibilities. Bisociation is also important in creativity as the prelude to that state of looseness and lack of fixedness that enables new ideas, thoughts and associations to arise. Apter⁹ alluded to this concept as “synergy”. He described this as the enjoyable arousal of thoughts as the thinker oscillates between two incompatible interpretations of a concept. It can be described as the switch from “telic” (serious) to “paratelic” (playful) states.¹⁰ Rather than requiring some kind of resolution, it is this capacity to stay with the tension of two diverse ideas that creates the feeling that we can call mirth, or the experience of humour. This supports the notion that careful use of humour may encourage an atmosphere in which the capacity to experience distinct perspectives may be enhanced. It would be useful to explore this topic in further research to investigate the perceptions and experience of mediators and of parties in conflict to assess this hypothesis.

Martin¹¹ described humour as a kind of “social play”. Through the use of humour, he suggested, we are able to communicate about difference, diversity and conflict in a way that will avoid serious confrontation. He proposed that humour offers a way to admit difference whilst simultaneously acknowledging commitment to relationship. Mulkay concluded that humour encourages us to see that we do not have to deny the diversity of our social relationships with all their incongruities and contradictions. Thus, our experience of the “multiplicity of social life is transformed from a threat into a potentiality to be realized and explored with others”.¹²

HUMOUR IN MEDIATION: STYLES OF HUMOUR

The style of humour that is used in the context of mediation or in other human service roles is important. Since the role of a mediator is to provide support to disputants so that they can work co-operatively to reach their own solutions, an innocuous, less-tendentious approach to humour – aimed to increase group cohesiveness, rapport and trust – would seem to be more effective. Tannen’s research¹³ suggests that women may be better placed than men to use humour in this manner, although she does not attribute such collaborative humour as exclusive to women, and the VCAT data discussed in this article has demonstrated that male mediators are well able to use non-tendentious humour to enhance mediation outcomes.

⁵ Zelizer C, “Laughing Our Way to Peace or War: Humor and Peacebuilding” (2010) 1 *Journal of Conflictology* 1.

⁶ Palmer J, *Taking Humor Seriously* (Routledge, London, 1994).

⁷ Koestler A, *The Act of Creation* (Macmillan, New York, 1964); Apter MJ, *The Experience of Motivation: The Theory of Psychological Reversals* (Academic Press, London, 1982).

⁸ Koestler, n 7 p 35.

⁹ Apter, n 7, p 163.

¹⁰ Apter, n 7, p 47.

¹¹ Martin, n 3, p 124.

¹² Mulkay M, *On Humor: Its Nature and its Place in Modern Society* (Polity Press, Cambridge, 1988) p 215.

¹³ Tannen D, *You Just Don’t Understand* (Random House, Milsons Point, 1991) p 90.

Mediators with a preference for tendentious humour may be wise to leave their wit at the door of the mediation room. Cruthirds¹⁴ argued that indiscriminate use of humour in mediation may endanger rather than help achieve success. He concluded that “the mediator must know what he or she is attempting to accomplish by using humour and then choose the proper humour style while keeping in mind the cultural makeup of the parties involved”.

Methodology

The data used in this study comes from a broader research project designed to assess mediation practices in VCAT. The central aim of the research was to investigate the context and practices of the community of mediators at VCAT. The questions on humour in mediation were part of a semi-structured interview on a broad range of issues, including procedural justice, the role of emotion in mediation, forms of power, the role of lawyers, and improvisation in mediation practice. The 16 mediators were self-selected from the pool of approximately 60 mediators working at VCAT. An invitation to participate in the research project was emailed to all mediators at VCAT. The interviews themselves were conducted in late 2009. Interview transcripts were analysed and coded to articulate themes. In the discussion below the mediators are given pseudonyms to retain anonymity.

When questioned about their use of humour, 11 of the 16 mediators (six male and five female) reported using humour in a range from occasional to regular use. Five of the mediators (one male and four females) reported avoiding using humour or using it very sparingly; that is, when disputants introduced it, or when it arose incidentally. The responses of the mediators will be discussed under specific themes below.

Discussion

Taking the risk? Appropriateness of humour in mediation

The VCAT mediators were sensitive to the risks of humour and showed a sharp awareness of the stakes involved: jokes used appropriately in mediation have the potential to break through barriers and create new opportunities for settlement, but inappropriate humour may heighten those barriers and block the process. A central concern of the mediators, therefore, was a consideration of the appropriateness of deploying humour in mediation.

Five of the sixteen mediators (31%) did not trust their ability to use humour and suggested that a mediation session, which disputants usually approach with nervousness, was not the right place to attempt mirth. As Helen said, “Parties are usually too uptight for any humour at all”. She added, “I don’t use humour with the parties because they ... feel you are belittling them”. Many other VCAT mediators shared this concern that humour may indicate trivialisation or patronisation of the parties. Edward’s use of similar wording suggests that caution was uppermost in the minds of these mediators when deploying humour in mediation: “You’ve got to be careful. You don’t want them to think you’re trivialising the whole thing, or that you’re being flippant about it.”

Eleven VCAT mediators (or 69% of those interviewed) expressed a willingness to use humour. These mediators can be characterised as highly experienced and confident of their own ability to assess the appropriateness of the intervention or of dealing with the consequences if the joke falls flat. They are prepared to take the risk, although each of them expressed caution when deploying humour in mediation. For example, Louise explained that although she does use humour, “it’s not something that I think I do all the time and I really pick my cases. It’s not always appropriate”. David confessed to using humour “only sometimes and only when the parties are really comfortable ... you can misinterpret what’s going on”. Thus mediators who used humour, and those who resisted the use of humour all acknowledged it was important to ensure that any humour was appropriate and respectful.

Wimmer¹⁵ described humour in mediation as a “double-edged sword”. His interviews with 10 Boston mediators revealed some unconstructive dynamics involving humour which can cause mediation to stall, including poor use of timing, the mediator’s personality, ethical limits, and power

¹⁴ Cruthirds K, *The Impact of Humor on Mediation* (2006) 61 DRJ 33 at 34.

¹⁵ Wimmer A, “The Jolly Mediator: Some Serious Thoughts about Humor” (1994) 10 Negot J 193 at 196.

imbalances between the parties. Forester¹⁶ emphasised the need for respectful humour in mediation, facilitation or community development, where the parties to a conflict or problem-solving meeting or enquiry will normally be tense, nervous and unsure of the mediator or facilitator, until their concerns are disproven. The mediators in this study understood the transformative power of mediation when used appropriately. Just over two-thirds of the VCAT mediators expressed a cautious preparedness to engage in humour as a strategy to facilitate settlement. The remaining mediators preferred to avoid it because of the potential for humour to fail and hinder the process.

Culture, humour and mediation

One element of the assessment of the appropriateness of humour in mediation was sensitivity on the part of the mediators to the way that their jokes may be received by parties who come from different cultural backgrounds. Humour has the potential to reduce or enhance cultural differences in mediation. If you look at the video clip of Karl Stefanovic's failed joke, it is obvious why the normally mirthful Dalai Lama fails to "get the joke". He sends querulous looks towards his interpreter and it is clear that his lack of familiarity with pizzas and the language involved when ordering them, means that he is unlikely to appreciate this particular piece of word play. Stefanovic failed to consider the cultural implications of his joke, although he admits immediately after seeing it sink that he did not think it would work. It may also have been the wrong stage in the interview in which to attempt some humour.

The mediators in Wimmer's study¹⁷ generally steered clear of jokes which had racial or gender implications. However, the VCAT mediators, while expressing the same caution, appeared to recognise the impossibility of escaping cultural differences in mediation. As part of assessing the mood of the disputants before attempting humour, four of the 16 VCAT mediators explicitly suggested that various aspects of culture impacted on their decision to engage in humour in a mediation session.

Two mediators, both female, reported avoiding the use of humour in the mediation sessions they conducted because of their gender and relative youth. Their awareness of the cultural associations surrounding gender, especially the lower professional status afforded young professional women, governed their decision-making about whether or not to use humour in mediation. Sue explained that she adopted this strategy:

because it's me, because I've come into this job reasonably young in comparison to many others, and when I started I was the youngest female appointed ... And so I just tend to find that I need to be in control and so hence I don't tend to use humour.

Fiona described using humour with great care because of concern about the way it would be interpreted given her relative youth and her gender:

I am a woman and because I was somewhere in my 30s, I think, when I first started [laughter] and I would walk into a room of men in domestic building or whatever they were and it's like "this girlie" and I knew if I came in, being female and started joking around they would not take me seriously so I would have to be very, very serious about it.

Sue and Fiona's sensitivity to the culture in the mediation room steered them against using humour but not all mediators steered clear of using jokes for cultural reasons.

VCAT mediator Kate acknowledged that sometimes her use of humour may stray into levels that may be inappropriate for the parties whose beliefs differ from her own. She reports that "I watch very carefully and if I say something that offends somebody, I apologise immediately". She describes a line she sometimes uses in mediation: "'What did you do in your last life to deserve this one?' – I use that frequently and the day came when I had somebody who believed in rebirth. 'Oh, I'm really sorry, I say that all the time'." Kate's failed quip heightened the cultural differences between the mediator and the parties in those circumstances. Her sensitivity to culture, and her mindfulness of the impact of her humour, combined with her ready use of apology, demonstrate that in a multicultural context, humour can be used with sensitivity by mediators.

¹⁶ Forester, n 2 at 223.

¹⁷ Wimmer, n 15 at 198.

Peter, who identified himself as being from a central European background, reported using humour with clients from other multicultural backgrounds in order to change the dynamic of the dispute. He said “a bit of humour doesn’t go astray at all or human interest ... So you’ll often get parties from multicultural [backgrounds] and I’ll try and show an interest in their background and things like that and all of a sudden, ‘Oh, you’re interested in that!’” Peter’s willingness to use humour and warmth raises the potential for humour to bridge cultural gaps between mediators and parties. Peter admitted that he is more confident about using humour in this way because of his own cultural background.

These four mediators’ approaches, although not explicitly echoed by all of their fellow mediators, reflect the kind of sensitivity to cultural difference which Cruthirds¹⁸ recommended to mediators when deploying humour in mediation. In particular, Kate and Peter’s use of humour confirms the relevance in mediation of Mulkay’s theory of the power of humour to allow acknowledgement of diversity in social relationships without those differences being threatening.¹⁹ Even when humour may fall flat because of unknown cultural differences, a sensitivity to how a joke is being received and a ready willingness to apologise may rectify any offence caused by culturally inappropriate humour.

Lighten it up: Stress release for disputants

The notion of humour as a way to “lighten up” the dispute and provide release from a stressful situation was a common topic of conversation amongst most of the VCAT mediators in this sample. Fiona, who admitted her reluctance to using humour due to her relative youth and her gender, declares that “[a] little bit of humour might come in ... absolutely, and it’s very helpful. It lightens them up”. Isabel used the same metaphor: “I do sometimes [use humour] when I think that the parties need it and I can get away with it and to lighten things up a bit.” Jon also referred to the role of humour in lightening up the conversation: “I do sometimes try to use humour to try to lighten the weight of the meeting, to sort of try to help people focus”, and David described it as “making light of a tense situation”. Jenny uses humour in mediation to “just help break some charged situations”. Even Anne, who described herself as a non-humorous person says, “When I say not at all [*in reference to her use of humour*], I might try and lighten it but I don’t as a general rule deal with things humorously”. Charlotte put it strongly: “Humour can often just help break some charged situations.”

Although David was the only mediator to refer to the capacity for humour to foster new perspectives, this notion of lightening up a serious, heavy or weighty matter was common. It suggests relieving the burden of the dispute so that the parties are freer to release their creativity and imagination. It may also include something of the notion of casting light on the darkness of a gloomy dispute, to pierce the clouds of conflict and confusion with a little light and warmth.

Martin argued the significance of humour as a way to help people cope with adverse situations. He described it as providing an opportunity to reappraise a stressful situation from a new perspective.²⁰ In Wimmer’s study of the 10 Boston mediators, one of the key uses of humour in mediation was to create a distraction that relieved tension so that the process became more effective. Many of the mediators in that study emphasised that humour can “invite the parties to step out of their own frame and look at a problem from a larger point of view”.²¹ Forester talks about humour as a “stress valve” for parties, and a participant in his research saw it as both connecting parties and simultaneously releasing stress. He described its capacity to allow the tension in the room to dissipate.²² VCAT mediator Kate uses a similar notion; she says “normally humour works because it diffuses the situation”.

Once tension is diffused or the mood is lightened, then parties to a dispute may be able to listen to each other at a different level. In describing his research from mediation, facilitation and

¹⁸ Cruthirds, n 14 at 37-38.

¹⁹ Mulkay, n 12.

²⁰ Martin, n 3, p 20.

²¹ Wimmer, n 15 at 194.

²² Forester, n 2 at 229.

community development, Forester²³ gave an example of the significance of a community development facilitator's efforts to lighten up the atmosphere. Those mediators who use humour take the first step and encourage the parties to follow. They lead the way in creating an atmosphere of empathic listening by making light of themselves or the situation, and in being respectful of the parties themselves.

Timing and humour in mediation

Wimmer²⁴ identified two conflicting approaches to the timing of humorous interventions amongst the mediators he interviewed: one group used humour during the initial stages of mediation to break the ice, and the other group used humour only when the gravity of the situation had been established during the initial phase of mediation and the mediator understood the parties and their circumstances. Wimmer concluded that the timing of humorous intervention is critical but that the purpose of each phase of mediation determines when and how humour is used by a mediator.

The VCAT mediators also described choosing the appropriate stage of mediation in which to introduce humour, and fell into the two camps described by Wimmer. For some of them, it is important to establish rapport and trust at the beginning of the mediation. Jon said: "I use humour to some extent to try to help people feel comfortable and feel relaxed in the matter. If they're tensed up, they worry about other things and then they're not really focusing on where they are, so I will try to be humorous in my introductions ... I'm light-hearted with the process."

Other mediators wait until the disputants begin to listen to each other with more empathy or have moved beyond the constraints of positional behaviour. David said:

Where it does happen, it will often happen when they're getting into the option generation stage and where they are looking back at what's happened and where they see how ridiculous they were. It's when they get out of that "my position" into the "us position" and sometimes they get into that helicopter position and start to look down on what they've been doing – they can actually see the contradictions in their behaviour and their words. They can often see humour in that and they look back and you can see them doing it and they'll make a joke.

In this description, through David's understanding of the process of mediation, the movement to the "helicopter position" as he called it, may be one that accompanies "empathic listening" when the parties begin to be able to see the overall situation rather than being locked into their own world view.

Establishing rapport: Improvising humour

Stefanovic may have been attempting to establish rapport with the Dalai Lama with his effort at a joke. Yet one of the reasons it failed might have been due to its scripted nature. Douglas and Bayly²⁵ stressed that humour in mediation may be most effective when it is improvised and represents a creative response to the particularity of the situation. They recommend that mediators are open to identifying or listening to the unexpected events that occur or the dissonance between what is being said and what is happening in the room. An improvisational stance will enable the mediator to use a sense of humour where appropriate and will also assist with developing a style that is deeply receptive and intuitive.

VCAT mediator Larry emphasised the importance of humour in the development of trust and empathy, and he also highlighted the improvisational nature of this kind of approach or intervention: "You've just got to try and have empathy with people and get them to feel comfortable with you, to trust you. So you do a lot of patter and small talk but it's not scripted or anything." Isabel also observed the impact of humour but stressed its improvisational nature. In her comment, the connection between an open intention to relieve the stress and an improvisational approach to the potential for humour is evident: "[T]here have been times when I might have come out of a mediation and thought to myself, we laughed a lot in that mediation and that was good or after a hearing where I know I've deliberately released the tension by using humour but it's not something I set out to do."

²³ Forester, n 2 at 225.

²⁴ Wimmer, n 15 at 197.

²⁵ Douglas K and Bayly A, "Humour in Mediation: Sparking Laughter Through Improvisation" (2009) 20 ADRJ 96.

Several of the mediators described the need to introduce humour cautiously and to interpret the mood of the disputants before they attempted to make light of the situation. Fiona said: “After I have gotten to know them [I introduce humour] and you do learn about people very quickly. I’ll know what is appropriate and what isn’t.” Isabel was also cautious about when humour may not be fitting: “I think it’s danger, danger, warning, warning stuff because I don’t think you can always anticipate whether somebody else is going to get your sense of humour or not.”

Style of humour: Creating a connection and demolishing hierarchies

The mediators surveyed at VCAT who used humour, whatever their gender, indicated a preference for non-tendentious (or innocuous) humour and avoided tendentious (pointed or aggressive) humour during mediation. In general, non-tendentious was described as humour which was focused on the mediator rather than the parties, and was intended to promote an atmosphere of inclusivity. This style of humour served the function of creating a connection between the mediator and the parties as well as demolishing the sense of hierarchy between mediator and party.

As Jenny described it, “the humour is always safest to come back on yourself than any of the parties of course”. Edward said, “I use a lot of self-deprecating humour. You sometimes put on a bit of [a] slow, daggy, ‘I’m from the bush’ sort of [voice] and the parties in the end almost conspire together on how are we going to deal with this donkey.” As well as self-focused humour, this mediator suggested that a humorous presentation can be a way to lower status or to encourage the disputants to see themselves as co-operating to face a challenge.

This notion of lowering status is one that Douglas and Bayly²⁶ also identified, and they noted that playing with status is a major source of improvisational humour. Mediators have a curious role in terms of status – they may be perceived as being high status as a professional with expertise to offer, yet their role is to empower and encourage the status of disputants to take responsibility for their own disputes and their own decision-making. Hence they will often downplay their status. VCAT mediator Edward’s self-deprecating style helps to lower his status. Charlotte also described it as “always safest to come back on yourself [rather] than any of the parties” so that she ensures any humour is to lower her status and is not at the expense of the disputants.

Forester²⁷ stressed that using humour in negotiation has very little to do with being funny but “very much to do with responding to others with understanding and imagination”. He also pointed to the way that status can be used as a method of humour in conflict. The third party charged with mediating, or facilitating, conflict might undercut their own status to provide laughter for the parties. This approach can empower disputants to see the third party facilitating conflict as shifting in status allowing more space for dialogue and connection. This style of humour is not designed to make people laugh or to like the mediator but to create an atmosphere of warmth, creativity and co-operation.

The mediators at VCAT use humour to connect with their clients. Careful use of humour may assist with diminishing inequalities where there is an unequal power relationship. Their self-deprecating humour focus serves to lower the status of the mediator so that the disputants feel empowered in the dispute. Such innocuous humour provides an atmosphere of care, creativity and openness. However, the VCAT mediators’ expressions of caution when using humour to avoid trivialising the situation suggest that inappropriate use of humour can also exacerbate the power differential between mediator and client.

CONCLUSIONS AND FURTHER RESEARCH

This research shows how a small group of mediators at a single dispute resolution service use humour in their mediation practice to establish trust and empathy and create an atmosphere of co-operation. In a mediation context it confirms that much of the theory of humour in mediation can actually work in practice.

²⁶ Douglas and Bayly, n 25 at 101-102.

²⁷ Forester, n 2 at 222.

The VCAT mediators are cautious about the role of humour and careful about how and when they introduce it. Just over a third of the mediators said they did not use humour because they wished to avoid appearing to trivialise the dispute. The majority of mediators who report being prepared to take the risk of introducing humour into mediation prudently monitor the appropriateness of the jokes they use. Some mediators express sensitivity to cultural difference when deploying humour in mediation, sometimes to avoid using humour, and at other times to allow acknowledgement, in a non-threatening manner, of diversity in social relationships. The role of humour in lightening up the atmosphere of the mediation room was evident in the reports of the mediators. They used humour to encourage parties to see their dispute from other angles, which may optimise the chance of reaching a resolution. These reports confirm the use of humour to achieve both bisociation and synergy in mediation.

Mediators use humour at different stages of the mediation. Some avoid it altogether unless it is introduced by the disputants. Others use it as an opening gambit to establish rapport and will use it from their introduction. Some mediators wait until the private sessions, or use humour only when the parties are beginning to generate options and negotiate, and have moved beyond their more limited perspectives. Some mediators prefer improvised, less scripted humour in order to respond to the needs of the parties before them. They prefer non-tendentious and generally self-deprecating humour that seems aimed to heighten the disputants' sense of engagement and agency in the process and to release tension.

This research has provided some important initial data on the use of humour in mediation from self-reports of mediators in practice at VCAT. Further research may develop these findings and provide guidance on the ways that humour may be considered in mediation theory, training and practice. Douglas and Bayly²⁸ have also called for further research into the use of humour and mediation from the parties' perspective. The connection between bisociation, synergy and creativity in mediation may be a very fruitful area for research. Work with transcripts or video recordings of mediation sessions would be one approach to identify the way that humour may encourage the shift from the limitations of seeing just one perspective into the capacity to view a shared perspective. This could be described as the movement away from a positional focus²⁹ in the language of interest-based mediation, self-absorption using the terminology from transformative mediation,³⁰ or downloading to use Scharmer's levels of listening.³¹ Researchers might investigate how a movement towards bisociation (according to the psychology of humour) or an integrative, or connected perspective, or empathic listening, arises.

Some examination of humour may be useful as part of the research on what makes a mediator successful. Use of a humour assessment scale would be helpful to assess mediator personality and skills. More in-depth investigation may also include gathering anecdotes of humour and its impact on mediation sessions.

²⁸ Douglas and Bayly, n 25 at 98.

²⁹ Fisher R and Ury R with Patton B, *Getting to Yes: Negotiating Agreement without Giving In* (revised 2nd ed, Random House, London, 1999) pp 41-43.

³⁰ Bush RAB and Folger JP, *The Promise of Mediation: The Transformative Approach to Conflict* (revised ed, Jossey-Bass, San Francisco, 2005) pp 49-51.

³¹ Scharmer CO, *Theory U: Learning from the Future as it Emerges* (Society for Organizational Learning, Cambridge, 2007) p 11.

