
Kluwer Mediation Blog

The Music of Mediation

John Sturrock (Core Solutions Group) · Tuesday, December 29th, 2015

'Tis the season to be merry. And indulgent. 'Tis also the season when favourite songs are compiled by well-meaning souls into apparently themed collections. In the UK, we have a long-running radio show called "Desert Island Discs" in which celebrities and others select their favourite pieces of music as they reminisce about their lives. The choices provide interesting insights into the featured guests. In recent years, the choices have become much more contemporary and, in some cases, quite surprising.

Knowing that whoever reads this is probably relaxing with a fine wine in hand, or perhaps a favoured beer, away from the hustle and bustle of the usual diet of mediation work, this blog adopts a similarly indulgent and merry feel. Here is one mediator's choice of mediation-themed songs (with a UK- and popular music-slant, I accept) with which I would happily be stranded on a desert island.

Silence is Golden: 1967 was the year I became aware of popular music. One of my earliest memories is of this number one song by British pop group, The Tremeloes. It is a typical 'sixties song, originally performed by Frankie Valli's Four Seasons. The melody and the harmonies can still send a chill down your back.

In a frenetic world, where noise seems perpetual and peace is always at a premium, the idea of silence is a precious one. Spiritually, silence is a feature of many religions, a pause to meditate, to reflect on the vast and incomprehensible, or on the immediate and present. But we abhor the vacuum of silence. We find it difficult to maintain for long. It can seem embarrassing or unnerving. We are aware not only of our own discomfort but of that of others. We need to learn to sit tight. Hold the moment. Let them think. Let them reflect. Let them speak.

I Hear You Now: This beautiful, mellow piece, with a catchy opening rhythm, was a top-ten hit for Jon and Vangelis in 1979. Who, I hear you ask? Vangelis Papathanassiou is an accomplished composer, perhaps best known for his soundtrack to the film Chariots of Fire, for which he received an Oscar. Jon Anderson is a hero for many who follow progressive (or "prog-") rock. His lyrics and vocals have illuminated albums for the super-group Yes for over 45 years. His spiritual and meditative lifestyle has informed his sometimes esoteric themes.

So often, the real problem in any communication is listening, or lack of it. We think we have heard what was said but, for all sorts of reasons, we haven't. Our inability to

really listen leads us into error, assumption, judgment and misperception. To listen properly to another person is to offer a gift. Real listening is an attitude of mind, an expression of the heart. How much I care about, and am interested in, another person may be measured by my willingness to subordinate my own needs for a while and give precedence to those of another human being.

Sorry Seems to be the Hardest Word: Perhaps this Elton John song is the most obvious choice. Described as “a mournful ballad about a romantic relationship which is falling apart” it was a track on the 1976 LP, *Blue Moves* and is one of a number of Elton’s singles which didn’t enjoy the kind of top ten success which might have been expected especially when, in the US, he was an even bigger star than in the UK.

“What have I got to do to make you love me?” he sings. What does it take to make an effective apology? Probably not just the words “I’m sorry”, although in some situations that may be all that is required. One of the lead news stories this year was about a travel firm which failed adequately to apologise to parents whose two children died from carbon-monoxide poisoning at a holiday apartment. What is “adequate” is of course subjective but there is now an abundance of research and practice to vouch that an authentic apology has huge value to the “victim” and as a result, to the maker of the apology.

As I write, the Scottish Parliament is considering an Apologies (Scotland) Bill which will provide statutory protection to apologies made in certain circumstances. This is to be welcomed as an attempt to shift the culture from backwards-looking blame to forward-looking learning. But there is real resistance to this proposed legislation.

Under Pressure: For me, the rock band Queen are one of the all-time greats. And, as a creative force in modern music, David Bowie is probably unmatched. This joint venture between the two in 1981 was, for each, a surprisingly rare UK number one hit. Apparently, the lyrics address the social effects of the Government policies of Margaret Thatcher.

Pressure is a constant feature of life of course, for most of us, whether self-induced or externally caused. The trouble is that pressure causes a reaction, often an unconscious one, and can lead to unattractive behaviour which can be unhelpful to relationships and communication. The adrenalin pumps and we feel compelled to speak or act faster and with less thought, composure fails us, and our defensive mode may set in. We may be quick to justify and quick to accuse. Daniel Kahnemann calls this “system one”. That’s all very well in a prehistoric stand off with a wild beast, but much less useful now in conflict situations, where we can experience the same feelings of threat but in such a different context. We need to remember that our wiring can let us down!

Misunderstanding: Genesis were my favourite band in the 70s and 80s. In this 1980 track written about the break up of his marriage, Phil Collins’ plaintive vocals record the angst and confusion when communication has gone wrong. It’s a simple song, but then misunderstanding is often simple and common as an impediment to communication and a cause of conflict.

“There must be some misunderstanding, there must be some kind of mistake” goes the

song. “80% of business disputes are down to poor communication”, said a senior oilman addressing a conference. Easy to say but think of the consequences. “I know you believe you understand what you think I said but I am not sure you realise that what you heard is not what I meant.” (attributed both to the writer Robert McCloskey and the economist Alan Greenspan). This sums up the matter nicely. It is easy to default to blaming the audience when we don’t get our message across: “They weren’t listening.....”. Well perhaps not, but it’s also our responsibility to engage them in such a way that they hear us and that there is no room for doubt about our message. Otherwise, we really do have communication breakdown (a prize for the first reader to specify the group and year with that title).

Us and Them: a stand-out track on *The Dark Side of the Moon*, Pink Floyd’s tour de force, and one of the longest-running chart albums of all time. I am sure that, if it was released today, it would be a classic. It seems to have stood the test of time perhaps better than any other record of that extraordinary late-sixties to mid-seventies era.

The idea of the other, whom we vilify because they are different to us, is a strong undercurrent in human history. Whether based on differences of culture, tribe, religion, nationality, gender, sexuality, education, or possessions, we tend to build walls around ourselves and project our fears onto those who are different. We adopt masks and poses, make claims and accusations and perpetuate the notion of difference as a threat, rather than celebrating diversity as a virtue.

One of the greats in the field of conflict resolution, Ken Cloke, addressed the General Assembly of the Church of Scotland in May 2012. The meeting took place on the eve of difficult discussions about the place of gay ministers in the church. In a moving contribution, Ken finished with the words: “There is no us and them, only us”. This is such a profound statement. We have so much more in common than ever separates us. An essential part of the mediator’s job is to remind people of this.

Fix You: Coldplay are one of today’s top stadium acts. They first came to my notice during a summer holiday in Provence in 2000 when we listened as a family to their first album. Fix You is on their third, 2005, album, *X and Y*. A charity rendering of the song is currently number one in the UK music charts, sung by the choir of the Lewisham and Greenwich NHS Trust, in a “mashup” with *Bridge over Troubled Water*. Fix You has a moving, timeless quality.

The impulse to fix others’ problems is very real in most of us. We are “fixers” by nature, wired to try to find a solution, to tell others how to sort out their issues. Lawyers are trained that way of course but most of us, when presented with a friend’s concerns, will think that we must try to offer our solution. It seems like this is how we can help. Anything else feels like a cop-out. Perhaps this is an indication of a basic human need to provide assistance, to be seen to be valuable, to gain approval. Sometimes, it may be necessary. But, ironically, we can do more if we do less. Paradoxically, perhaps, other people will achieve much more if they work out for themselves what the answer is. A mediator’s job then, is not to Fix You, but to help you to fix yourselves. Which takes us nicely to.....

We Can Work It Out: The Beatles can’t be omitted from this list and the only

question is which song to choose. They are such a rich source of helpful titles: Let it Be. The Long and Winding Road. Please Please Me. Help. Hello Goodbye. All You Need is Love. What a back catalogue.

Mediation, like many negotiations, can seem like a long and winding road. And at the end of course, it is necessary to let it be. Nearly always, however, we can work it out. The “we” are primarily those with the issues to resolve. The mediator is only “we” in so far as he or she can help the parties to do so. That is a crucial difference from other, more adjudicative processes and represents mediation’s greatest strength. In the powerlessness to decide the way forward lies the mediator’s real power. He or she has no stake in the outcome. He or she cannot ask the parties to “please, please me”. And, while we may think that all they need is love, few hard-boiled business leaders will respond well to such a call. We are, after all, simply there to help them - and, as we know so well, that experience will often appear to be a Magical Mystery Tour.

End Come Too Soon: If you have actually read this far, you may not agree with the sentiment in this title...! Others of you will, by now, be concerned about the maturity of many of my selections. So, here is a recent song. Wild Beasts are “an indie rock band from Kendal, England”, and one of the contemporary groups whose music has gripped many. This haunting track, on 2011’s album, Smother, is well worth a listen. “Break some bread / The night’s been blessed / With an never-endingness / But nonetheless / End come too soon”.

Can the end come too soon? Yes. People often wish to pull out of a negotiation when they feel that there is no point in continuing, or when it all seems to be going nowhere. Of course, theirs is usually a partial picture. Tiredness dulls the senses. The role of the mediator is often to encourage and cajole. To go the extra mile.... Persistence, perseverance, patience, these are all virtues. That said, mediating (or negotiating) into the wee small hours is unlikely, in most cases, to be sensible. It was once a mark of some sort of macho performance to keep going into the middle of the night. I don’t favour that approach. There is a moment to stop. Like now. Happy new year to one and all!

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The screenshot displays the 'Explore Practice Plus' interface. At the top, there is a blue header with a white checkmark icon and the text 'Explore Practice Plus'. Below this, the interface is divided into several sections. On the left, there is a profile card for 'Gary R. Egan' with a photo and statistics (20, 38, 145). To the right of the profile card, there are several circular charts and a list of results. The interface is designed to provide a comprehensive overview of an arbitrator's profile and their relationships within the arbitration community.

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