

## **Is liberal humanism holding back the development of mediation?**

**Abstract;** Liberal humanism is a theory within literary criticism and other fields. It is often subscribed to unwittingly almost as a default. It can lie deeply entrenched and is a product of how we are taught language and fiction.

In the early twentieth century there was a desire for critical analysis of fiction to somehow become more analytical. The result was an explosion of literary theories and models of understanding how any given text worked. Such theories were often resisted, contentious and rejected. By way of illustration I share below my own exposure to these theories and how I opposed them.

There remains an argument within mediation circles on whether we need theory, its purpose and the concern of some commentators that training can be devoid of theory (See Lorraine Schaffer's *Still About Process; A Call For Reflection and Change*

[http://mediationdigest.com/index.php?option=com\\_content&view=article&id=226:lorraine-schaffer&catid=8&Itemid=101](http://mediationdigest.com/index.php?option=com_content&view=article&id=226:lorraine-schaffer&catid=8&Itemid=101)) At the same time the debate for recognised standards of practice continues (see Gary Weiner *A Call For Evidence Based Standards For Mediator Quality 2012* <http://www.civiljustice.info/profstan/2/>)

One challenge of determining standards of practice is that there is as broad a range of practice as there is a range of works of fiction.

This article proposes that injecting theory into the analysis of mediation can lead to a more sophisticated, more analytical and structured discipline as has happened with literary theory throughout the 20<sup>th</sup> and now 21<sup>st</sup> century. The first obstacle to overcome, now as it was then, will be to recognise where a theory aversion comes from and to frame the 'Theory free' stance of liberal practitioners as being a theory itself. If this article stimulates debate and awareness in that sense then it is hoped that the gates will be opened and other theories will be more readily admitted and tested in the arena.

That, in turn, can lead to a far richer range of mediation practice, in the way that modern literary criticism has driven the explosion in style, impact, form and function that can be seen in modern literature.

The goal? Excellent mediation practice anchored in theoretical rigour and discipline that lends itself to analysis, critique and ongoing improvement.

### **What is liberal humanism?**

As a literature under-graduate I hit a steep learning curve, more like a wall, very early in term one, year one. My tutors needed me to embrace literary theory in order to instil a discipline into my analysis of the texts we would be studying.

The idea that my understanding of a novel or text required me to have an understanding of several literary theories was hard to accept. Until now, studying literature had been, I assumed, devoid of theory. In my experience a book was studied, enjoyed to varying degrees and I would then set about writing 2500 words or so on the merits of the text.

My considerations in carrying out that exercise, if I had ever been asked to write them down, would probably have looked like this;

- Is it a good story or poem?
- Does it have a coherent narrative that makes sense and progresses naturally?
- Is it dramatic?
- Is it poetic?
- Is it well written?
- Is it realistic, reflecting what we are familiar with or, in the instance of a genre piece such as fantasy, for example, working within the expectations of that genre?
- Is it realistic in the way that its characters and events react with one another in ways that we might recognise?
- Did it have a worthy message, purpose or some other lofty value? Essentially, did this piece have a right to exist and to stand the test of time or was it merely disposable?
- Did it have an emotional impact on me such as anxiety, arousal, sadness, indignation or any other?

I was convinced that we did not need theory to understand a story and submitted several cringingly naïve essays in those first few weeks as I ferociously clung onto my pre-existing methodology for critical analysis and evaluation.

It was not a position I relinquished easily or with particularly good grace.

Reluctantly I learned that if I was going to be able to analyse why one text worked well and another did not then I did, indeed, require a broader palette to work with. I slowly accepted that I would need to understand new theories; theories which to me felt unnecessary, difficult and which disrupted my otherwise passive enjoyment (or otherwise) of any particular text.

The realisation that my firmly held theory free stance was a theory itself was revelation.

I had an entirely conventional liberal humanist mind-set. Of course, it wasn't a theory to me; it was just the way things were. You read a book or saw a film, you had an experience, some response to it and you wrote or talked about it.

Once I learned that this was a pattern of assumptions and beliefs then I was better able to start catching it at work. Now I could choose whether or not to subscribe to that particular theory with regard to a text, or to experiment with another set of values and considerations. As I did so, I became capable enough to pass my under-graduate exams and go on to law school.

### **The theory before theory**

Peter Barry in his book **Beginning Theory** neatly calls liberal humanism "The theory before theory." That speaks to this notion that we must first recognise this default theory exists before we can go on to consider others.

Barry goes on to list ten tenets of liberal humanism. We will look at seven of them below. In doing so I have set up how those tenets shape how we engage in the analysis of a text. I then go on to

speculate how these same tenets might be at play, unknowingly, in shaping and limiting how we engage in mediation analysis.

I confess to be a little nervous about this exercise.

I expect it will arouse some very strident objections and resistance.

Liberal humanism has a very neat self defence mechanism that leads us to deny its very existence. If we do not accept that our mind set has a label then, after all, we cannot do anything about it. It is able to remain invisible as nothing more troubling or complicated than “That is just the way things are.” Once we have given something a name, however, then we are able to externalise it, consider it and work with it and upon it.

I have adopted a table format for this exercise. The first column lists the tenet under consideration. The second column shows how that tenet works (and how you may already experience it) in relation to, say, literature, cinema or theatre. Finally we will look to how those tenets may be holding back the full application of role within mediation and the potential to design improved mediation practice.

<b>Tenet of liberal humanism</b>	<b>How it shapes and limits analysis of literature, cinema or theatre</b>	<b>How it might be shaping and limiting analysis and improvement of mediation</b>
<p>Good literary work demonstrates timeless qualities or universalities relating to the human condition and the way we are</p>	<p>The often repeated example of this might be to proclaim the universality of Shakespeare’s work and of how deeply his work speaks of the human condition. We might deem that any given work which recognises and portrays what it is to be human is more likely to be worthy. We might deem it as being good and meaningful. Work which does not demonstrate these qualities is more disposable and may even fall into criticism for being cold, dispassionate, abstract or soulless.</p>	<p>An assumption that there is a universally good model of mediation that chimes in tune not with theory or abstract concepts but with nothing less important than how we work as humans and, in particular, humans in crisis or conflict.</p> <p>Presumably, the better that a mediation session resonates with ‘The way we are’ the better a model will be deemed to be.</p> <p>Artificiality, contrivance and strangeness would be unattractive and discredited.</p> <p>Simulation, seamlessness and congruency are desired.</p>
<p>A piece of work has its own inherent meaning and structure</p>	<p>This suggests that all I need to evaluate a book, poem or film is the book, poem or film itself. I do not need to know about the context in which the work has been created, the experiences of the author or other matters.</p> <p>The work should be able to stand on its own feet.</p>	<p>A mediation session will determine for itself whether it has been of value or not. That value will be the sum effect of the people in the room, their actions, interactions and what happens as a result.</p> <p>There would be no merit, if this tenet holds true, in comparing and contrasting one session with another,</p>

		<p>whether with different disputants or even when using the same disputants but on a different day.</p> <p>As a result, we would certainly resist any notion of holding up any given mediation session against an external notion of value or merit.</p>
<p>A close (and closed) analysis of the work is what is required</p>	<p>The critic does not need knowledge of the author’s situation, the historical or social context in which she or he was writing or out of which the text arose.</p> <p>What is more, the critic should resist seeking out and reject such external considerations. They should, instead, be focussed on the words, scenes and actions as portrayed by the work itself, as if sterile, isolated from its originating context and safe from contamination of all that was taking place.</p>	<p>This tenet would preclude a mediator from conducting a broader consideration of what else is at play for these disputants.</p> <p>In one situation I was stuck with a husband who could not move beyond just how unreasonable his wife’s perception of him was.</p> <p>By deliberately and consciously stepping outside of the issues presented in the room and asking “Tell me about your mother in law?” the husband explained how his wife’s father had left the family home in similar circumstances to those in which he had – albeit with different, less noble, motives.</p> <p>The husband was able to see that the perception held of him was not entirely unreasonable but now made absolute sense.</p> <p>We need the broader context of what is going on and skills based upon theories (here choosing to experiment with a systemic theory of this family’s conflict behaviours) to be able to elicit this information.</p>
<p>The purpose of good works are to enrich life but not to prescribe change</p>	<p>This is the notion of reading RL Stevenson’s Treasure Island, or Charles Dickens, because they are somehow ‘Good for the soul’ or ‘Character building’ even though to a modern audience they might be perfectly turgid and close to unreadable.</p> <p>We are looking for <i>worthiness</i> within the work – has it stretched our awareness or made us feel or</p>	<p>This tenet can be seen at play in several debates within mediation analysis.</p> <p>The notion that mediation should resolve matters, create consensus and build peace may be one representation of it.</p> <p>The sometimes vehement opposition to certain theories of mediation practice, most obviously in this</p>

	<p>see some new perspective?</p> <p>Sometimes it can feel as though the exercise and resulting development of stamina alone to read some of the masters is worthy enough in its own right.</p> <p>In essence though this tenet asserts that as a result of having read a given text, or seen a particularly worthy play or film that we will be a better person for it.</p> <p>It is important that although passive change and betterment is desirable and indicative of good work, prescribing what that change should be is undesirable. In such instances, the liberal humanist act of reading a text has been subverted to propaganda and would be, as a result, greatly criticised and discredited.</p>	<p>context, transformative mediation, could be another.</p> <p>“The mediator has no right to impose his or her values and theories upon disputants. That is not why they have engaged in mediation and to attempt to bring about such transformation is an abuse of process even, possibly, manipulative, coercive and unethical” some might say.</p>
<p>Content stems from form</p>	<p>An example cited is that the power of Ernest Hemingway’s writing flows directly from his rather staccato, restrained writing style. It suggests that similar ends could not have been achieved by any other form or style of writing. Had the writing been more verbose, florid or sophisticated then the content too would have been changed.</p>	<p>Here we might look to the useful but limited teaching that positions mediators as guardians of the mediation process. This can be further highlighted by looking to part of the professions very tight adherence to Gulliver’s principles of process.</p>
<p>Human nature is a constant and individuals are able to self determine</p>	<p>This assumes that there is a shared notion of what it is to be human and that this fundamental essence of humanity is unalterable.</p> <p>It provides a standard against which literature or other arts can be somehow measured.</p> <p>It also places a possibly overstated weight on the individual’s ability to define oneself and to remain subscribed to this notion of humanity, or, presumably in the case of villains, to detach from it.</p>	<p>Is there an over confidence in believing that disputants are capable of self-leadership and autonomy?</p> <p>To question it feels unsafe; the alternative may be that disputants are products of their social, familial, political environments. What impact would that have for how we convene and conduct mediation?</p> <p>There still needs to be a much fuller consideration of how external influences and conditioning can be recognised, acknowledged and managed.</p>

		<p>Perhaps more interesting is the insistence that mediation itself is human constant. Consider this excerpt, again from Gary Weiner's excellent paper A Call For Evidence Based Standards For Mediator Quality; "Mediation, of course, in its general sense, has been a part of human culture for eons. There are references to dispute resolution processes in which a "third party" helps people in conflict to "settle their differences" in non-adjudicatory ways in many ancient texts. Scholars and researchers have documented a wide variety of "indigenous," non-adversarial problem solving methods in populations that live today without the trappings of life in the "developed world."</p> <p>This argument reasserts that mediation is a product of that most valued and fundamental notion, namely, human nature. It risks perpetuating a status quo within "It's just what we do."</p> <p>Positioning mediation as an ancient tradition and one that has been a feature of human culture for centuries suggests that it has a well established legitimacy already. To suggest that it is human nature can make the practice almost inviolable, or sacred, as if we were challenging humanity itself. I have overstated this point deliberately to demonstrate the point. The point, however, remains.</p> <p>If we were to see mediation, instead, as an alien and abstract notion, as something that is artificial and contrived (in the same way that 20<sup>th</sup> century critics started to see language as an artificial structure or system of meaning) then again we can become more objective in challenging how the system is constructed and how it works.</p>
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<p>Criticism should interpret the text unencumbered by preconceived theories or ideas</p>	<p>This is the last bastion of the liberal humanist mindset. It says this;</p> <p>Even if we devised other methods of theoretical based evaluation and assessment, we should not impose them upon a piece of work but instead rely upon our own empirically felt, observed and recorded responses to what we read or watch.</p> <p>To apply learned theory is to introduce considerations that are external to the work itself. We need to fixate upon the unadulterated sanctity of how we react as humans reading or watching this piece.</p> <p>That was me in term one, year one of my undergraduate course rejecting Feminist, Marxist and Structuralist theoretical approaches amongst others.</p>	<p>The liberal humanist mediator maintains that theory should not complicate or warp the integrity of this ancient human tradition of mediation.</p> <p>Again, in Gary Weiner’s words; “... a rigorous and intellectually honest approach to understanding “how to mediate well” must be based on empirically verifiable information and not on untested assumptions or dogmatic beliefs about “what makes good mediation.”</p> <p>We react to what the disputants bring to the mediation process.</p> <p>Whatever they bring is deemed to be the reality of their experience of this conflict. When we hold this liberal humanist stance we deny ourselves the opportunities to</p> <ol style="list-style-type: none"> <li>1. <b>observe</b> what is happening</li> <li>2. to consider an array of theories that we subscribe to or know and draw <b>multiple interpretations</b> of what might be taking place before us; and</li> <li>3. <b>experiment</b> with careful, respectful questions to test whether those theories are applicable.</li> </ol> <p>(These three steps taken from Heifetz’s Practice of Adaptive Leadership)</p>
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It can be easy to dismiss liberal humanism as being shallow or naïve. That is not my intention. It is, itself, a theory and one worthy of study and awareness. It should not, however, be left unchallenged or left invisible to the over familiar eye.

Instead, as much of literary criticism and some of the great modern literary works have demonstrated, we should call it out and name it. By doing so we make it strange and capable of being remarked upon. The goal is to reposition this way of thinking so it is no longer merely ‘the way we are’ but it becomes, instead, a collection of tenets, of assumptions and behaviours.

When we do that, then we start to be able to compare and contrast, to experiment with other approaches and to test ourselves and the way we are thinking.

New theories and perspectives on the work that we do may well make the practices that we are very familiar with once again feel strange and artificial, even difficult.

That is no bad thing.

By making this mediation work strange once more, then we will make it conspicuous, visible and challenging. We will be able to define and observe its tensions and contours and, having done so, will be better placed to analyse and traverse the heights that lie ahead.

To borrow a quote from one of the early schools of twentieth century criticism, the Formalist Viktor Shklovsky wrote

“art exists that one may recover the sensation of life; it exists to make one feel things, to make the stone *stony*.”

We do not serve ourselves or our clients well when the work we do is so invisible as to be beyond perception. Instead, language, the oils on a canvass, the theory informed practices that we select and use, consciously and deliberately, within mediation should all be capable of drawing attention to the thing itself, to the disputants’ conflict, their struggle, condition and the dialogue around it, to make it remarkable once again rather than rendering it normal, urbane and unworthy of comment or attention.

When we do this then the disputants themselves will become newly aware of what is happening and how. We, as practitioners, become the guide. The theories we learn become the maps and the knowhow. There is value here in the work that we do. We might even call it craft.

When we are able to demonstrate craft and consistent excellence in practice then the market will respond.