Process Pluralism Without Borders: Carrie Menkel-Meadow and Mediation Transplantation Beyond the United States

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Abstract

This essay celebrates Carrie Menkel-Meadow's extraordinary contribution to the study of mediation beyond the United States. It argues that process pluralism, the concept she coined and developed over four decades, is not merely a description of a desirable justice system; it is an inherently culturally sensitive framework. Its foundational principle, that "one size does not fit all", applies as much across legal cultures as across case types. Drawing on Carrie's sustained engagement with cultural variation on her visits to the University of Haifa, where she co-taught a course on peacebuilding in the Middle East with Jewish and Arab students, and on the subsequent development of dispute resolution education and practice in Israel, this essay traces how process pluralism travels, adapts, and takes root in new contexts without losing its core commitment to justice.

Keywords: process pluralism; cultural sensitivity; legal transplants; mediation; Carrie Menkel-Meadow; ADR; Israel; Middle East; comparative dispute resolution.

[A] INTRODUCTION

When Carrie Menkel-Meadow first visited the University of Haifa in 2008, she arrived bearing a "gift" that is truly rare in legal scholarship: a framework that asked more questions than it answered. Instead of a ready-made mediation model to be transplanted into the Israeli context, Carrie offered a pedagogy and a vision, process pluralism, one that invited a diverse group of law students to design dispute resolution processes suited to their own deeply complex reality. The course she taught, Creating New Peace Processes in the Middle East, did not focus on American mediation; it focused, instead, on the universal aspiration to resolve conflicts peacefully, adapted from the ground up, for a specific, historically fraught, culturally layered setting (Menkel-Meadow & Nutenko 2009).

This essay celebrates that spirit, and through it, the remarkable scope of Carrie's influence on the study and practice of dispute resolution outside the United States (US). It argues that this influence is not incidental, but structural. Process pluralism, the concept she coined and developed, is inherently a culturally sensitive framework. Its foundational claim, that "one size does not fit all" (Menkel-Meadow 2020: 407), applies not only to case types and individual needs, but to legal cultures, political contexts, and social traditions. The framework travels precisely because it abandons any demands for replication, offering instead contextualized adaptation.

The essay proceeds in four moves. It begins by examining the concept of process pluralism and the global ambition that was woven into it from the outset. It then considers the challenge of transplanting dispute resolution concepts across legal cultures, a challenge that process pluralism is uniquely equipped to meet. Third, it turns to the Haifa case as a concrete illustration of how Carrie's framework has travelled, adapted, and borne institutional and practical fruit in one of the world's most complex conflict settings. It concludes with a personal reflection on what it means to be a scholar and practitioner of dispute resolution working outside the US, and how much we owe to Carrie's generosity in sharing not a finished product, but a living method.

[B] PROCESS PLURALISM AS A GLOBAL FRAMEWORK

Carrie coined the term "process pluralism" to describe the vision that a just legal system should offer a rich array of dispute resolution processes, each capturing a distinct mix of values, goals, and modes of participation (Menkel-Meadow 2020; Rabinovich-Einy 2022). Against two entrenched temptations—court-centrism, which held that formal adjudication alone could deliver justice, and a reductionist view of alternative dispute resolution (ADR), according to which mediation alone could replace it—process pluralism staked out a more nuanced and generative position: that justice is enhanced when parties and institutions can draw on a diverse repertoire of processes, matched to the nature of the dispute, the needs of the parties, and the values at stake.

From the outset, Carrie insisted that this repertoire could not be fixed in advance, and that its evaluation required ongoing empirical and normative attention. "One size does not fit all", she wrote (Menkel-Meadow 2020: 3)—a deceptively simple phrase. At its core, it is a critique of procedural imperialism, the assumption that a single procedural framework (however

well designed for one context) can be applied elsewhere without regard for local conditions. This critique reached well beyond the courts. From its earliest formulation it challenged not merely the over-privileging of adjudication within a single legal system, but the deeper assumption that any single process design could claim universality.

The international and cross-cultural horizon of Carrie's pluralism is evident across her body of work. As early as 1996, she wrote about the inadequacy of the adversarial system "in a postmodern, multicultural world" (Menkel-Meadow 1996), challenging the assumption that Anglo-American courtroom procedure could serve as a universal template. Her 2003 examination of "correspondences and contradictions" between international and domestic dispute resolution drew on comparative insights from transitional justice, peace negotiation, and restorative practice to argue that process design must be attentive to context at every scale (Menkel-Meadow 2003). Her 2004 article in the *Journal of Legal Education* (translated into six languages, including Arabic and Chinese, and cited more than 150 times across 10 or more disciplines (Milman-Sivan & Feinreich-Giloh 2026)), though written for American legal academia, was framed in terms that reached well beyond it. And her sustained engagement with restorative and transitional justice carried process pluralism into some of the world's most culturally diverse and politically charged settings (Menkel-Meadow 2007; Menkel-Meadow 2015).

Perhaps most significant for the present argument, Carrie's 2015 article, "Process Pluralism in Transitional/Restorative Justice: Lessons from Dispute Resolution for Cultural Variations in Goals beyond Rule of Law and Democracy Development (Argentina and Chile)", made the cross-cultural application of her framework explicit in its very title (Menkel-Meadow 2015). The article argued that restorative and transitional justice processes must be adapted to local cultural norms, political histories, and social structures, that the methodological commitment to contextualized process design must be applied to cultural contexts just as it is applied to individual case types. This was more than a call for cultural sensitivity. It reflected the same core insight that underlies process pluralism: procedural design should be shaped by the characteristics of the dispute and the needs of those who engage with it.

Taken together, these writings present process pluralism less as an American export than as a universally applicable methodology, one that asks, in each new context, which processes best serve justice for specific types of parties in particular cultural and institutional settings? The

answers will differ across cultures, communities, and contexts, but the question is always the same. The framework's reach beyond the US owes to this methodological portability rather than to any specific process design.

[C] CULTURAL SENSITIVITY AND THE CHALLENGE OF LEGAL TRANSPLANTS

When legal concepts travel across jurisdictions, they rarely do so intact. The legal transplants literature has long debated whether, and under what conditions, legal rules, institutions, and practices can be productively imported from one legal system to another. The debate is classically framed between Alan Watson's position that legal rules are largely autonomous from their social contexts and can therefore be successfully transplanted across cultural boundaries (Watson 1974) and Pierre Legrand's counter-argument that true transplants are impossible because law is inextricably embedded in its cultural matrix, that what travels is only the outer form, stripped of the social and epistemological substance that gave it meaning (Legrand 1997). This debate has a particular resonance for dispute resolution.

Mediation, in particular, has been subject to sharp debate about its cultural portability. Some scholars have emphasized the dangers posed by a universalist approach to conflict resolution (Avruch 1998). Alongside concerns over procedural imperialism, Carrie has highlighted the existence of mediation-like practices across non-Western traditions, including Confucian approaches, Islamic *sulha*, and African community dispute resolution practices such as Ubuntu and gacaca, suggesting that mediation has no single culture, even if its forms vary enormously (Menkel-Meadow 2022).

Process pluralism offers a principled way through this debate. If the objection to legal transplants is that they impose alien procedural forms on cultures with their own traditions, values, and ways of understanding conflict, then a framework that insists on contextualized, locally adapted, and bottom-up process design is, by definition, resistant to the transplant problem. Process pluralism does not say: adopt mediation as we practise it in California. It says: take seriously the full range of processes available in your setting, including indigenous and non-Western traditions, and design or adapt them to serve justice in your context.

This is, in essence, a methodology for what might be called culturally sensitive procedural design. The distinction between the methodology and

any specific process is crucial. What travels from the US (what Carrie's work makes available internationally), is not a specific institutional form but a way of thinking about processes: attentive to context, sensitive to the trade-offs between competing values, committed to the view that procedural choice is itself a substantive justice question, and resolutely opposed to the privileging of any single process on grounds other than its contextual fit. That methodological outlook is precisely what does not get lost in translation.

Carrie's own explicit commitment to cultural sensitivity in process design goes further than a general methodological pluralism. In her work on transitional justice, she has insisted that processes of truth, reconciliation, and accountability must be drawn from, and adapted to, the specific cultural, political, and historical circumstances of the societies in which they operate. She has consistently stated that importing, wholesale, models developed in one post-conflict context into another is a form of procedural imperialism, even when it is well intentioned (Menkel-Meadow 2015). The same insight applies to the domestic transplantation of dispute resolution practices into different cultural communities within a single legal system. For us, the challenge of designing appropriate processes for a mixed Jewish–Arab city in northern Israel has been, in this respect, a version of the same challenge that Carrie has theorized at the level of international transitional justice. The terms we use for these communities are themselves a reminder that no single label captures a people.[1]

[D] PROCESS PLURALISM IN THE MIDDLE EAST: THE HAIFA CASE

No case better illustrates the international reach and cultural adaptability of Carrie's framework than her engagement with the University of Haifa Law Faculty. Haifa, a mixed Jewish–Arab city perched on the slopes of Mount Carmel on the shores of the Mediterranean, is in many respects a microcosm of the Israeli reality: a place of genuine coexistence, alongside mounting tension, and unresolved historical grievance. When Carrie arrived there in 2008 for the first of three visits, each one deepening the relationship between her work and the dispute resolution community at

[1] In describing a shared Jewish–Arab civic space, we use terms—"Jewish", "Arab", "mixed city"—that necessarily compress communities whose members hold complex and varied civic, national, religious, and cultural identities, and each of which is named differently in different scholarly and political registers. We adopt consistent shorthand for readability, without taking a position among these usages or suggesting that any group is internally uniform.

Haifa, she could not have chosen a more demanding test for the claims of process pluralism (Milman-Sivan & Feinreich-Giloh 2026).

The course she taught (assisted by Irena Nutenko)—Creating New Peace Processes in the Middle East—brought together Jewish and Arab law students to explore ADR theory and to develop bottom-up proposals for inter-communal and regional dialogue (Menkel-Meadow & Nutenko 2009). The pedagogical choices were deliberate and significant. Rather than presenting American mediation practice as a model to be received and applied, Carrie invited students to use the conceptual tools of process design to imagine processes suited to their own deeply contested reality. The students generated their own proposals for dialogue, resource-sharing, and peacebuilding, proposals that were drawn from the experience of living at the meeting point of diverse national and individual narratives.

The course was itself an exercise in process pluralism. Because it took the diversity of conflict types seriously and privileged the parties' own perspectives and resources over any imported template, it could resist the pull toward pre-packaged solutions. What it modelled, then, was the very method it taught: contextual, and set against procedural imperialism. It is not surprising, then, that the course's effects outlasted the classroom by years. One graduate of the 2008 course, now a seasoned lawyer who never went to practise as a mediator, recalls that it nonetheless reshaped her sense of a lawyer's role, leading her towards interest-based, negotiated solutions that preserve relationships.[2]

Beyond the course's effect on individual students, Carrie's engagement with Haifa had substantial institutional ripple effects. Combined with the scholarship already developing in the faculty and with donor commitment to peacebuilding through legal education, it led to the establishment of a Dispute Resolution Clinic and a comprehensive ADR curriculum (Milman-Sivan & Feinreich-Giloh 2026). The Clinic trained mediators to operate in contexts that the existing American literature had not directly envisaged: mediating disputes between Jewish and Arab citizens in a shared city; working with the complex cultural and legal layering of Israeli family law; facilitating dialogue across communal and political divides whose depth and historical weight have no precise equivalent in any American setting. The Clinic developed its own practice, drawing on Carrie's framework while responding to the particular conditions of its setting.

Particularly striking is the development of the Shared Life Dialogue programme (co-directed by one of the authors), which brought together

[2] Conversation with a graduate of the 2008 course, June 2026; notes on file with the authors.

Israeli Jewish and Arab citizens in structured dialogue processes that drew on ADR principles while being adapted, in content and form, to the specific cultural and political context of Israeli society (Milman-Sivan & Feinreich-Giloh 2026). When the events of October 2023 placed almost unbearable strain on coexistence within Israel, it was to this programme, grounded in process pluralism but developed locally, that our community turned. Because the programme had been designed for its own context rather than imported into it, it proved unusually resilient under conditions of extraordinary stress.[3]

What is also notable about this trajectory is the way it exemplifies the global reach of Carrie's written work. Her 2004 *Journal of Legal Education* article did in writing what the Haifa course did on campus: it supplied a framework rather than a template. It set out the tools of process design and the normative commitments of process pluralism in a form that could be taken up and applied well beyond the American law schools for which it was chiefly written by introducing a way of thinking about procedure that resists universalization.

[E] WHAT CARRIE'S WORK TEACHES THOSE OF US BEYOND THE UNITED STATES

What non-US scholars and practitioners have taken from Carrie's work is a method rather than a finished product. The distinction matters practically as well as conceptually. A method can be applied, adapted, tested, and refined in new settings, generating new knowledge and new practices that feed back into the global conversation. For those of us in Israel who have worked to build a dispute resolution field in a complex, multilingual, multireligious society shadowed by political conflict, process pluralism has been precisely such a method. It has provided the vocabulary to explain why a one-size-fits-all approach to justice is inadequate across the different communities and cultural traditions that make up Israeli society. It has warranted a sustained investment in context-sensitive process design: developing procedures responsive to the parties and circumstances at hand, rather than transposing models devised elsewhere. And it has offered a normative foundation for the claim that access to justice means access to appropriate processes, not merely access to courts, nor access to any single model of non-adversarial resolution.

[3] This is not to present the programme as an unqualified success. We are candid that the system remains a work in progress—no formal evaluation has yet been undertaken, awareness of the available processes is uneven, and power imbalances persist (Milman-Sivan & Feinreich-Giloh 2026).

More broadly, Carrie's work has modelled a form of legal scholarship that is at once theoretically ambitious and practically grounded, a combination that is rarer in legal academia than it ought to be. Her insistence that process design is a substantive justice question, that procedures are not merely vehicles for arriving at outcomes but are themselves constitutive of justice or its absence (Rabinovich-Einy 2022), has reshaped how many of us think about legal systems worldwide. Part of what makes that contribution durable is Carrie's refusal to romanticize it. She is candid about process pluralism's darker side as well as its lighter one: crediting Lon L Fuller, she notes that each process carries its own morality and structures its own outcomes (Menkel-Meadow 2004); and she takes seriously the critique, associated with Laura Nader, that a coercive drift toward participatory "harmony" can be as unjust as the hierarchies it purports to replace (Nader 1993). That candour is also part of why her account travels. Her 2004 *Journal of Legal Education* article resonated precisely because it holds apart two claims: a set of near-universal normative process commitments to voice, participation, dignity, on the one hand, and on the other, the contextual question of which procedures serve those commitments in any given setting, namely a contextual fit.

Carrie has also modelled a distinctive scholarly generosity that those of us working in fields she helped to found have benefited from enormously. This generosity is not only a matter of temperament. It is built into the way Carrie writes, and specifically, in the manner she engages with scholarship produced outside the US. Her scholarship consistently foregrounds the voices of those who are least well served by existing legal systems, and her engagement with comparative and cross-cultural questions has always been characterized by genuine curiosity rather than the imposition of a prior framework. In writing for the global community of dispute resolution scholars and practitioners, she has given us permission to bring our own contexts and our own insights into the conversation.

The evolution of dispute resolution into the digital realm has added new dimensions to the challenge of cultural sensitivity that Carrie's framework is well placed to address. As dispute resolution processes go online through platform-based mediation, algorithmic decision-making, or artificial intelligence-assisted negotiation, the question of cultural fit becomes more urgent, not less. What does procedural justice mean when parties from different cultural backgrounds interact through platforms designed in Silicon Valley? How do we ensure that online dispute resolution processes are sensitive to the communication norms, power dynamics, and relational expectations of users across the world (Katsh &

Rabinovich-Einy 2017)? These are the questions that process pluralism equips us to ask and that Carrie's sustained engagement with the evolving technological landscape of dispute resolution (Menkel-Meadow 2016) has ensured remain at the forefront of scholarly and practical attention.

[F] CONCLUSION: A FRAMEWORK FOR EVERYWHERE

There is something fitting about the fact that it is Haifa, a city that has made coexistence its identity and its aspiration, that offers a vivid illustration of process pluralism in action beyond the US. Carrie came to Haifa asking what a group of young Jewish and Arab law students might themselves imagine for their own world. In doing so, she practised what she has theorized for four decades: that the deepest respect for another culture's capacity for justice is to offer it not your answers, but your best questions.

To sum, this essay has argued that the international reach of Carrie's work on the study and practice of mediation is a direct outcome of her work's core values and commitments. Process pluralism is inherently a culturally sensitive framework because its core commitment—to match procedures to contexts, parties, and values rather than imposing a universal template—contains within it an imperative to adapt, rather than replicate, in every new setting. That imperative has made it one of the most genuinely global contributions to the study of dispute resolution in our time.

For those of us who have built dispute resolution programmes and curricula in non-US settings on the foundation of process pluralism, the tribute owed to Carrie is immense: she gave us the tools to do our work. She taught us to ask the right questions. And she showed us, by example, that a commitment to justice need not choose between universality and cultural sensitivity that, properly understood, the two are not in tension at all. What is universal in it is this: the insistence that every side be heard, that voice and dignity be respected, that justice be pursued. What varies—and must vary—is the form those commitments take in any given setting. Process pluralism is a universal methodology precisely because it takes particularity seriously. It is, in the most generous sense of the word, a framework for everywhere.

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References

Avruch, Kevin. *Culture and Conflict Resolution*. Washington DC: United States Institute of Peace Press, 1998.

Katsh, Ethan & Orna Rabinovich-Einy. *Digital Justice: Technology and the Internet of Disputes*. Oxford: Oxford University Press, 2017.

Legrand, Pierre. "The Impossibility of Legal Transplants." *Maastricht Journal of European and Comparative Law* 4 (1997): 111-124.

Menkel-Meadow, Carrie. "The Trouble with the Adversary System in a Postmodern, Multicultural World." *William and Mary Law Review* 38 (1996): 5-44.

Menkel-Meadow, Carrie. "Correspondences and Contradictions in International and Domestic Conflict Resolution: Lessons from General Theory and Varied Contexts." *Journal of Dispute Resolution* (2003): 319-352.

Menkel-Meadow, Carrie. "From Legal Disputes to Conflict Resolution and Human Problem Solving: Legal Dispute Resolution in a Multidisciplinary Context." *Journal of Legal Education* 54 (2004): 7-29.

Menkel-Meadow, Carrie. "Restorative Justice: What Is It and Does It Work?" *Annual Review of Law and Social Science* 3 (2007): 161-187.

Menkel-Meadow, Carrie. "Process Pluralism in Transitional/Restorative Justice: Lessons from Dispute Resolution for Cultural Variations in Goals beyond Rule of Law and Democracy Development (Argentina and Chile)." *International Journal of Conflict Engagement and Resolution* 3 (2015): 3-32.

Menkel-Meadow, Carrie. "Is ODR ADR: Reflections of an ADR Founder from 15th ODR Conference, the Hague, the Netherlands, 22-23 May 2016." *International Journal of Online Dispute Resolution* 3 (2016): 4-7.

Menkel-Meadow, Carrie. "Hybrid and Mixed Dispute Resolution Processes: Integrities of Process Pluralism." In *Comparative Dispute Resolution*, edited by Maria F Moscati, Michael Palmer & Marian Roberts, 405-423. Cheltenham: Edward Elgar, 2020.

Menkel-Meadow, Carrie. "Cross-Cultural Disputes and Mediator Strategies." In *The Routledge Handbook of Intercultural Mediation*, edited by Dominic Busch, 30–42. Abingdon: Routledge, 2022.

Menkel-Meadow, Carrie & Irena Nutenko. "The Next Generation: Creating New Peace Processes in the Middle East." *Negotiation Journal* 25 (2009): 569-586.

Milman-Sivan, Faina & Dana Feinreich-Giloh. "When the Classroom Becomes the Conflict Zone: ADR Education at the University of Haifa." *Journal of Legal Education* 74 (2026): 1-30 (forthcoming).

Nader, Laura. "Controlling Processes in the Practice of Law: Hierarchy and Pacification in the Movement to Re-Form Dispute Ideology." *Ohio State Journal on Dispute Resolution* 9 (1993): 1-25.

Rabinovich-Einy, Orna. "Process Pluralism in the Post-Covid Dispute Resolution Landscape." *Texas A&M Law Review* 10 (2022): 55-73.

Watson, Alan. *Legal Transplants: An Approach to Comparative Law*. Edinburgh: Scottish Academic Press, 1974.