Tracing the Roots of a Jurisprudence of ADR: Carrie Menkel-Meadow and her Intellectual Mother and Fathers

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"I like to look at the genealogy—where do these things come from?"
(Menkel-Meadow in Parra-Herrera 2025)

"That is all I am urging, that we try experiments in methods of resolving differences …"
(Follett 1941: 5-6)

"Ideas are incestuous. They commingle and refuse to sort themselves out so that one can say, 'These ideas are his or hers and those mine'."
(Raiffa 1982: v)

Abstract

This article traces the most significant intellectual influences of Carrie Menkel-Meadow, widely regarded as a pioneer in the field of alternative dispute resolution (ADR). It argues that key elements of Mary Parker Follett's approach to conflict resolution, Lon L Fuller's legal philosophy—particularly his work on alternative processes for handling disputes—and Howard Raiffa's negotiation theory are reflected in Menkel-Meadow's contributions to integrative negotiation, process pluralism, and her conception of negotiation as both an art and a science. The article examines these three theoretical pillars and concludes that one productive way to expand ADR's theoretical scope is to engage intellectual history and legal philosophy to better understand the field's development, its future directions, and to re-signify the past to open up new ways of thinking about ADR.

Keywords: ADR; negotiation; Carrie Menkel-Meadow; Lon L Fuller; Howard Raiffa; Mary Parker Follett; intellectual history; conflict resolution theory; genealogy.

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[A] INTRODUCTION

Although my research has been deeply influenced by Carrie Menkel-Meadow, I did not meet her in person until recently at the 2025 Association of American Law Schools Section on Alternative Dispute Resolution Works-in-Progress Conference at University of California (UC) Law San Francisco (formerly UC Hastings) on 24 October 2025. My work on the origins of Roger Fisher and William Ury's negotiation book, *Getting to Yes* (1981) was chosen for the plenary lecture, and she was one of the commentators. I was both excited and nervous. We had exchanged emails beforehand, and she had read my earlier work. Still, given her incisive eye, meticulous feedback, and deep knowledge of the intellectual history of alternative dispute resolution (ADR), I was unsure whether my methodological approach—drawing on intellectual history, legal philosophy, and pragmatism—would resonate with her, or whether she might view it as a dead end, or at least as terrain she had already explored and exhausted in her article, "The Fathers and Mothers of Invention: The Intellectual Founders of ADR" (Menkel-Meadow 2000) and her sequel book chapter "Roots and Inspirations: A Brief History of the Foundations of Dispute Resolution" (Menkel-Meadow 2005).

Reading between the lines of these two foundational texts on ADR's intellectual history reveals a hypothesis that has shaped my work ever since I encountered it: the field of ADR is marked by a "foundational forgetfulness": the emergence of modern ADR has, in part, produced an amnesia among its practitioners and scholars regarding its pre-modern antecedents. In Carrie's words:

> When we think of the "founding" of the ADR movement (particularly, but not exclusively, in law), from when do we date it? Whom do we think of as our leaders? Many of us think of Frank Sander and the "multi-door courthouse" suggested by his famous paper, delivered at the Pound Conference on the Causes of Popular Dissatisfaction with the Administration of Justice in 1976. For others, the publication of Roger Fisher and William Ury's *Getting to Yes*, signaled an interest in a changed paradigm for engaging in legal negotiations … Yet, as we date most of the modern "ADR movement" to the 1970s and 1980s, we may be failing to pay enough serious attention to earlier "intellectual" founders of ADR—those who provided the key ideas, concepts, or organizing frameworks from which we have built our modern movement of theories, practices, policies, and institutions (Menkel-Meadow 2000: 1-2).

The founding of modern ADR, either in its multi-door courthouse "big bang moment" (Moffitt 2006) or in its interest-based negotiation theory "revolution" (Fisher & Ury 1981) inaugurated a foundational forgetfulness

as if ideas, practices, and fields of knowledge had no antecedents and its roots had been thrown into the waters of Lethe, the underworld river in Greek mythology that erases memory. Informed partially by Carrie's work, I sought to resist this tendency toward forgetfulness by recovering intellectual traditions and ideas that were significant to ADR's emergence but were later overshadowed by more practice-oriented concerns, such as resolving disputes efficiently, managing emotionally strained parties, alleviating court congestion, and getting to "yes", however that affirmative goal was understood in a particular dispute.

At the plenary, next to Carrie (yes, she invited me to do so, and I started calling her Carrie at that moment), I presented my paper and explained why I believe ADR warrants a historically grounded and philosophically informed perspective. I offered a methodological account along the following lines, which I have incorporated into my written work:

> ADR is a field that tends to be excessively programmatic, concentrating on process design and refining professional skills. In important ways, its primary concern is the question of how to—*how to negotiate or mediate better*. This programmatic focus is useful and quite relevant. But in my research, I adopt a different lens. I also approach ADR and negotiation as an intellectual movement, recognizing and tracing the philosophical, historical, economic, political, and moral ideas that underlie and inform what otherwise appears to be a step-by-step, neutral set of techniques for managing, resolving, and preventing conflict (Parra-Herrera 2026).

Then it was her turn to comment on my paper. As I listened to her praises and critiques, I realized I was writing about events and people she had directly experienced and people she personally knew very well. Fisher, Frank Sander, and Howard Raiffa were to me dead authors and architects of the field I teach and research. But, for her, they were "people with projects" (Kennedy 2018: 6), that is, with intellectual, political, and economic agendas. They were mentors, colleagues, contradictors, and interlocutors. I was writing about the history of a field; she was one of its living repositories. I called for a historical turn to expand the field's possibilities; she could turn to her own biography to draw insights into how those possibilities had already been realized. What was history for me was biography for her. Memory and experience were side by side at that table.

John Dewey offers a helpful distinction between *experience had* and *experience known* (Dewey 1925). The former refers to the immediate, lived flow of experience—the kind we have as embodied beings immersed in the world as we navigate it. The latter refers to experience after our "pet owl Minerva" has taken flight (Kennedy 2003: 674), that is, experience

that has been intellectualized and processed through reflection. It is the kind of experience we have as rational beings, capable of stepping back from the world to understand it. I only had experience *known*; she had both experience *known* and experience *had*.

In her concluding remarks at the conference, Carrie offered a line that motivated me to write this chapter, expanded my approach to intellectual history, and helped me understand why approaching ADR as an intellectual movement remains a relevant endeavour. She suggested that my work could be distilled into the following question: how do we know what we know? This meta-epistemological inquiry is a modern variant of the Socratic imperative to examine one's life. Not knowing how we know what we know is one variant of "an unexamined life" (Plato 2002: 41).

There are many ways, however, to approach Carrie's Socratic question. One path, reflected in her own work and the one I will take in this paper, is to trace the ideas and intellectual influences that shape how we perceive, understand, and intervene in the phenomena we study. This approach asks how the lenses through which we interpret experience are themselves formed. Such an enterprise is bound to fail if we expect definitive or complete answers. However, if we understand intellectual genealogies as a way to partially illuminate why we see the world as we do and how those ways of seeing shape our thinking, then it becomes a valuable method for addressing how we come to know what we know.

This is exactly the aim of this article: to trace the most significant intellectual influences of Carrie, with the hope of shedding light on how she has come to know what she knows. Drawing on textual analysis, interviews, and conversations, I argue that her approach to ADR can be understood as a convergence of three key traditions: Mary Parker Follett's approach to conflict resolution, Lon L Fuller's legal philosophy—particularly his work on alternative processes for handling disputes (Fuller 1971)—and Raiffa's negotiation theory (Raiffa 1982). These influences are reflected in Carrie's contributions to integrative conflict resolution, process pluralism, and her conception of negotiation as both an art and a science.

I do not attempt here to recount the full range of Carrie's experience both *had* and *known*. Nor do I claim that Follett, Fuller, and Raiffa were her only intellectual forebears. Carrie's philosophy of ADR draws from a wide array of traditions, including the sociology of law, feminist legal thought, game theory, and deliberative democracy, as well as from thinkers such as Jon Elster, Jürgen Habermas, Stuart Hampshire, Émile Durkheim, Carol Gilligan, Soia Mentschikoff, Thomas Schelling, and Georg Simmel,

among many others. Yet, I do think that Follett, Fuller, and Raiffa have a special place in her intellectual constellation.

Other views on her intellectual fathers and mothers have been developed by her colleagues in the *Festschrift* volume dedicated to her in the *Texas A&M Law Review* (Welsh 2022), as well as in her own writings, interviews, and autobiographical essay, "When Should I Be in the Middle? I've Looked at Life from Both Sides Now", where she offered a candid account of how she came to know what she knows as a negotiator, mediator, and ADR scholar, including her early engagement with the question, in 1968, "What side was I on?" and her realization that she has been in the middle, an authentic and re-signified middle (Menkel-Meadow 2020a). I draw on insights and anecdotes from these sources. But my focus is rather on a dimension that, in my view, has received less attention: her intellectual and philosophical lineage—her "fathers and mothers". Carrie is often described as one of the "mothers" of ADR (Menkel-Meadow 2020a: 428). But who are her own intellectual predecessors?

In the first section, titled "The Experience", I will briefly chronicle some pivotal events that I argue were relevant to Carrie's intellectual formation. In the second section, I will analyse the ideas of Follett, a progressive era thinker considered one of the mothers of negotiation theory and management studies; Fuller, a Harvard Law School professor and prominent American legal philosopher, considered as "the jurisprude of ADR" (Menkel-Meadow 1997: 449); and Raiffa, a Harvard Business School professor and pioneer of game theory and decision analysis, also regarded as one of the founders of modern negotiation theory and the Program on Negotiation at Harvard Law School (Sebenius 2017). Then, I will briefly describe how Follett, Fuller, and Raiffa's ideas are crystallized in her integrative conflict resolution approach, process pluralism, and view of negotiation as both an art and a science. Finally, I will outline some lines of inquiry and questions for imagining a jurisprudence—or philosophy—of ADR.

[B] THE EXPERIENCE

Experience is the central concept of American pragmatism, a philosophical tradition that emerged in the United States in the late nineteenth and early twentieth centuries through the writings of Charles S Peirce, William James, Oliver Wendell Holmes Jr, Jane Addams, and others (Menand 2001). For pragmatists, experience is not merely a collection of sensory data. Experience is both a doing and an undergoing—an ongoing interaction between organism and environment. It is also the site where

ideas are clarified and where their practical consequences become visible (Peirce 1991: 169). This expansive conception of experience reconfigures the relationship between theory and practice, not as separate domains but as intrinsically connected, much like a hotel room is connected to the corridor that leads outside, into the world (James 2000: 28). What is the relevance of all of this? I argue that Carrie's approach to ADR is grounded in the pragmatist conception of experience, particularly in its insistence on the continuity between life and thought, theory and practice, and between experience had and experience known.

Our life experiences begin before we step into this world. Genetics is not the only bequest we receive from our ancestors. Our family genealogies and background inform, to some extent, our worldview. Carrie's grandfather was a peace activist in the First World War. In her words, "to that what we see, believe and think depends a great deal on where we come from" (Menkel-Meadow 2021: 300).

Her Catholic father and her Jewish mother fled to the United States during the Second World War, while her father's cousin served in the Nazi army (Verbeke 2016: 2). As Professor Alain Verbeke put it, as he introduced Carrie on the occasion of the receipt of her Honorary Doctorate in Human Sciences in 2016 in a ceremony at the Katholieke Universiteit (KU) Leuven, "she [was] no stranger to the ambiguity and multiple dimensions of conflicts. It entrenched in her an unflagging desire to heal the world" (Verbeke 2016: 2).

In an autobiographical article, Carrie traces her path into the field of ADR (Menkel-Meadow 2020a). She describes her student years as marked by conflict. In 1968, anti-Vietnam War student protests were reaching their peak on university campuses, Martin Luther King Jr and Robert Kennedy were assassinated, and racial tensions and social unrest intensified. At the time, she was an activist student at Columbia University, engaged in struggles for social justice while navigating a socio-political moment that increasingly called for dialogue to de-escalate conflict.

During the period of the Columbia University Student Protest of 1968, she found herself at the head of a citywide solidarity march, confronting Mike Sovern—a Columbia law professor who would later become Dean of the Law School and President of the University—and asking him: "Why couldn't we just all sit down and talk about it?" (Menkel-Meadow 2020a: 424). This moment captures a central tension in Carrie's trajectory: the oscillation between resisting unjust social structures through protests and civil disobedience and embracing the emerging belief that dialogue or some form of facilitation could serve as a vehicle for social change.

Unsurprisingly, after law school, she set out to pursue social justice through legal practice. She became a poverty lawyer, representing clients facing discrimination, poor prison conditions, barriers to education, due process violations, and welfare rights disputes. During this period, she experienced what she later described as her "real mediative epiphany" (Menkel-Meadow 2020a: 424).[1] In a discrimination case, she negotiated a settlement with a trucking company that secured a truck for her client who wanted to start his own business. As she reflects on this case, she felt that "a negotiated settlement was forward-looking and tailored to [the client's] needs, more than a litigated and more backward-facing judgment would have been" (Menkel-Meadow 2020a: 425). This experience revealed the possibility of a third path, a mediated path, beyond the binary of individual satisfaction and broader social transformation. By attending closely to her client's needs, a discrimination claim was addressed through creative forms of reparation. A past harm was reframed as a meaningful future, and a judgment focused on rights and wrongs gave way to a negotiation centred on needs and interests. And so, Carrie's journey into the field of ADR began. In her words, "I began to look for ways to 'solve the problem,' rather than 'win' the case." (Menkel-Meadow 2020a: 425) She started teaching negotiation and mediation first at the University of Pennsylvania, then the University of California at Los Angeles (UCLA) and Georgetown, and then at the University of California Irvine law schools, trying to change the legal culture and teach students to listen to both sides, examine needs and interests. 'My take", she argues:

> was a little different from Fisher & Ury's *Getting to Yes* focus on instrumental interests … and look for creative, value-enhancing, integrative solutions to legal and social problems that were both tailored to parties' particular needs and circumstances—but also to consider social justice outcomes and effects on third parties (thank you to Mary Parker Follett, 1995, conceptually) (Menkel-Meadow 2020a: 425-426).[2]

Carrie's "mediative epiphany" captures three foundational elements of her thought. First, it reflects her commitment to pursuing *integrative solutions* to legal and social problems. Integration becomes a guiding

[1] The notion of epiphanies as revelatory moments of experience appears elsewhere in Carrie's work. For instance, in her lesser-known article, "Genealogy of a Globalized Socio-Legal (and Feminist) Scholar", she invokes the idea of "Durkheimian epiphanies" to describe moments in which facts or observations are illuminated in ways that cast a different hue—or, perhaps, an alternative shading—on how law and legal institutions make sense of social phenomena (see Menkel-Meadow 1990; 2021b: 300).

[2] Here and in other writings Carrie often cites Follett's article "Constructive Conflict", published in 1925. The article originally appeared in Dynamic Administration, a posthumous compilation of some of her articles and lectures (Follett 1941).

principle for developing value-enhancing, context-sensitive, and stakeholder-responsive approaches to conflict. Second, it underscores the importance of tailoring both substantive and procedural solutions to the specific needs and circumstances of the parties. This entails imagining alternative procedures beyond the adjudicative model typically associated with courtroom litigation, an idea she later developed and coined as *process pluralism*. Third, it reconceptualizes negotiation as a problem-solving practice that extends beyond winning. In this view, negotiation requires creativity, attentive listening, and careful analysis. This idea later crystallized in her understanding of *negotiation as an art and a science*—an expression that stemmed from Raiffa's book, *The Art and Science of Negotiation* (1982).

Carrie recognized Follett as one of her intellectual mothers. Follett provided the vocabulary and conceptual framework necessary to transform this mediative epiphany into a lifelong practical and intellectual project: the exploration of ways to address conflict more productively. But what does "resolving conflicts productively"—a phrase coined by Follett—actually mean? According to Carrie, this means to create processes "to truly hear from each other in the hope that we can resolve our conflict, explore our differences, as well as complementarities, find mutual understanding, and achieve better outcomes and solutions to legal, social, and political problems" (Menkel-Meadow 2016: 10).

Carrie's pragmatic temperament led her to engage directly with the possibilities and limits of constructive conflict resolution across a wide range of settings. Her work has included founding and leading a mediation clinic at UCLA Law School, mediating major disputes such as asbestos insurance cases, serving as an arbitrator for the Internet Corporation for Assigned Names and Numbers in the domain name disputes panel, and consulting on dispute system design and internal conflict resolution processes for institutions such as the World Bank, the Federal Judicial Center, and the International Red Cross. The breadth of her practice reflects a defining feature of ADR since the 1980s and a defining trait of her own scholarship: the drive to design new processes and develop creative alternatives for addressing individual, collective, and transnational disputes more effectively.

[C] THE IDEAS AND THE PEOPLE

Mary Parker Follett: integrating through the law of the situation

Carrie was among the first scholars, alongside Albie Davis, Deborah Kolb, Richard Walton, Robert McKersie, and Pauline Graham, to position Follett as a foundational figure in negotiation, leadership and management studies.[3] Before their work, Follett appeared only briefly in Fisher and Ury's *Getting to Yes*, where she was credited with the well-known "library example" (Fisher & Ury 1981: xxii). Particularly, she placed Follett closer to the epicentre of ADR, portraying her as an early intellectual figure who embodied the field's creative, experimentalist, socially oriented, and integrative ethos. Follett emerged in Menkel-Meadow's writing as one of the "leading mothers of ADR" (Menkel-Meadow 2000: 7) and as a model for scholars, social workers, and activists seeking approaches to conflict resolution that moved beyond domination and compromise. In her words,

> Mary Parker Follett trained as a political scientist, then used her knowledge first in social work and then in organizational management and international affairs. She lectured frequently in personnel management contexts and was interested in how groups, using principles of democratic governance, could work together and produce better outcomes than hierarchically produced orders. Participation, constructive conflict, creativity, circular responses, and integrative behavior—the principles to which Follett devoted her life—are the touchstones of much of what we teach and hope to accomplish in good dispute resolution environments (Menkel-Meadow 2000: 7).

Follett reconceptualized several key ideas that later became building blocks of ADR discourse, namely constructive conflict, creativity, circular responses, and integration. Let's unpack each of them.

Follett rejected the view of conflict as inherently negative or as necessarily producing destructive outcomes, social friction, or violence. Instead, she introduced the notion of *constructive conflict* to emphasize that friction, difference, and tension are intrinsic to human experience and essential to growth, the development of more complex and effective social relationships, and the cultivation of creativity and innovation capable of imagining alternative forms of coexistence amid disagreement. Unsurprisingly, one of Carrie's favourite passages in Follett's work (and one of mine) is the following:

[3] This is the lineage of scholars who have recovered Follett from oblivion in negotiation theory and ADR, broadly construed: Walton & McKersie 1965 [1991]; Davis 1989; Graham 1995; Kolb 1995; Kolb & Ors 1995; Menkel-Meadow 2000.

> As conflict—difference—is here in the world, as we cannot avoid it, we should, I think, use it. Instead of condemning it, we should set it to work for us. Why not? What does the mechanical engineer do with friction? Of course, his chief job is to eliminate friction, but it is true that he also capitalizes friction. The transmission of power by belts depends on friction between the belt and the pulley …. The music of the violin we get by friction …. We talk of the friction of mind on mind as a good thing. So in business too, we have to know when to try to eliminate friction and when to try to capitalize it, when to see what work we can make it do. That is what I wish to consider here, whether we can set conflict to work and make it do something for us (Follett 1924: 30-31).

Follett understood that theorizing about conflict and practising any form of conflict resolution requires practical wisdom—or what Aristotle called *phronesis*: the capacity to discern the particularities of a situation and to determine how general principles should be applied, adapted, or reconsidered in light of a singular event. For this reason, Follett rejected rigid mandates such as "always eliminating friction" or "always working with conflict". The challenge, rather, is *to know when* one approach is appropriate and when another is required, *how* to treat this specific conflict, and which processes or practices to avoid. This capacity for discernment is the essence of practical wisdom. Such wisdom demands attunement to context, to the specific dynamics and demands of a given conflict, or what Follett described as "the law of the situation"—the task of discovering the order inherent in a particular set of circumstances (Follett 1941: 33–35).

To *know when* and *how* to address conflict, one must respond to the demands of the situation itself rather than rely on formulaic or *a priori* solutions. As Follett put it, we need to take "a conscious and responsible attitude toward experience" (Follett 1941: 44) instead of forcing experience into Procrustean concepts: a pragmatist theme.

This leads to creativity and improvisation because particular situations often exceed the categories and frameworks at our disposal for navigating conflict and dynamic human interactions. In this sense, negotiation and conflict resolution resemble a jazz performance. Musicians do not follow a rigid score dictating exactly when and how each solo should be played. Instead, they listen closely to the evolving melody, attend to the cues of fellow musicians, and preserve the coherence of the performance while contributing their own improvisations as part of a larger process of collective integration. Negotiation operates in much the same way: it requires reading the context, responding to the parties' needs, and

discerning when conflict should be mitigated and when it can be engaged productively to foster growth and transformation.

The analogy between negotiation and jazz is not accidental. In October 2004, the Program on Negotiation (PON) convened negotiation scholars, practitioners, jazz musicians, and improv artists for a seminar titled "Improv and Negotiation" to explore what it means to work in the moment and to respond within a largely unrehearsed process (Balachandra & Ors 2005). Being attentive and responsive to Follett's "law of the situation", or to the singular conflict at hand, opens the need for improvising in a disciplined way. This does not mean that negotiators, musicians, or improv artists lack an extensive repertoire of standards, riffs, techniques, and strategies to deploy when circumstances call for them. Rather, it means they must remain receptive, listen carefully, and attune themselves to the granularity of the context to intervene effectively. Professional sport is another example of this. As professional basketball player Shai Gilgeous-Alexander put it: "I have answers to the test, but I got to see the questions first" (Gilgeous-Alexander 2026).

Carrie participated in PON's seminar on "Improv and Negotiation" and, like other negotiation and mediation scholars and practitioners, such as Jeffrey Krivis (2006), Michael Wheeler (2013), and David Hoffman (2025), reflected on the relationship between jazz and negotiation. She believed that negotiation contains an important improvisational dimension. This, I believe, stems, wittingly or unwittingly, from Follett's insistence that conflict resolution requires responding to the "law of the situation" rather than imposing rigid epistemic or practical schemas onto what a situation reveals.

As Carrie and her co-authors observed, jazz players pay careful attention to the moment by listening carefully and watching for cues from others. Similarly, negotiators need to listen carefully and empathetically to what is revealed in a bargaining situation.

> We must acknowledge that negotiation is a dynamic and an uncertain process, one that defies rigid planning. We, thus, need to build a theory that is both rigorous and flexible and that reflects the reality that people learn and adapt as events unfold (Balachandra & Ors 2005: 422).

Creativity, therefore, does not merely consist in designing new negotiation frameworks, dispute-resolution procedures, or strategies for countering the moves of one's counterparts. Rather, it involves cultivating a different mode of listening and a new way of relating to phenomena—one in

which concepts emerge from experience, and in which the situation itself provides the guidance needed to work through conflict productively.

Follett understood that human relationships, particularly in contexts of conflict, are profoundly dynamic. Parties change as situations evolve, and their perceptions of one another and of the conflict itself shift accordingly. To capture this fluidity, she adopted the notion of "circular response", derived from the psychology of Edwin B Holt (Tonn 2003: 367-369). The concept emphasizes that human behaviour is more than a simple reflexive reaction to external stimuli. Human interaction is not linear or unidirectional; it is reciprocal, evolving, and continuously shaped through mutual influence.

In a passage that is at once cryptic and deeply insightful, Follett introduces the notion of circular response as the dynamic ontology governing human interaction:

> Through circular response, we are creating each other all the time … I never react to you but to you-plus-me; or to be more accurate, it is I-plus-you reacting to you-plus-me. "I" can never influence "you" because you have already influenced me; that is, in the very process of meeting, by the very process of meeting, we both become something different. It begins even before we meet, in the anticipation of meeting … response is always to a relating (Follett 1924: 58-63).

This passage offers an innovative way of conceptualizing human dynamics. Rather than imagining interaction as a causal relationship between two analytically distinct entities ("I" and "Thou", or "self" and "other"), circular response introduces a never-ending dynamic and an interdependent process in which organism and environment are continuously transformed through their encounter and mutual engagement. Follett's statement and hyphenated words—"I never react to you but to you-plus-me"—capture this integral logic of mutual constitution and modulation: human beings are constantly transforming and being transformed through the very process of relating to one another; they are a hyphenated unit.

This underlying ontology differs from the more traditional frameworks that emerged in ADR and negotiation theory after the 1980s. As I have argued elsewhere, Follett's ontology stands in sharp contrast to the individualistic analytic underlying Fisher and Ury's framework, in which negotiating parties seek to satisfy their individual desires by influencing one another, as though the negotiating self were fixed, isolated, and independent from both the environment and the other party. Follett's dynamic, interdependent, and integrative understanding of human beings offers a different ontological point of departure: a point from which a new

negotiation theory might be developed, beyond the mere satisfaction of individual preferences and desires (Parra-Herrera 2025).

As Follett explains:

> … we cannot watch the strikers and then the mill-owners. We cannot watch France and then Germany [thinking about the First World War]. We all know that the action of the mill-owners is changing daily, the action of the strikers, that the action of the strikers is affecting daily that of the mill-owners … The interweaving, which is changing both factors and constantly creating new situations, should be the study of the student of the social sciences (Follett 1924: 68-69).

Circular response thus ensures that individuals transform and are transformed by their interactions with others as new situations emerge from their encounters. The new situation introduces a new law to be discovered, enabling ways to integrate their differences.

According to Carrie, Follett's approach to human interaction also opened the way to thinking about complex networks of polycentric disputes and multi-party negotiation by foregrounding the strategic and interdependent dimensions of bargaining, where every action generates a reaction that, in turn, becomes a new action, triggering a new response or reaction. As Carrie argues, "Our actions and responses are all circular or interdependent in today's language." (Menkel-Meadow 2000: 9) Circularity, not causality, is the language of human interaction.

Follett refused to atomize individuals or fragment experience. Reducing human interaction to subject and object, or to stimulus and response, was akin to reducing music to a mere collection of sounds. She defended the unity of experience, even at the cost of conceptual neatness. As her biographer Joan Tonn observed, Follett saw herself as "merely articulating one of the oldest conceptions of philosophy—the unity of experience" (Tonn 2003: 371). Experience does not arrive in isolated pieces; it unfolds through an ongoing circle of responses in which human beings attempt, often imperfectly, to create integrative social relations where differences can (and likely will) coexist and generate something new, richer, and more complex than what existed before. Integration is what Follett called this inventive process and was her favoured form of conflict resolution.

For Follett, there are three principal ways of resolving conflict: domination, compromise, and integration. Domination occurs when one party imposes its will upon another. Compromise, by contrast, requires each side to surrender part of its demands in order to reach common ground, though what is sacrificed often remains latent and may later re-emerge as a new source of conflict. Integration offers a third path,

distinct from both domination and compromise. It seeks to create a higher functional unity by bringing divergent wills together to produce something new—something responsive to the demands of the situation at hand, whether in the context of civil war, diplomatic or labour negotiations, religious transitions, social revolutions, or national transformations (Follett 1942).

Integration was, for Follett—and, I will dare to say, for Carrie as well—the preferred mode of conflict resolution, provided that the "law of the situation" did not call for another approach. Integration did not require sacrifice or power-over, as compromise and domination did. As Carrie explains:

> [t]he likelihood of integrative solutions, in which parties do not necessarily have to give anything up, are increased by bringing differences out into the open, facing the conflicts and underlying desires, evaluating and re-valuing desires and preferences when the other parties' desires are made known, and looking for solutions in which the interests may fit into each other (Menkel-Meadow 2000: 8).

Looking for creative solutions as parties re-evaluate their desires and find new forms of association is the superior mark of integration over compromise.

In "Constructive Conflict", Follett (1941) insists that integration is not merely a matter of theorization, for shared understanding at the intellectual level does not, by itself, bring about genuine integration. For integration to succeed, parties must move beyond purely linguistic or intellectual engagement and participate together in a common activity. As Follett observes, "[d]isagreement disappears when theorizing ends and the question is of some definite activity to be undertaken" (Follett 1924: 18–19). For Follett, integration is not just something that occurs solely at the linguistic or dialogical level. It does not emerge simply because people are talking to one another; it requires shared action, a sense of togetherness, and a movement from an "I" consciousness to a "we" consciousness.

Follett, like Carrie, was at her core a pragmatist. She refused to separate theory from practice and understood that practice is the site where people's differences become interwoven into the fabric of their lives. Both Follett and Carrie recognized that understanding must be "knitted into the structure of one's being" (Follett 1924: 151).

Integration, then, represents a third way of addressing conflict—one grounded in invention, dynamism, co-participation, and the embedding of ideas within the lived experience of the parties themselves. Its aim

is not merely the satisfaction of individual interests, but the creation of broader forms of human association in which shared purposes can emerge without eradicating individual voices.

When I asked Carrie about Follett and her influence, she told me:

> I am a scholar. When I see a reference to something, I go deep, I dig deep to find it. So, I found some of her writings, and they just blew me away, because I loved everything about her. She was an early feminist. She went to Radcliffe … she was an interdisciplinary person. She became a sort of social worker and advisor to both labor organizations and management. I mean, she was a bridger. And I just jumped into all that stuff. (Parra-Herrera 2025).

Carrie did not say this explicitly, but I sensed that her encounter with Follett made her feel less intellectually lonely. Here was another woman working within her intellectual orbit, a creative and interdisciplinary woman who had coined powerful concepts such as constructive conflict, circular response, and integration, and who demonstrated that there was a way of life in which theory and practice, experimentalism and rigour, improvisation and discipline, could coexist and be fully lived.

"When you find that someone's put in writing some of the things that you have been thinking," Carrie reflected, "you realize you are not crazy to have these thoughts." (Parra-Herrera 2025) Encountering Follett and her ideas outside the field of law, she explained, "gave me the strength to want to use them, incorporate them, and put them into the legal scholarship world" (Parra-Herrera 2025). In this sense, Carrie became one of Follett's great translators into legal discourse and negotiation theory (Parra-Herrera 2025). Years later, when Carrie received an honorary degree from KU Leuven in Belgium, she concluded her remarks with a reference to Follett:

> Conflict may be inevitable (Mary Parker Follett once said, we need the friction of the bow on the violin to make music) but how we productively handle conflicts can be evolutionarily moved forward with our own innovations in dispute resolution design and practice (Menkel-Meadow 2016: 40).

From Follett's approach to conflict resolution and her dynamic ontology, Carrie continued her own journey of theorizing and inhabiting dispute resolution design. She understood that friction is necessary for music to emerge, but she also recognized that particular spaces and processes are needed for that music to be heard. It is here that process pluralism enters the picture, and with it, Lon L Fuller.

Lon L Fuller: the building blocks of process pluralism

Fuller is a household name in jurisprudence. His famous debate in the 1950s with HLA Hart over the nature of law and the relationship between law and morality marked a turning point in the history of legal philosophy. As Fuller's biographer, Robert S Summers, observed, the debate "was perhaps the most interesting and illuminating exchange of views on basic issues of legal theory to appear in English in this century" (Summers 1984: 10). Fuller understood law as a purposive activity that blends fact and value, what is and what ought to be. More importantly, he argued that regardless of the substantive ends legal rules pursued, they must satisfy certain formal requirements: they must be sufficiently general, publicly promulgated, prospective, clear and intelligible, non-contradictory, relatively constant over time, capable of being obeyed, and administered in accordance with their terms. According to Fuller, law possesses an inner morality, and, without it, law degenerates into something else (Fuller 1964). This inner morality is not satisfied merely by ticking the boxes of a procedural safeguard checklist. Rather, it articulates an ethos of lawgiving that respects the legal subject as an agent (Rundle 2012: 116-117). In short, social-ordering systems have integrity not just for themselves, but also because they respect the agents they govern.

Hart, by contrast, as a sociological positivist, understood law as a union of primary and secondary rules. Primary rules govern human behaviour directly. Secondary rules, in turn, are rules about primary rules; they address the uncertainty, inefficiency, and static character of a legal system based solely on primary rules. Thus, some secondary rules empower designated officials to create, modify, or repeal primary rules (rules of change). Others establish procedures for resolving disputes and determining whether conduct complies with primary rules (rules of adjudication). Still others specify the criteria by which a rule is recognized as valid and therefore part of the legal system (the rule of recognition) (Hart 1961).

For Fuller, law possessed an internal morality grounded in its purpose and in the respect it owed to the agents it governed. Hart, by contrast, was less concerned with the teleological, moral, and procedural dimensions of law and more focused on the analytical distinction between law and morality, as well as on the perennial question: how do we determine that *something*—whether a rule, custom, or practice—is law rather than some other form of command? Carrie was an heir of Fuller's jurisprudence. She was less interested in conceptual surgery (eg what is this as opposed to

that) and more concerned with the *telos* and practical consequences of forms of social ordering and legal processes.

Carrie embraced Fuller's central insight that process provides a window to justice, an access to the very structure of being. As Fuller puts it in an article capturing his pedagogical project:

> Life is itself a process, and by making process the centre of our attention, we are getting closer to the most enduring part of reality. For that reason, I believe that the recommended emphasis on procedures for solving conflicts will not tend simply to suppress those conflicts, but will promote their just solution. If we do things the right way, we are likely to do the right thing (Fuller 1948: 204).

Or to put it in Carrie's synthetic words: "process is the human bridge between justice and peace" (Menkel-Meadow 2006: 553).

The theoretical exploration of process, its internal structure, and its moral dimensions continued to evolve as the Fuller–Hart debate unfolded. In the late 1950s, Fuller prepared the first draft of "The Forms and Limits of Adjudication", a paper that later became one of his main contributions to the jurisprudence of ADR (Fuller 1978). As chronicled by his biographer, Fuller presented this essay at various venues, including the Legal Philosophy Discussion Group at Harvard Law School, the Association of American Law Schools, and the Harvard Faculty Workshop (Summers 1984: 10). He also distributed copies to his students in his jurisprudence classes, but it was not published during his lifetime. The most plausible reason for this is that Fuller planned to turn this article into a book, tentatively titled "Social Order" concerned with the conditions of good order (*eunomics*) and the inner morality of each ordering mechanism and workable procedure (Fuller 1978: 353). But the systematic project never ripened. All we have left are scattered interventions on the forms and moralities of different social-ordering mechanisms, including adjudication, mediation, collective bargaining, contractual agreement, and others.[4]

"The Forms and Limits of Adjudication" is perhaps Fuller's most significant illustration of the *eunomic* project and his jurisprudence of alternative forms of social ordering. In this article, Fuller weaves together three related lines of inquiry. The first concerns the forms and limits of adjudication itself: its essential elements, structure, and aims. The second seeks to distinguish adjudication from neighbouring processes that might be confused with it, including mediation, legislation, negotiation, executive

[4] Fuller's intellectual executor, Kenneth Winston, was Carrie's friend. They met in the late 1990s in a boat in the Galapagos. Winston compiled and published some of Fuller's unpublished manuscripts regarding the social ordering process (Winston 2001).

administration, and other modes of social ordering. The third raises the question of "what tacit assumptions underlie the conviction that certain problems are inherently unsuited for adjudicative disposition and should be left to the legislature [or other forms of ordering]?" (Fuller 1978: 354). Put differently, Fuller asks what factual and institutional conditions make it possible to apply a particular procedure or ordering mechanism to a given state of affairs or conflict. I refer to these, respectively, as the functional-structural, taxonomic, and fitting/barrier questions. To answer them, Fuller believed it both possible and desirable to define what he called "true adjudication", an archetype against which actual practices, variations, and deviations could be assessed. As Fuller explained: "It is only with the aid of this nonexistent model [archetype] that we can pass intelligent judgment on the accomplishments of adjudication [or other processes] as it actually is." (Fuller 1978: 357).

One could read Carrie's foundational article on legal negotiation theory (Menkel-Meadow 1984) as addressing these same Fullerian questions: what is problem-solving negotiation, and what are its essential elements, structure, and goals (the functional-structural question)? Indeed, in the section titled "Toward a Model of Problem-Solving Negotiation", she organizes her analysis around three dimensions: the underlying principles and goals of the model, its structure, and its process. She also distinguishes problem-solving negotiation from other forms of negotiation, particularly the adversarial model (the taxonomic question). Finally, she addresses the limits of problem-solving negotiation and identifies the circumstances in which it is, or is not, appropriate (the fitting/barrier question). As Carrie observes regarding the last line of inquiry, "[t]here clearly are occasions in legal negotiation when problem solving will not solve all problems" (Menkel-Meadow 1984: 840).

Another foundational contribution Fuller made to ADR, which also appears throughout Carrie's work in different forms, was his analysis of the two basic modes of social ordering. According to Fuller, human beings organize their conduct either through "organization by common aims", in which individuals pursue shared objectives through cooperation, or through "organization by reciprocity", in which individuals pursue different objectives and engage in exchange or reciprocal arrangements so that each may obtain what they want (Fuller 1978: 358). Underlying this distinction is a deeper question about human nature and social life: are we beings inclined to join with others in pursuit of common purposes, even at the risk of subordinating some of our individual interests, or are we fundamentally self-interested actors seeking from others the missing pieces in the endless puzzle of human wants? Carrie often turned to Ian

McEwan's literature to dramatize this tension and paradox of human existence, the tension between association and reciprocity (exchange), altruism and egoism, collectively-oriented and self-centred (Menkel-Meadow 2020b: 235).

If association and reciprocity are the two fundamental forms of human ordering, Fuller argued that each can vary along a spectrum from informality to formality. Reciprocity, for example, may range from informal and tacit patterns of behaviour to highly formalized contractual arrangements (Fuller 1978: 357–358). Likewise, organization by common aims can extend from informal cooperation on a shared task to the creation of formal political associations or nations organized around collective goals. The interaction between these modes of social ordering and varying degrees of formality gives rise to a wide spectrum of legal processes and institutional arrangements as different from one another as a contract is from a customary practice, or an informal joint venture from an international confederation. The possible combinations are virtually limitless.

Building on this intuition, Fuller began to theorize the broad spectrum of procedures, dispute-resolution mechanisms, and decision-making processes available to lawyers, institutional architects, and policy designers for channelling reciprocity and association into stable forms of social ordering. Each form possesses its own integrity, internal morality, and structure.

For Fuller, a process ceases to be true adjudication when its defining features are undermined. If a party cannot present evidence or is denied the opportunity to offer reasoned arguments and counterarguments capable of influencing the decision maker, adjudication becomes distorted and degenerates into something else (Fuller 1978: 364). At the same time, the institutional setting and governing rules shape the specific form adjudication takes. When the decision maker is a judge operating within the court system, and the process is governed by the Federal Rules of Civil Procedure, adjudication takes the form of courtroom litigation. When the process occurs within another institutional setting, is governed by the Federal Arbitration Act, and the third party is an arbitrator, adjudication assumes the form of arbitration. Both the integrity and the combinatory nature of each process enabled process pluralism and creative institutional design.

Fuller extended his analysis beyond adjudication to other forms of social ordering and legal processes, including legislation, mediation, administrative direction, contractual agreement, and customary law.

Among these contributions, his essay "Mediation—Its Forms and Functions" became especially influential within ADR scholarship (Hinshaw & Ors 2021: 101-123). For Carrie, particularly, there is one quote from Fuller's text that appears repeatedly in her work:

> [T]he central quality of mediation [is] its capacity to reorient the parties toward each other, not by imposing rules on them, but by helping them to achieve a shared perception of their relationship, a perception that will redirect their attitudes and dispositions toward one another (Fuller 1971: 325).

Like adjudication, mediation possesses its own form, integrity, morality, and defining essence. Unlike adjudication, however, mediation is not a process centred on the presentation of evidence and reasoned argument before a third-party decision maker. Rather, it presupposes an ongoing relationship of interdependence between the parties and seeks either to enhance, preserve, transform, or terminate that relationship. The power of mediation derives not from the force of legal arguments or the weight of evidence, but from the parties' relationship itself. For Fuller, mediation may function either as a norm-generating process, in which parties create new norms to reorient their relationship, or as a norm-releasing process, in which parties free themselves from rigid legal rules in favour of trust, mutual respect, and shared understanding (Fuller 1971: 325–336). In either case, mediation operates through the reconstruction of relationships rather than through authoritative judgment. As Nancy Welsh later observed in her commentary on Fuller's essay, mediation "enables rules to emerge organically from relationships" (2021: 115).

The implications of Fuller's argument about the forms and limits of adjudication are significant. First, it generates an evolving taxonomy of social-ordering forms. At the most fundamental level are reciprocity and association, which are largely determined by the alignment of individuals' desires and objectives. When interests converge around shared purposes, association becomes the appropriate mode of social ordering; when interests diverge, reciprocity and exchange emerge as the dominant organizing principle.

Fuller then develops a second typology based on the mode of participation available to those affected by the process. If parties can negotiate the terms governing their relationship, a contract becomes the appropriate form of social ordering. If participation occurs through voting, elections provide the relevant mechanism. If parties can present evidence and offer reasoned arguments before a neutral third party, adjudication becomes the appropriate process. It's all about fitting the right social-ordering mode to the needs of the situation (or, should I say, "the law of

the situation"?). This classificatory exercise can be extended indefinitely. In "The Forms and Limits of Adjudication", Fuller focused primarily on adjudication (1978), but he conducted similar analyses of collective bargaining, lotteries, mediation, managerial decision making, and other forms of social ordering in other writings. These modes of social ordering can thus be organized according to a variety of criteria, including the alignment of interests, forms of participation, degree of formality, number of parties involved, institutional goals, and decision-making structures, and so on.

Second, each form of social ordering possesses its own essence, integrity, and normative meaning. This integrity ensures that a process remains true to the form of ordering it purports to embody. Adjudication, for example, ceases to function as genuine adjudication when its conditions are not met. As Fuller explains, adjudication "loses its meaning if the arbiter of the dispute is inaccessible to reason because he is insane, has been bribed, or is hopelessly prejudiced" (Fuller 1978: 364). Or it loses its meaning if participants are incapable of offering reasons and proofs to justify their needs, interests, and rights. In such circumstances, the process metamorphoses into something other than adjudication.

Third, Fuller recognized that every process and form of social ordering rests upon particular philosophical and anthropological assumptions about human beings and their relations with one another. Elections, contracts, and adjudication are possible only if human beings are understood as free and purposive agents, capable of reciprocity, association, persuasion through reason, democratic participation, and the formation of mutual agreements. "Adjudication", Fuller argues, "is a device which gives formal and institutional expression to the influence of reasoned argument in human affairs." (Fuller 1978: 366) Procedures and institutions of social ordering are therefore not merely technical mechanisms; they are institutional expressions of fundamental human capacities and needs. Human temperaments are therefore embodied in institutional designs.

Finally, Fuller inaugurated a specialized jurisprudence devoted to social ordering and to the alternative processes through which disputes are managed, human behaviour regulated, and conflict addressed. In doing so, he articulated many of the foundational questions of ADR jurisprudence, including those concerning the function, structure, limits, and underlying assumptions of dispute-resolution processes—or what Carrie aptly described as "the functional and moral integrity of dispute processes" (Menkel-Meadow 2000: 13). As Carrie observed, Fuller

"argued that each dispute resolution process has its own particular function, purpose, morality, and integrity". Indeed, "in many ways, Lon Fuller remains the only legal philosopher to take theorizing about dispute resolution seriously" (Menkel-Meadow 2000: 13).

Carrie's famous statement that Fuller is "the jurisprude of ADR" (Menkel-Meadow 1997: 449; Menkel-Meadow 2000: 4) is not an overstatement at all. Quite the opposite, Fuller inaugurated a distinct way of thinking about ADR, decision-making, problem-solving, and social ordering that filtered into Carrie's idea of "process pluralism" (Menkel-Meadow 2006: 554). In her words:

> For Fuller, each process of decision-making, or as he preferred to say, "problem solving" had its own logic, morality, and function. Fuller acknowledged that not all legal disputes or social problems were similarly structured … (Menkel-Meadow 2000: 16-18).

Fuller's main point is that processes and disputes were not monolithic or similarly structured. ADR scholars need to theorize both the processes for handling disputes and the disputes themselves, which can adopt a wide range of forms. Therefore, the process variations, phenomenological appearance, and modes of relation are the building blocks of ADR jurisprudence in Fuller's philosophy. This, I believe, got translated into Carrie's capacious work on the modes of conflict resolution and her idea of process pluralism, that is, that "'one size does not fit all' needs of disputants in our complex world, new forms of hybridity, variation and mixed processes may enhance human problem solving" (Menkel-Meadow 2020b: 407).[5]

More specifically, Carrie extended Fuller's combinatory approach to forms of social ordering by intersecting them with different modes of discourse. Disputing parties, she argued, may communicate through reasons, universal principles, and rights (principled discourse); through interests, preferences, reciprocity, and compromise (bargaining discourse); or through needs, emotions, and values (passionate or affective discourse) (Menkel-Meadow 2011: 9). According to Carrie, the forms of process themselves may also vary along multiple dimensions: they may be public or private, undertaken collectively or by representative subgroups, led

[5] Process pluralism, for Carrie, stems from her core belief that "new processes of human engagement, including reason, principle, fair bargaining, passions, and moral and emotional empathy, will be necessary for us to solve new (and old) human problems so we can live together in peace, with justice" (Menkel-Meadow 2006: 554). Process pluralism, thus, moves beyond Sander's idea, derived from Maurice Rosenberg, of the "multi-door courthouse" and coins a more dynamic, fluent, and hybrid metaphor of a hybrid house spacious enough to host "all forms of productive and peace-seeking engagement" (Menkel-Meadow 2006: 569).

by experts or laypersons, permanent or temporary, and so forth. The interaction between modes of discourse and forms of process generates a wide variety of decision-making and dispute-resolution mechanisms (Menkel-Meadow 2011: 9).

Carrie later expanded process pluralism by incorporating a cultural perspective into the modes of conflict resolution. Some cultures, she observed, privilege appeals to reason and principled discourse, while others are more pragmatically oriented toward interests, compromise, and bargaining. In this respect, her typology extended Fuller's theory of social ordering into domains Fuller had largely left unexplored, including forms of communication and cultural sensibilities.

More importantly, however, Carrie identified what she saw as a central limitation in Fuller's account: his conception of social ordering, together with the forms, integrity, and limits of dispute processes, seemed to presuppose an allergy to hybridity in dispute resolution. Unlike Fuller, Carrie opened up a jurisprudential question that Fuller had largely treated as settled: "Is process variability a good thing; or should we, as Lon Fuller suggested, keep to 'pure' forms of party negotiation, conciliation, facilitated decision making through mediation, or commanded decisions in arbitration and adjudication?" (Menkel-Meadow 2020b: 417) Her answer marked a significant shift in ADR discourse—one that has yet to fully permeate ADR practice. In short, Carrie charted a new line of inquiry that moved away from a predominantly *taxonomical jurisprudence of ADR*, focused on identifying the principal forms of social ordering and asking whether each of Fuller's "basic" processes possessed its own moral identity or "integrity" (Menkel-Meadow 2006: 569). In its place, Carrie advanced a more *hybridized jurisprudence of ADR*, grounded in the affirmative response to the question: "[c]an processes be combined and hybridized to meet modern varieties of decisionmaking and political choice?" (Menkel-Meadow 2006: 569)

Fuller's emphasis on procedural integrity, however, was deeply influential for Carrie. Yet she increasingly explored the liminal spaces between processes, the hyphenated processes, the yet-to-be-born processes. She also explored the ethical commitments embedded within different procedures, the cultural sensitivities that shape process selection, the scripts human beings use to navigate difference (eg reasons, interests, needs, and passions), and the continual experimentation through which new procedural forms and institutions emerge by combining existing ones. In this sense, Carrie, as the pragmatist thinker she is, developed new ways of thinking about procedure from Fullerian premises.

Carrie understood that the question of which procedures to endorse and which to reject cannot be settled *a priori*. In her view, it is difficult, if not impossible, "to specify in advance criteria for allocation to particular processes" (Menkel-Meadow 1995: 2668). The modern world, moreover, is different from—and in many ways more complex than—the world Fuller confronted. As a result, meaningful experimentation today requires moving beyond pure procedural forms to develop hybrid models responsive to the existing conflicts and social contexts.

Even though Carrie explicitly criticized Fuller for his rigid functionalism, limiting the possibility of hybridizing procedures to preserve the purity of adjudication, mediation, and other legal processes (Menkel-Meadow 2000: 18), she recovered an important legacy from his legal philosophy: the idea that lawyers should serve as process architects, rather than merely practitioners of legal rhetoric, hermeneutics, and advocacy. "For Fuller," she observed, "the lawyer's role was to be a social structure or process 'architect' whose job was to consider questions of 'appropriate' (as we say today, rather than 'alternative') institutional design" (Menkel-Meadow 2006: 563). Lawyers, in this view, need to be cognizant of the repertoire of procedures available to govern human conduct and resolve human conflicts arising from reciprocity and association.

When I asked Carrie about Fuller's impact on her work, I realized that her affinity with Fuller had another dimension that I had overlooked: Fuller and Carrie were not just ADR jurisprudes; they were ADR practitioners. Both practised what they theorized, though they did so in profoundly different intellectual and historical worlds. Fuller practised in a world searching for coherence, order, and conceptual clarity. He served as an arbitrator, negotiated collective bargaining agreements, participated in mediations, and even appeared before the War Labor Board (Summers 1984: 7). Carrie's world, by contrast, emerged within the dialectic between modern and postmodern sensibilities (Wellmer 1991). It was a world marked by fluidity, fragmentation, deconstruction, and paradox, even as it continued to long for unity, coherence, and universal principles. This transformation in the spirit of the age, I believe, produced a fundamental difference in their respective conceptions of process pluralism.

Fuller was, in many respects, the proto-architect of the multi-door courthouse and of ADR functionalism. He maintained that each process possessed its own morality, integrity, and form. Carrie, by contrast, became the architect of ADR hybridization. She imagined, and built to large extent, a "house of justice and peace" (Menkel-Meadow 2006). She argued that experimentation in a complex and unstable world would

inevitably generate mixed forms of conflict resolution, including med-arb, dispute systems design, consensus building, judicial dispute resolution, and transitional justice mechanisms in which adjudication, mediation, neutral evaluation, truth-telling, restorative justice practices, and even forgiveness might be combined, sequenced, and integrated into a single institutional framework.

Sander once told Carrie, as they walked through Mount Auburn Cemetery near Fuller's grave, that she ought to have a conversation with Fuller. As Carrie later recalled:

> I have taught and practiced, like Fuller did, every part of ADR. I have been a major arbitrator. I was a mediator for years in the asbestos [case] and billion-dollar insurance cases. I was a poverty lawyer at the beginning, so I felt a kinship with Fuller, because although he's a very fancy jurisprudent philosopher, he did all of it … He was also a practitioner, so he brought both a philosophical and a practitioner's eye to [ADR]. And I would have these good conversations with Frank Sander whenever I hung out [at Harvard] to teach something. And so, Frank walked me to Fuller's grave in the cemetery in [Cambridge]. And, he was so cute, and he said, "I think you want to have a conversation with Lon. I think you're beginning to make an argument that there's a different integrity or logic when things get combined" (Parra-Herrera 2025).

I imagine Carrie strolling with Sander—himself deeply influenced by Fuller—and receiving that advice as they walked along the beautiful paths of Mount Auburn Cemetery, as though the roads already taken in ADR, the paths most travelled, and the new roads yet to emerge all coexisted in that very place. Across generations, one element endured: a commitment to pluralism, experimentation, and innovation. They were all, in one way or another, architects of process. But Carrie also possessed a scientific temperament. Metaphorically speaking, she was both an architect and an engineer of process. Like Howard Raiffa, she valued empirical inquiry, quantitative analysis, and formalizations in negotiations and other dispute resolution processes.

Howard Raiffa: introducing numbers in negotiations

Howard Raiffa is a household name in business negotiation, game theory, risk analysis, and decision sciences. His influential book *The Art and Science of Negotiation*, published in 1982, transformed the field of negotiation as profoundly as other classics, such as *Getting to Yes* (Fisher & Ury 1981). In fact, Raiffa considered titles such as *Before Getting to Yes* and *Beyond Yes*, signalling both a tribute to Fisher and Ury's work and a desire to distinguish his own approach. These alternative titles

suggest that his ideas both logically precede interest-based negotiation and extend beyond its central precepts.

Ultimately, *The Art and Science of Negotiation* emerged from the convergence of game theory, principled negotiation, lessons drawn from a decade of teaching competitive decision-making at Harvard Business School (Raiffa 1982: v), and Raiffa's own experiences as a negotiator and institution builder. Methodologically, as Jim Sebenius has put it, Raiffa's approach yoked "*a priori* prescriptive theory to the theoretical and empirical work of behavioral scientists who rigorously described and accounted for actual behavior" (Sebenius 2017: 289). In other words, Raiffa's negotiation analysis is targeted at how negotiators *should behave* based on how people actually behave.

Raiffa's contributions to negotiation theory and, more broadly, to conflict resolution, span practical innovations in institutional design, theoretically rigorous insights, and pioneering pedagogical approaches for teaching decision science and negotiation in business and public policy schools. On the educational front, Raiffa co-founded the John F Kennedy School of Government, now known as the Harvard Kennedy School. He also held the Frank P Ramsey Professorship of Managerial Economics, a joint appointment between Harvard Business School and the Harvard Kennedy School that reflected his deep commitment to interdisciplinary scholarship and practice. The Frank P Ramsey Chair is one that he selected himself after obtaining the approval of Ramsey's widow. Ramsey (1903–1930) was a largely forgotten genius in philosophy, economics, and mathematics. He is known for translating Ludwig Wittgenstein's *Tractatus Logico-Philosophicus*, contributing to the development of subjective probability theory—which interprets probabilities as numerical representations of an individual's degrees of confidence—and, importantly, helping to bridge analytical philosophy and pragmatism (MacBride & Ors 2025).

From a practical and institutional-building standpoint, Raiffa played a key role in negotiating the creation of the International Institute for Applied Systems Analysis (IIASA), an initiative inspired by President Lyndon Johnson's question of whether the Soviet Union would be willing to join the United States and other countries in collaborative research on complex global challenges, including energy, transportation, urban development, water resources, and hunger (Raiffa 2011: 90). More than a multilateral research institution, IIASA was an experiment in building infrastructure for cooperation (perhaps a rudimentary form of integration) between Cold War adversaries deeply suspicious of one another. It sought to create a space in which practices of collaboration, knowledge generation, and

information sharing could emerge despite profound geopolitical tensions. In Raiffa's recollection:

> [I]t would make good sense if IIASA-like regional institutes could be created in various sensitive regions of the world, institutes that would be nongovernmental and somewhat buffered from today's realities; that would work on idealistic solutions of tomorrow's problems; that would induce political antagonists to work side by side on joint problem-solving tasks that are not politically threatening (Raiffa 1982: 342).

IIASA is a paradigmatic example of what Gabriela Blum calls an "island of agreement" (Blum 2007), or what Raiffa described as a buffered negotiation space between adversaries who must cultivate the practice of joint problem-solving even when their respective constituencies remain locked in entrenched conflict or war. The process of negotiating, designing, and leading IIASA became, for Raiffa, a cross-cultural negotiation laboratory (Raiffa 2011: 127). This experience ultimately redirected his intellectual focus from statistical decision theory to negotiation theory, shaping the trajectory of his later contributions to the field. Like Carrie, Raiffa's journey to negotiation began elsewhere, suggesting that there is no straight line into the field; one either stumbles into it or is called to it.

Raiffa's negotiation theory was deeply informed by game theory, a field in which he contributed to establishing. In his autobiography, he recalls being invited to give a seminar at Princeton University during the 1950–1951 academic year, when some of the leading figures in game theory were teaching or visiting there. After his presentation, someone suggested that he collaborate with John Nash, who had been in the audience. Raiffa, however, was discouraged when another colleague warned him that "[Nash] was a strange person and not a collaborator" (Raiffa 2011: 32). As a result, the two never worked together.

Even if they could have worked together, their intellectual interests within game theory diverged. Whereas Nash became primarily associated with the strategic interactions between players, Raiffa was, especially in the early stages of his career, less interested in the bilateral dimensions of decision games than in the role of third parties. He framed his central concern as follows: "If two players of a non-zero-sum, abstract game asked me to act as arbitrator and to determine a joint outcome for their dispute, what would I do?" (Raiffa 1982: 1)

This concern with third-party intervention also shaped his approach to negotiation analysis. Raiffa devoted considerable attention to what he called "external helpers": facilitators who structure deliberative processes; mediators who organize negotiations without participating in

the substance of the dispute; arbitrators who evaluate a conflict and impose what they regard as a fair resolution; and "neutral joint analysts", who "use analytical thinking to help resolve negotiation disputes and deals" (Raiffa 2011: 176). In other words, Raiffa was not a dyadic thinker; he was concerned about the number of people involved in negotiation as a key analytical unit to rethink negotiation principles and practices. A negotiation is dramatically different when there are two parties, two parties and a neutral, or three diverging parties with no neutral. Numbers matter. Both to quantify negotiation analysis and to think more broadly about how numbers (eg parties, issues, agents, criteria) modulate negotiation analysis.

When I asked Carrie about her intellectual influences, she immediately identified Raiffa as one of the most important. Many scholars who entered the fields of negotiation or ADR in the 1980s point to Fisher for *Getting to Yes* or to Sander for his (often misattributed) "multi-door courthouse" concept. "For me," Carrie explained, "it was Howard Raiffa. He was just … the nicest man. I have a picture of him and me at my office up here" (Menkel-Meadow 2025).

Over the years, Carrie and Raiffa met on numerous occasions and frequently exchanged ideas about the analytical dimensions of negotiation. She first encountered his work shortly after the publication of *The Art and Science of Negotiation*, a book that profoundly shaped her thinking. "It gave me a hook to what I was doing in the classroom," she recalled. "It was very rigorous" (Menkel-Meadow 2025). The book offered a conceptual and analytical framework that enabled her to connect her teaching practice to the emerging field of negotiation scholarship.

In the spring of 1981, Carrie was a visiting professor at Harvard Law School, where she joined Raiffa and Lawrence Susskind, an MIT scholar of environmental disputes and negotiation, in a seminar group on negotiation. Together, they explored Raiffa's idea of organizing a conference on the role of numbers in negotiation and other multi-party negotiation pedagogical and practical issues (see eg Susskind & Ors 2005). The underlying question left a lasting impression on Carrie. As she recalled, "Raiffa was just so influential to me because I could never stop thinking about … what difference do the numbers make, both in terms of parties, but also issues." (Menkel-Meadow 2025)

In other words, Carrie received from Raiffa something that Fuller—and perhaps Follett—did not explicitly articulate in their own approaches to ADR and conflict resolution: the idea that the number of issues under consideration and the number of parties involved significantly shape how

one conceptualizes negotiation and the appropriate dispute resolution process. Numbers matter.

In Carrie's *Negotiation: A Very Short Introduction*, a work that despite its prolegomenic title is one of the best distillations of her own work in negotiation, she explains what implications follow and research questions opens up when the number of parties is foregrounded, after all "in reality many, if not most, negotiations have more than two parties" (Menkel-Meadow 2022: 39). For instance, some negotiation dynamics add a level of complexity when parties have agents (ie lawyers, brokers, representatives) which not only reveals a new tension in negotiations (Mnookin 2004), but additionally complicates the communication by introducing the problem: what to disclose and what not, or what requirements should be met to reach agreements. Additionally, some negotiations are multi-party negotiations, which, in turn, surface another set of problems and research avenues: when is an agreement reached? How are coalitions formed and disintegrated? What vetoes are acceptable? And who can speak for whom? For how long and when? (cf Menkel-Meadow 2022: 39).

If, in addition to a negotiation being a multi-party negotiation, the parties themselves are groups rather than individuals, another layer of complexity emerges. In such cases, negotiations occur not only between parties but also within the groups themselves, creating both *inter*- and *intra*-party bargaining dynamics. This raises an important theoretical question: do we need a single negotiation theory capable of accounting for both levels of interaction, or do inter-party and intra-party negotiations require distinct analytical frameworks?

In short, negotiations can be dyadic or multi-party, agent-led or self-led, individual-based or group-based, or any combination of these. Each configuration presents its own challenges and should prompt us to rethink prevailing negotiation frameworks. There is no one-size-fits-all model of negotiation. As Raiffa recognized, numbers matter.

A similar insight emerges when attention shifts from *who* is negotiating to *what* is being negotiated. Here, too, numbers matter. Single-issue negotiations tend to be distributive, with gains for one party often coming at the expense of the other. By contrast, multi-issue negotiations create opportunities for value creation, trade-offs, and the generation of mutually beneficial options.

Numbers also matter in relation to the criteria parties use to evaluate proposals and justify outcomes—a less-developed topic in negotiation theory. It is one thing to negotiate a dispute in which the parties rely on

a single objective criterion, for example, what a court is likely to decide if settlement efforts fail. It is quite another to negotiate in a context where multiple objective or intersubjective criteria are plausible and compete for legitimacy. As the number of relevant criteria increases, negotiation dynamics become more complex and potentially agonistic. Parties may disagree not only about outcomes but also about the standards used to manage disagreements or split the difference. Under such circumstances, a third party may be necessary to assess, reconcile, or choose among competing criteria. Again, numbers matter, and this is the main lesson that Carrie took away from Raiffa.

At this point, I must confess that I did not expect Raiffa to emerge as one of Carrie's principal intellectual influences. Since speaking with her, however, I have reflected on her answer and come to appreciate another dimension of Raiffa's thought that resonates deeply with her understanding of negotiation: the idea that negotiation pendulates between, or perhaps more accurately sits at the intersection of, science and art.

This means that negotiation can be studied much like other scientific phenomena. Negotiation laboratories can be designed and operationalized to test hypotheses, challenge existing knowledge, and develop paradigms that help explain how people negotiate and how they should negotiate. In this sense, negotiation is a field open to falsification, experimentation (Popper 1959), and what Raiffa called "systematic analysis" (Raiffa 1984: 8). It generates predictions that future observations may corroborate or refute, and those predictions become the building blocks of an architecture for inhabiting the terrain of human strategic interaction, revealing how individuals and groups pursue their interests and create arrangements in which competing desires can coexist.

In the introduction to *The Art and Science of Negotiation*, Raiffa explained:

> When I returned to Harvard in 1975, I decided that my primary aim was not to teach what I had learned, but rather to learn what I should be teaching in the art and science of negotiation … My idea was to create a quasi-laboratory where students would at the same time be willing subjects in experiments, be interpreters of the empirical findings, and be designers of modified experiments that could be tried with new groups of subjects. Collectively we could test what worked in the laboratory and we could discuss whether our heuristic insights would be applicable in the real world. (Raiffa 1984: 8).

Raiffa's vision reveals a distinctly scientific temperament. He approached negotiation as a field of inquiry to be explored through experimentation,

observation, and systematic analysis. Negotiation is a science insofar as its effective practice requires a coherent and comprehensive framework for understanding and addressing key questions such as:

> What are your alternatives? What are your objectives? How do your objectives conflict? What are your value tradeoffs? What are the primary sources of uncertainty that you face? What objective data do you have that bear on these uncertainties? How can you tap the knowledge of relevant experts, and what are their biases? Can you defer action and accumulate further information before you commit yourself? (Raiffa 1984: 358)

In a similar vein, Carrie's scientific questions of negotiations are:

> (1) Is the *res* [what is negotiated] divisible, sharable, scarce? (2) Do the parties know each other, and are they "repeat players" or "one-shooters"? (3) How many parties are there? (4) How many issues are involved? (Menkel-Meadow 2022: 10)

In this respect, Raiffa shared with Carrie a scientific mindset committed to testing assumptions, generating knowledge through controlled inquiry, and continuously refining theory through practice. Both encouraged negotiators to approach every negotiation by asking a set of fundamental questions. In both Raiffa's and Carrie's formulations, these questions provide a conceptual map for navigating the complexities of different negotiation contexts.

But science is not enough. Negotiation also draws from another language game and way of life. Negotiation is an art as well. It is creative, rooted in practical wisdom, allergic to universal rules, and faithful to specific events and contexts. For Raiffa, the art of negotiation, however, had a very specific meaning, one that includes "interpersonal skills, the ability to convince and be convinced, the ability to employ a basketfull of bargaining ploys, and the wisdom to know when and how to use them" (Raiffa 1984: 8). Negotiation is an art because it taps into the human potential to listen, communicate, persuade, influence, facilitate, mediate, and, more importantly, be mindful of the singular context one is trying to intervene in. Knowing when and how to intervene in negotiation is not a question that science alone can resolve. As Kenneth Sharpe, a political theorist working on *phronesis*, put it: "Choosing how to balance competing goods and determining how and when to act in ambiguous, uncertain, and contradictory situations is the kind of ethical decision-making negotiators do every day." (Sharpe 2020: 174) This is the art of negotiation, the art of having practical wisdom, *phronesis*: knowing when, why, with whom, and what to negotiate, based on the constraints and possibilities of a specific context.

Carrie combined scientific rigour with an artistic sensibility. And she went beyond Raiffa in an important respect regarding the science and art approach to negotiation. She offered a way of understanding how "systematic analysis"—to use Raiffa's term—theoretical frameworks, and experimental inquiry (or the science) are connected to the behavioural and situational dimensions of negotiation (or the art).

Carrie understood that negotiation theories are analytical systems for organizing and making sense of negotiation experiences. But they are also much more than that. She viewed negotiation also as a web of pragmatic beliefs. For her, "the frameworks we choose (distributive division or integrative creative problem solving) for negotiation affect the behaviors we enact, which in turn produce the outcomes we get" (Menkel-Meadow 2022: 9). In other words, negotiation theories, like pragmatic beliefs, shape how we act in the world and how we relate to others and ourselves. Like pragmatic beliefs, they are dispositions to act (and react) in particular ways within negotiation contexts. Negotiation science constitutes and intrinsically shapes how negotiators perform the "art of negotiating" .Yet the relationship is not one-directional. The practice of negotiation in specific contexts also informs, challenges, and refines negotiation theory. "Contexts vary so we cannot assume that particular conceptual models apply in all circumstances" (Menkel-Meadow 2022: 35). Thinking about negotiation is thus, to invoke Hannah Arendt's account of thinking more generally, an ongoing dialogue between understanding and experience (Arendt 1977: 6), concept and context, or art and science.

Raiffa sought "to broaden the horizons of people who think narrowly about negotiations" (Raiffa 1982: 357). Carrie's intellectual life has taken this path, too. His influence on Carrie can be seen on at least two levels. First, he helped draw attention to the importance of numbers in negotiation, that is, to the fact that the number of parties, interests, and decision criteria can significantly shape negotiation dynamics and therefore require different analytical frameworks and approaches. "Multi-party negotiations have their own separate logic from dyadic (two-party) negotiations", Carrie writes (Menkel-Meadow 2022: 39). Second, he provided a vocabulary and a conception of negotiation that operates at the intersection of scientific inquiry and practical artistry. Carrie, however, expanded Raiffa's understanding of the art of negotiation beyond interpersonal skills alone. For her, the art of negotiation encompassed behaviours, strategies, tactics, and the practical judgement required to discern when to act, what to say, and how to respond in particular negotiation contexts (Menkel-Meadow 2022: 35)—as if Follett's law of the situation filtered Raiffa's negotiation approach.

After interviewing Carrie and revisiting some of her work in light of Follett, Fuller, and Raiffa, I realized that the reflections of their ideas in Carrie's work create a pathway for future generations to begin contemplating what could be called "the philosophy of ADR". Carrie's work in this sense acts like a prism that projects and transforms the core principles and ideas she inherited from her intellectual precedents.

[D] TOWARD A JURISPRUDENCE OF ADR

A jurisprudence of ADR (negotiation or conflict resolution) is an invitation to re-examine ADR discourses and practices through the lens of philosophical ideas, theoretical innovations, and procedural methodologies that expand our pragmatic, imaginative, and cognitive horizons. It provides both an analytical framework for understanding what ADR, negotiation, mediation, and other forms of social ordering and dispute processing are and a vocabulary for imagining what they could become.

A caveat is in order: I do not pretend to establish or provide a comprehensive analysis of what a jurisprudence of ADR (negotiation or conflict resolution) should be concerned with. I will simply use Carrie's main takeaways to articulate potential lines of inquiry and questions that might foster generative discussion within the fields of ADR, legal philosophy, and related disciplines.

The jurisprudence of ADR is Protean.[6] First, the jurisprudence can be an *examination* of the practices, discourses, and assumptions of conflict prevention, resolution, or transformation. Second, it can also be *a way of looking at the meaning* of ADR (either through conceptual analysis or pragmatic consequences) in terms of its analytical elements, that is, the building blocks that constitute the grammar of dispute resolution. In this sense, it calls for a conceptual analysis of interests, needs, positions, alternatives, criteria, options, strategies, techniques, behaviours, conflict and its modalities, parties and stakeholders, neutrals, consent, and other notions that are part of the ADR grammar. Finally, it might be a *critical tool* to expand the horizons of what we regard as ADR and dispute resolution. For instance, Amy Cohen's work has suggested viewing ADR as a site for democratic micro-experiments, an attempt to "prefigure some reimaginations" of co-existence amidst tension (Cohen 2020: 176), and a means "of cultivating self and social relations differently" (Cohen 2022: 136). Andrew Mamo's work, instead, has proposed to look at ADR

[6] For the purpose of this article, I use interchangeably the notion of jurisprudence and philosophy of ADR.

as a site for addressing challenges and modulations to key socio-legal and political concepts, such as community, identity, and the tensions between universalism, embedded in interest-based negotiation theories, and particularism, enshrined in communitarian theories of dispute resolution (Mamo 2019: 1454-1455). These scholars, influenced by Carrie herself, expanded the ADR grammar and functionality to include questions beyond conflict resolution, prevention, and transformation, such as prefigurations of democratic practices, decentralized forms of egalitarian organizations, and reconstructed ideas of how to live in common, questions that Carrie's work has been concerned with (Menkel-Meadow 1995; 1996).

However, Carrie's philosophical and critical engagement with ADR has largely been in the space of reframing the debate over whether to be for or against settlement. Instead, Carrie adopts a Follettian and Fullerian take by asking a question that, to some extent, her intellectual fathers and mother have been perplexed by: *when*, *how*, and *under what circumstances* we should advocate for settlement in a particular dispute (Menkel-Meadow 1995: 2665). And the correlative value-laden question: when do we know which settlements are good? To paraphrase Carrie: *how do we know which settlements to be for and which to be against? And how do we know when they are good?* These questions introduce, as some scholars have done before, a relevant epistemological and moral philosophy inquiry into the philosophy of ADR (Luban 1985).

Exploring Carrie's intellectual fathers and mother reveals different pathways to the jurisprudence of ADR, particularly to address Carrie's question of *when*, *how*, and *under what circumstances* settlement is desirable. Carrie's engagement with Follett, Fuller, and Raiffa raises the following potential avenues for reflecting deeper about the paths Carrie's work, through her dialogue with her intellectual fathers and mother, has made available. Each jurisprudential approach is countered with a "counter-jurisprudence". Here is the list of potential jurisprudential trends in ADR:

- ◊ Fragmentary jurisprudence of ADR or a comprehensive jurisprudence of ADR.
- ◊ Static jurisprudence of ADR or dynamic jurisprudence of ADR.
- ◊ Process pluralism jurisprudence of ADR or multi-modal pluralism jurisprudence of ADR.
- ◊ Positivistic jurisprudence of ADR or a hermeneutical jurisprudence of ADR.
- ◊ Descriptive jurisprudence of ADR or critical jurisprudence of ADR.

ADR jurisprudence	Definition	ADR counter-jurisprudence	Definition
Hybridized jurisprudence	A framework concerned with the combination of forms of social ordering (or dispute resolution process) and creating new hyphenated forms of social ordering and dispute processing to expand ADR's repertoire.	*Taxonomic jurisprudence*	A framework concerned with identifying the principal forms of social ordering (or dispute resolution process) and exploring their moral integrity (essence).
Multi-level jurisprudence	A framework that theorizes, as distinct logical and analytical entities, dyadic, triadic, and other multi-party processes, as well as single- and multiple-issue disputes and single-criterion or multiple-criteria conflicts.	*Systematic jurisprudence*	A framework that seeks a comprehensive analytical and logical vocabulary to theorize indistinctly dyadic, triadic, and other multi-party processes, as well as single- and multiple-issue disputes and single-criterion or multiple-criteria conflicts.
Dynamic jurisprudence	A framework that theorizes ADR from the premise that positions, needs, interests, and human relations (and selves) are dynamic and can only be fixed for analytical purposes.	*Static jurisprudence*	A framework that theorizes ADR from the premise that positions, needs, interests, and human relations (and selves) are static and can be fixed and studied as static phenomena.
Multi-modal pluralism	A framework based on the premise that processes, even when mixed or hybrid, cannot by themselves adequately address human conflicts and that productive conflict engagement requires additional modalities, such as cultivating practices of self-transformation, designing spaces that contain conflict, and developing rituals or ethical practices that shape social relationships	*Process pluralism*	.A framework grounded in the premise that no single process can adequately address all disputes and that therefore seeks to develop forms of hybridity, variation, and mixed processes capable of enhancing human problem-solving (Menkel-Meadow 2006)
Positivistic jurisprudence	A framework that treats dispute resolution processes as identifiable and analysable systems whose effectiveness can be studied through formal rules, procedural design, and measurable outcomes. It is concerned with the difference between what ADR is from what it ought to be.	*Pragmatic-hermeneutical jurisprudence*	A framework concerned with interpreting how processes shape human interaction, social order, and possibilities for integration at different scales.

Figure 1: ADR jurisprudence and ADR counter-jurisprudence.

Follett, Fuller, Raiffa, and Menkel-Meadow laid the foundations for a jurisprudence of ADR concerned with ontological, procedural, teleological, moral, political, scientific, and artistic questions. This jurisprudence invites us to continue experimenting with methods of resolving differences while remaining attentive to the philosophical machinery we often rely on when we think about preventing, transforming, and resolving conflict. It also directs our attention to the practices through which subjectivities are forged, democratic experiments are enacted, and relationships with ourselves and others are deconstructed and reconstructed in the pursuit of alternative forms of coexistence.

[E] CODA: RE-SIGNIFYING THE PAST

Carrie concluded her groundbreaking article on the fathers and mothers of ADR, arguing that "[t]he field of dispute resolution now demonstrates great intellectual eclecticism (some would say breadth), coupled with an almost necessary American pragmatism in its practice and constantly expanding application to new fields of human endeavor" (Menkel-Meadow 2000: 35). This line is as valid now as it was then.

Genealogical work triggers new thinking about old themes (Menkel-Meadow 2000: 37). It pushes us to trace and examine the sediments of the past to better understand where we come from and where we are going. Genealogical work is not an artificial methodology for uncovering the past and stating the obvious: we are historical beings shaped by the social, political, and historical forces that precede us. Genealogical work makes a more subtle point: to examine ourselves, the field in which we labour, and the ideas that we believe might help us better navigate a world marked by conflict, we need to trace ideas across space and time, give voice to forgotten thinkers, and re-signify the past not to recover it, but to reinterpret it in light of our current predicament. In doing so, we can better understand what the practical bearings of the past are in the present and perhaps gain a glimpse into how we know what we know about ADR.

Talking to Carrie, reading her work, and engaging with her fathers and mother made me more aware of her theoretical positions, innovations in ADR, and the ways they have filtered my own thinking. Knowing where we (and our ideas) come from is perhaps one of the few tools we have for understanding what we know. Carrie's work and life are a testament to this.

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