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Kenneth H. Fox
Hamline University School of Business

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Mirror as Prism: Reimagining Reflexive Dispute Resolution Practice in a Globalized World

Kenneth H. Fox*

INTRODUCTION

Private dispute resolution processes are an increasingly established global phenomenon.¹ Some processes, like international commercial arbitration, have been formally in place for more than a century² and draw upon clear principles of law and contract. Arbitrators and parties are guided by relevant treaties,³ procedural rules,⁴ and well-settled practices. Other international dispute

* Professor of Business and University Director of Conflict Studies, Hamline University; Senior Fellow, Dispute Resolution Institute, Hamline University School of Law. I am grateful to Professors Colleen Bell and Kathryn Geurts for their helpful comments and conversations. I also extend my thanks to fellow participants of Washington University School of Law's Global Dispute Resolution Scholarship Roundtable, who offered invaluable feedback in the development of this Essay.

1. The fact that alternative dispute resolution (ADR) is an increasingly global phenomenon does not necessarily mean it is being "globalized."

Alexandra Crampton defines globalization as "a process through which the world is increasingly connected through economic, social, and political networks and systems." . . . Nadja Alexander describes globalism as "a way of thinking about the world as a single marketplace in which political, legal and economic distinctions begin to blur." She goes on to state that globalism views these dimensions of the process of globalization through the lens of economic rationalism or "economic imperialism."

Kenneth H. Fox, *Unanswered Questions, Future Opportunities: Reflections on an Intentional Conversation about the Globalization of ADR*, 27 *HAMLIN J. PUB. L. & POL'Y* 297, 299–300 (2005) [hereinafter Fox, *Unanswered Questions*]. Even the simple statement that ADR is being globalized warrants close examination. *See id.*

2. *See* UNITED NATIONS, U.N. CONFERENCE ON TRADE AND DEV., DISPUTE SETTLEMENT: 1.3 PERMANENT COURT OF ARBITRATION 5 (2003), available at http://unctad.org/en/docs/edmmisc232add26_en.pdf.

3. *See, e.g.*, Convention of the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 330 U.N.T.S. 3; Inter-American Convention on International Commercial Arbitration—Panama Convention, Jan. 30, 1975; European Convention on International Commercial Arbitration, Apr. 21, 1964, 484 U.N.T.S. 364.

4. *See e.g.*, AM. ARBITRATION ASS'N, COMMERCIAL ARBITRATION RULES & MEDIATION PROCEDURES (Oct. 1, 2013), available at <https://www.adr.org/aaa/ShowProperty?nodeId=>

resolution processes, like negotiation, mediation, conciliation, and conflict coaching, similarly have a long history and some process guidance.⁵ However, by their very nature, these non-adjudicative, cooperative processes are multidimensional, fluid, and complex. They require the intervener, parties, and their representatives to engage with one another in ways that go beyond the law and well into the realm of human relations.⁶ In order to make best use of such cooperative processes, interveners, parties, and representatives—hereafter “conflict practitioners”—draw upon knowledge, insights, and skills related to communication, culture, history, language, philosophy, psychology, and sociology, among many other fields. They also draw upon their own professional and personal lived experience.

As cooperative private international dispute resolution practices become increasingly common, it is tempting for conflict practitioners to assume that the human relations insights, skills, and practices that worked well for them at home will be equally effective (and appropriate) in an international, cross-cultural environment. However, exporting the ways we understand and interact with others in conflict from a domestic environment into new and different legal, political, economic, cultural, and social environments can be problematic.⁷ At best, exporting our set ideas and practices can lead to missed insights and lost opportunities for better solutions to the disputes at hand. At worst, this practice can exacerbate disputes,

UCM/ADRSTG_004103&revision=latestreleased; HONG KONG INT’L ARBITRATION CTR., ADMIN. ARBITRATION RULES (Sept. 2008), *available at* <http://hkiac.org/images/stories/arbitration/AA%20Rules.pdf>; INT’L COURT OF ARBITRATION, ARBITRATION RULES, MEDIATION RULES (2011), *available at* <http://www.iccwbo.org/Data/Documents/Business-Services/Dispute-Resolution-Services/Mediation/Rules/2012-Arbitration-Rules-and-2014-Mediation-Rules-ENGLISH-version/>.

5. *See supra* note 3.

6. This is not to suggest that adversarial processes do not also require strong human relations skills. However, cooperative dispute resolution processes are particularly amenable to a wider range of interaction among participants.

7. This becomes even more evident as we increasingly understand our social worlds through a postmodern lens. *See, e.g.*, Kenneth H. Fox, *Negotiation as a Post-Modern Process*, in *RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE* 13–27 (James R. Coben, Giuseppe De Palo & Christopher Honeyman eds., 2009) [hereinafter Fox, *Negotiation as a Post-Modern Process*]; *see also* Harold Abramson, *Outward Bound to Other Cultures: Seven Guidelines*, 9 PEPP. DISP. RES. L.J. 437 (2009).

causing greater confusion, more deeply entrenched conflict, and less likelihood of resolution. As a result, attending to the human dimension of conflict and interaction should be a central part of global negotiation and dispute resolution practice.⁸ That is the focus of this Essay.

Working in the global dispute resolution environment puts into clear relief the need for conflict practitioners to be attuned to themselves and to their counterparts in ways that might not have been apparent in local practice.⁹ As mentioned above, this attunement goes beyond technical legal knowledge and skills. It also includes being attuned to the subtle and complex human, cultural, linguistic, and other relational dimensions of working across social worlds. One way to be so attuned is to develop reflective and reflexive practice—intentionally seeking to learn and grow from one’s past experience (“reflection-on-action”) and developing multiple dimensions of awareness as the conflict interaction actually unfolds (“reflection-in-action”).¹⁰

This Essay focuses on these two dimensions of reflective and reflexive practice. In the next part, I discuss the nature of reflection-on-action and reflection-in-action from a modernist (“reflective”) and postmodern (“reflexive”) perspective. These modern and postmodern concepts of reflective and reflexive practice parallel a growing trend in the conflict literature from a “modernist” to a postmodern or “social constructionist” orientation to understanding conflict itself.¹¹

8. This question is not new. See Fox, *Unanswered Questions*, *supra* note 1, at 299–306 (identifying a host of questions that continue to challenge the field about the globalization of ADR, from concerns about intellectual imperialism to the impact of institutional funding on the spread of particular practices).

9. Even though the need for conflict practitioners to be attuned to themselves and their counterparts might not be apparent in local practice, it is still important. We should not assume all conflict practitioners, whether local or global, “think, or otherwise organize their social worlds, the way we do.” Fox, *Negotiation as a Post-Modern Practice*, *supra* note 7, at 18.

10. See DONALD A. SCHÖN, *THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION* 50, 278 (1983) [hereinafter SCHÖN, *REFLECTIVE PRACTITIONER*]; see also DONALD A. SCHÖN, *EDUCATING THE REFLECTIVE PRACTITIONER* 22–40 (1987) [hereinafter SCHÖN, *EDUCATING*].

11. See, e.g., Fox, *Negotiation as a Post-Modern Process*, *supra* note 7, at 22 (describing a postmodern view of negotiation and knowledge); ROBERT A. BARUCH BUSH & JOSEPH P. FOLGER, *THE PROMISE OF MEDIATION: RESPONDING TO CONFLICT THROUGH EMPOWERMENT AND RECOGNITION* 243 (1994) (describing human beings as simultaneously separate and connected, autonomous and linked, self-interested and self-transcending); KENNETH J. GERGEN,

In the final part, I examine how engaging with practice reflexively reveals additional dimensions of awareness about ourselves, other parties, and the conflict context. I then bring together the elements of reflective and reflexive practice to articulate a more holistic conception of “awareness” that can help conflict practitioners more purposefully learn from past experience and develop greater awareness as conflict interactions unfold.

I. REFLECTIVE PRACTICE

Reflective practice can be described as “a disciplined inquiry into the motives, methods, materials, and consequences” of learning.¹² D. Marks-Maron and P. Rose offer three purposes for engaging in professional reflective activity: to redefine our understanding of professional knowledge; to further develop personal knowledge or self-awareness; and to evaluate the appropriateness of our actions.¹³ The process of reflection acts “as a bridge from tacit knowledge to considered action.”¹⁴ It changes the nature of what we know so as to strengthen our ability to be helpful to the parties we serve.¹⁵ For the conflict practitioner, reflective practice helps to deepen and refine our competence both *in* action and *on* action,¹⁶ maintaining quality and improving client service.

AN INVITATION TO SOCIAL CONSTRUCTION 151 (1999) (arguing that contemporary negotiation and mediation practices are lodged within a modernist worldview, and articulating a social constructionist standpoint for addressing conflict); JOHN WINSLADE & GERALD MONK, NARRATIVE MEDIATION: A NEW APPROACH TO CONFLICT RESOLUTION 37 (2000) (describing the underlying principles of social constructionism); Ann L. Cunliffe, *On Becoming a Critically Reflexive Practitioner*, 28 J. OF MGMT. EDUC. 407 (2004) [hereinafter Cunliffe, *On Becoming*]; Jayne Seminare Docherty, *Adaptive Negotiation: Practice and Teaching*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 481–509 (Christopher Honeyman, James Coben & Giuseppe De Palo eds., 2010); Ran Kuttner, *From Adversity to Relationality: A Buddhist-Oriented Relational View of Integrative Negotiation and Mediation*, 25 OHIO ST. J. ON DISP. RESOL. 931 (2010).

12. See Janet Lynn Norton, *Creative Thinking and the Reflective Practitioner*, 21 J. OF INSTRUCTIONAL PSYCHOL. 139, 139 (1994).

13. Margaret E. S. Forrest, *Learning and Teaching in Action*, 25 HEALTH INFO. & LIBR. J. 229, 229 (quoting D. MARKS-MARON & P. RODE, RECONSTRUCTING NURSING: BEYOND ART AND SCIENCE 229 (2002)).

14. *Id.*

15. A great deal has been written about reflective practice in a number of professions, most notably, in teaching, health care, organizational leadership, and even architecture.

16. See generally SCHÖN, REFLECTIVE PRACTITIONER, *supra* note 10.

The idea of reflective practice is far from new. As far back as 1909, John Dewey articulated the concept of reflective practice in teaching.¹⁷ For Dewey, reflective thinking

emphasizes the consequences of ideas and implies future physical action; it is not merely an exercise in the theoretical manipulation or intellectual entertainment. Using methods of rational, systematic inquiry, the reflective person is able to confront and solve a variety of personal and professional obstacles; to be a proactive force in his/her environment.¹⁸

In his influential 1983 work, *The Reflective Practitioner: How Professionals Think in Action*,¹⁹ Donald Schön significantly advanced our understanding of the need for, and an effective model of, reflective practice. Schön argued that the acquisition of “professional knowledge” alone in the industrial age was seriously limited when it came to helping practitioners adapt to changing social conditions.²⁰

Even if professional knowledge were to catch up with the new demands of professional practice, the improvements in professional performance would be transitory. The situations of practice are inherently unstable. . . . [P]rofessions are now confronted with an unprecedented requirement for adaptability.²¹

Going further, Schön argued that professional education relied too heavily on “technical rationality”—that is, “instrumental problem-solving made rigorous by the application of scientific theory and technique.”²²

Technical rationality is an epistemology of practice derived from positivist philosophy [T]echnical rationality holds

17. See generally JOHN DEWEY, HOW WE THINK: A RESTATEMENT OF THE RELATION OF REFLECTIVE THINKING TO THE EDUCATIVE PROCESS (1933).

18. Norton, *supra* note 12, at 139 (internal citations omitted).

19. See generally SCHÖN, REFLECTIVE PRACTITIONER, *supra* note 10. See also SCHÖN, EDUCATING, *supra* note 10.

20. SCHÖN, REFLECTIVE PRACTITIONER, *supra* note 10, at 14.

21. *Id.* at 15. He further argued that practitioners’ reliance on “professional knowledge” alone has contributed to a crisis of confidence in our professions. *Id.* at 13.

22. *Id.* at 21.

that practitioners are instrumental problem-solvers who select technical means best suited to particular purposes.²³

This approach to thinking leads to problem solving (selection, from the available means, of the solution best suited to an established end).²⁴ While this approach appears constructive, once the practitioner sets the problem, “he chooses and names the things he will notice.”²⁵ In other words, the practitioner becomes trapped by a particular way of thinking about a particular set of tools to fix a particular problem.

Schön argues that such technical rationality is overly limiting, does not reflect actual practice, and ignores problem-setting—“the process by which *we define* the decision to be made, the ends to be achieved, [and] the means which may be chosen.”²⁶ In real world practice,

[p]roblems do not present themselves to the practitioner as givens. They must be constructed from the materials of problematic situations which are puzzling, troubling, and uncertain. In order to convert a problematic situation to a problem, a practitioner must do a certain kind of work. He must make sense of an uncertain situation that initially makes no sense.²⁷

In the place of technical rationality, Schön articulates a reflective orientation toward problem-setting,²⁸ which he calls “reflection-in action”²⁹ and “reflection-on-action.”³⁰ This orientation toward reflection is a way to “turn problems upside down.”³¹ Rather than making better use of research and technical knowledge, we should ask “what we can learn from a careful examination of artistry, that is,

23. SCHÖN, EDUCATING, *supra* note 10, at 3.

24. SCHÖN, REFLECTIVE PRACTITIONER, *supra* note 10, at 40.

25. SCHÖN, EDUCATING, *supra* note 10, at 4.

26. SCHÖN, REFLECTIVE PRACTITIONER, *supra* note 10, at 40.

27. *Id.*

28. Contemporary business literature refers to principles like this as “problem-formulation.” See JACKSON NICKERSON, A GUIDE TO UNDERSTANDING, LEARNING, AND PRACTICING CRITICAL THINKING 19–27 (2013).

29. SCHÖN, REFLECTIVE PRACTITIONER, *supra* note 10, at 49.

30. *Id.* at 26.

31. SCHÖN, EDUCATING, *supra* note 10, at 12.

the competence by which practitioners actually handle indeterminate zones of practice—however that competence may relate to technical rationality.”³² Reflection-in-action builds “professional artistry,” an exercise of intelligence and a kind of knowing and competence that reveals itself when engaged with unique, uncertain, and conflicted situations of practice.³³ As I discuss below, this notion of “professional artistry” has advanced our thinking about what reflective practice can mean for conflict practitioners.

Other models of reflective practice have also emerged. David Kolb’s model of experiential learning is a four-element cyclical process of concrete experience; observation and reflection; forming abstract concepts; and testing concepts in new situations.³⁴ Graham Gibbs developed a six-phase reflective cycle that involves description, feelings, evaluation, analysis, conclusion, and action plan.³⁵ Christopher Johns offers a five-phase model of structured, written reflection, focusing on aesthetic, personal, ethical, empiric, and reflexive cues.³⁶ Gary Rolfe proposes a three-question developmental framework: What? So what? And now what?³⁷ Stephen Brookfield articulates four prisms to becoming a critically reflective teacher.³⁸ In his model, teachers (and presumably other practitioners) develop an increased awareness of their work from as many vantage points as possible. Brookfield proposes four prisms through which to gain this awareness: the autobiographical prism; through the students’ eyes; from colleagues’ experiences; and from the theoretical literature.³⁹ Barbara Larrivee articulates a model that

32. *Id.* at 13.

33. *Id.* at 22.

34. David. A. Kolb & Ronald Fry, *Towards an Applied Theory of Experiential Learning*, in THEORIES OF GROUP PROCESSES 33–34 (Cary L. Cooper ed., 1975).

35. GRAHAM GIBBS, *LEARNING BY DOING: A GUIDE TO TEACHING AND LEARNING METHODS* 47 (1988).

36. Christopher Johns, *Framing Learning through Reflection within Carper’s Fundamental Ways of Knowing in Nursing*, 22 J. ADVANCED NURSING 226, 227 (1995).

37. Gary Rolfe, *Beyond Expertise: Theory, Practice and the Reflexive Practitioner*, 6 J. CLINICAL NURSING 93 (1997).

38. STEPHEN D. BROOKFIELD, *BECOMING A CRITICALLY REFLECTIVE TEACHER* 29 (Stephen D. Brookfield ed., 1st ed. 1995).

39. *Id.*

combines both critical inquiry and self-reflection.⁴⁰ In it, she identifies three essential practices: setting aside time for solitary reflection and keeping a journal; consciously bringing new insights and perspectives, to enable re-evaluation and consideration; and questioning the status quo or conventional wisdom, and being open to examining the assumptions which underlie professional practice.⁴¹

In the conflict field, Michael Lang and Alison Taylor have built upon Schön's conception of artistry and, combined with other principles of reflective practice, brought it to the practice of mediation.⁴² According to Lang and Taylor,

[a]rtistry begins with a strong foundation in the skills, techniques, and strategies as well as the theories of one's profession or endeavor. The artist must also have the ability to synthesize knowledge and skills in the moment of interaction, to integrate theory and technique into a series of strategies and interventions.⁴³

For Lang and Taylor, artistry is a dynamic process that develops in stages: from novice to apprentice; apprentice to practitioner; and practitioner to artist.⁴⁴ It is an ongoing process of reflection, learning, understanding, and exploration.⁴⁵ Lang and Taylor identify six hallmarks of artistry in mediation practice: attention to detail (responsiveness in the moment); curiosity (openness to new perspectives); exploration and discovery (not being bound by limiting assumptions); developing and testing formulations (holding on tightly and letting go lightly); interpreting with resilience and flexibility; and maintaining patience and vision (balancing between process and outcome).⁴⁶

This model of reflective practice helps the mediator experience a state of "flow," where she simultaneously feels a lack of self and a

40. Barbara Larrivee, *Transforming Teaching Practice: Becoming the Critically Reflective Teacher*, 1 REFLECTIVE PRAC. 293 (2000).

41. *Id.* at 296-98.

42. See generally MICHAEL D. LANG & ALISON TAYLOR, *THE MAKING OF A MEDIATOR: DEVELOPING ARTISTRY IN PRACTICE* (2000).

43. *Id.* at 9.

44. *Id.* at 11-12.

45. *Id.* at 3-4.

46. *Id.* at 24-25.

fullness of self, “feeling caught up in something greater than usual, a transcendence of purpose and process.”⁴⁷ All of the models described here help the practitioner develop forms of awareness and connection between principle and practice. All of the models promote learning and professional growth.

II. SHIFTING FROM “REFLECTIVE” TO “REFLEXIVE” PRACTICE

Reflective practice, as described above, refers to the ways in which the practitioner can better mirror what she observes around her and to the ways by which she incorporates her own tacit and formal knowledge into strategies for action. The metaphor of a reflective “mirror” is consistent with the modernist view that there exists an “original” object, action, or other phenomenon, independent of ourselves, to be seen, observed, categorized, and explained.⁴⁸ However, more recent scholarship argues that this concept of reflection—or mirroring—does not fully describe what happens when a professional works with parties. We do not merely observe. We interact. And by interacting with others, we are, by definition, engaged in a process where things change. New meaning emerges (is “constructed”) from the very interaction itself.

Noticing that our interactions shape meaning represents a shift in thinking. Instead of the modernist view that assumes we can observe parties without having any impact, this postmodern view suggests that the way we make sense of things, in important ways, is actually socially constructed—that is, co-created through the very process and in the very moment of social interaction.⁴⁹ As a result, from this different standpoint, we do not stand separate from what we observe. Instead, we are engaged with parties in ways where we are also part of the process of meaning-making. This different frame requires a

47. *Id.* at 214.

48. Ann L. Cunliffe, *Reflexive Dialogical Practice in Management Learning*, 33 *MGMT. LEARNING* 35, 38 (2002) [hereinafter Cunliffe, *Reflexive Dialogical Practice*].

49. *See id.* at 37 (describing the “linguistic turn” in the social sciences from the notion that language is a means of representing reality to the idea that language is constitutive; that is, social realities and our sense of self are created between people through dialogic practices); *see also supra* note 11.

different way of making sense of, and learning from, our experience—reflexive practice.⁵⁰

The concept of reflexive practice embraces a view of the dynamic and emergent nature of how meaning is made. This is a particularly important framework for conflict practitioners, since so much of our work involves trying to make sense, for ourselves and the parties, of the conflicts they bring to us.

[W]hereas reflection is often seen as a systematic thought process concerned with simplifying experience by searching for patterns, logic, and order, reflexivity means complexifying thinking or experience by exposing contradictions, doubts, dilemmas, and possibilities.⁵¹

In other words, reflexive practice involves a form of critical dialogic engagement with others that can lead to “an unsettling” of basic assumptions, discourse, and practices used to even describe their conflict reality.⁵²

This postmodern view of learning through reflexive practice⁵³ attunes the practitioner differently, to interact more fully with, and be more immersed in, the dynamics of the situation and environment in which the conflict is embedded. Put differently, learning and awareness is not merely a cognitive process of observation and reflection but a complex, embodied (whole body) dialogic process that encompasses various forms of knowledge—ways of “knowing.”⁵⁴

Conflict knowledge, then, is not just theory or information. Knowledge also incorporates what we know from within: a tacit, practical consciousness of everyday “sense-making” in which we implicitly know things about our surroundings. It also is “constructed through our interactions, and we make sense of what is happening

50. See Cunliffe, *Reflexive Dialogical Practice*, *supra* note 48.

51. *Id.* at 38.

52. Cunliffe, *On Becoming*, *supra* note 11, at 407.

53. Cunliffe, *Reflexive Dialogical Practice*, *supra* note 48, at 39. Cunliffe describes the impact of such a postmodern view as “raising important questions about how narratives embody political and epistemological suppositions which, through educational practices, regulate social experience.” *Id.* (citing Henry A. Giroux, *Postmodernism and the Discourse of Educational Criticism*, 170 B.U. J. EDUC. 5 (1989)).

54. Cunliffe, *On Becoming*, *supra* note 11, at 410.

around us as we interact with our surroundings.”⁵⁵ As I mention above, this is relevant to conflict practitioners, because so much of our work is to help parties “make sense” of their conflict situations. As a result, we must be attuned to pick up on how parties are making sense of their experiences, and at the same time, how *we* make sense of our *own* experience with the parties and their conflict in all its dimensions. This greater attunement is even more relevant in global dispute resolution practice, where we cannot presume to know how parties make sense of their social worlds, experiences, or conflicts. Nor can we assume that the parties’ “sense-making” is the same as ours (or their counterparts). As a result, building on a reflective practice to include a reflexive orientation to professional development opens up new and important dimensions of awareness—of ways to learn and improve our own conflict practice.

In the next part of this Essay, I describe a model for greater attunement to ourselves, to parties in conflict, and to the broader conflict context. This model brings together a number of elements that have been studied and described elsewhere but have not been organized into this type of holistic model. I suggest this model can help equip conflict practitioners to strengthen their reflective and reflexive practice to become more fully attuned and engaged with parties, whether within or across social worlds.

III. REIMAGINING REFLEXIVE PRACTICE—A PRISM OF AWARENESS

Over the past several years, I have worked with various colleagues to develop a model that articulates the levels at which conflict practitioners can develop their personal and professional awareness. We have previously articulated the importance of developing three levels of awareness about conflict work: (1) awareness of “self”; (2) awareness of “other”; and (3) awareness of “context.”⁵⁶ In brief,

55. *Id.*

56. See generally Kenneth H. Fox, Manon A. Schonewille & Esra Cuhadar-Gurkaynak, *Lessons from the Field: First Impressions from Second Generation Negotiation Teaching*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES (2010); Kenneth H. Fox & Sharon Press, *Venturing Home: Implementing Lessons from the Rethinking Negotiation Project*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (2012).

“awareness of self” focuses on practices where the conflict practitioner is better attuned to her own way of thinking, feeling, and being—building awareness within. “Awareness of other” focuses on practices that help the conflict professional be better attuned to the parties in conflict. “Awareness of context” refers to a range of elements: the physical and practical conflict situation; the cultural, ideological (worldview), and other environmental conditions that surround the situation and interactions; and the roles and relationships (including power relations) of the parties within the larger relevant social context. Like awareness of self and other, awareness of context also means we recognize that the context in which conflict occurs is not static but fluid and emergent, requiring an attunement to the way the conflict unfolds.⁵⁷

Although articulating the three levels of awareness has been helpful, both in practice and as an organizational framework for teaching, the model has felt incomplete. However, the literature on reflective and reflexive practice discussed above, together with the important work of others,⁵⁸ has revealed missing dimensions of the model of awareness. For example, Ann Cunliffe describes how we can equate reflexive learning with moments in which we are “struck” by something in a conflict, moving us to change our ways of talking and acting.⁵⁹ According to Cunliffe, being “struck” involves three dimensions of spontaneous response to the events or relationships occurring around us: cognitive, emotional, and physiological.⁶⁰ Similarly, Michelle LeBaron describes four “ways of knowing” about our experiences in addition to intellectual knowledge: emotional ways of knowing; somatic ways of knowing; imaginative and

Each of these earlier attempts to articulate dimensions of awareness has been helpful in clarifying the model presented here.

57. See generally Jayne Seminare Docherty, “Adaptive” Negotiation: Practice and Teaching, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES (2010).

58. See, e.g., MICHELLE LEBARON, BRIDGING TROUBLED WATERS: CONFLICT RESOLUTION FROM THE HEART 43–136 (2002); Michelle LeBaron & Mario Patera, *Reflective Practice in the New Millennium*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 45 (Christopher Honeyman, James Coben & Giuseppe De Palo eds., 2009).

59. Cunliffe, *On Becoming*, *supra* note 11, at 410.

60. *Id.*

intuitive ways of knowing; and connected ways of knowing.⁶¹ Nadja Alexander and Michelle LeBaron describe three dimensions of experiential learning: sensation, emotion, and cognition.⁶² I suggest these additional dimensions of learning and knowing strengthen the model. For purposes of clarity, I adopt Cunliffe's three dimensions of embodied experience: cognitive, emotional, and physiological. When combined with the three levels of awareness previously articulated (self, other, and context) a more complete model emerges that provides a deeper and more holistic picture of reflexive practice and awareness for conflict practitioners.

The levels and dimensions of awareness described above are consistent with scholarship and practices related to mindfulness. One of the leading figures in mindfulness research and practice in the conflict field is Len Riskin, who describes mindfulness as “a deliberate, present-moment non-judgmental awareness of whatever passes through the five conventional senses and the mind—to simplify: emotions, thoughts, and body sensations.”⁶³ While mindfulness often relates to a set of specific practices,⁶⁴ the underlying concept is directly relevant to this Essay. In particular, the process of “letting go” and being “present” associated with mindfulness is an important part of reflexive practice.

Before describing the actual model, a word of explanation is in order. It may appear from Table 1, below, that the different dimensions of reflective and reflexive practice can be separated out, or deconstructed, into a variety of constituent parts in the same way

61. LeBaron, BRIDGING TROUBLED WATERS, *supra* note 58.

62. Nadja Alexander & Michelle LeBaron, *Embodied Conflict Resolution: Resurrecting Roleplay-Based Curricula through Dance*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING 542 (Christopher Honeyman, James Coben & Andrew Wei-Min Lee eds., 2013) [hereinafter Alexander & LeBaron, *Embodied Conflict Resolution*].

63. Leonard L. Riskin, *Awareness and the Legal Profession: An Introduction to the Mindful Lawyer Symposium*, 61 J. OF LEGAL EDUC. 634, 635 (2012). *See generally* J. Mark G. Williams & Jon Kabat-Zinn, *Mindfulness: Diverse Perspectives on its Meaning, Origins, and Multiple Applications at the Intersection of Science and Dharma*, 12 CONTEMP. BUDDHISM 1, 1–18 (2011).

64. Riskin refers specifically to meditation practice. Leonard L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and their Clients*, 7 HARV. NEGOT. L. REV. 1, 23 (2002) [hereinafter Riskin, *The Contemplative Lawyer*].

one could take apart a clock. This is not the case. Instead of thinking of this model in mechanistic terms (as presenting parts that can be disassembled and reassembled at will), the model should be seen holistically and relationally, where all of the dimensions described are interacting facets of an embodied whole experience—different prisms through which to see and understand emergent, complex, and interconnected experiences.⁶⁵

By organizing the three levels of awareness (self, other, and context) on a horizontal plane, and the three dimensions of knowing (cognitive, emotional, and physiological) on a vertical plane, we create a model that articulates nine interrelated facets (or dimensions) of awareness (see Table 1, below).⁶⁶ None of the dimensions described is new. Each has been the subject of thoughtful study and discussion elsewhere.⁶⁷ My hope is that by organizing the various dimensions together, a deeper and richer conversation can ensue about how conflict practitioners—and particularly those who work across legal, political, cultural, linguistic, and social boundaries—can better learn from, and be attuned to, the different relational interactions that are so central to cooperative global dispute resolution practice.⁶⁸

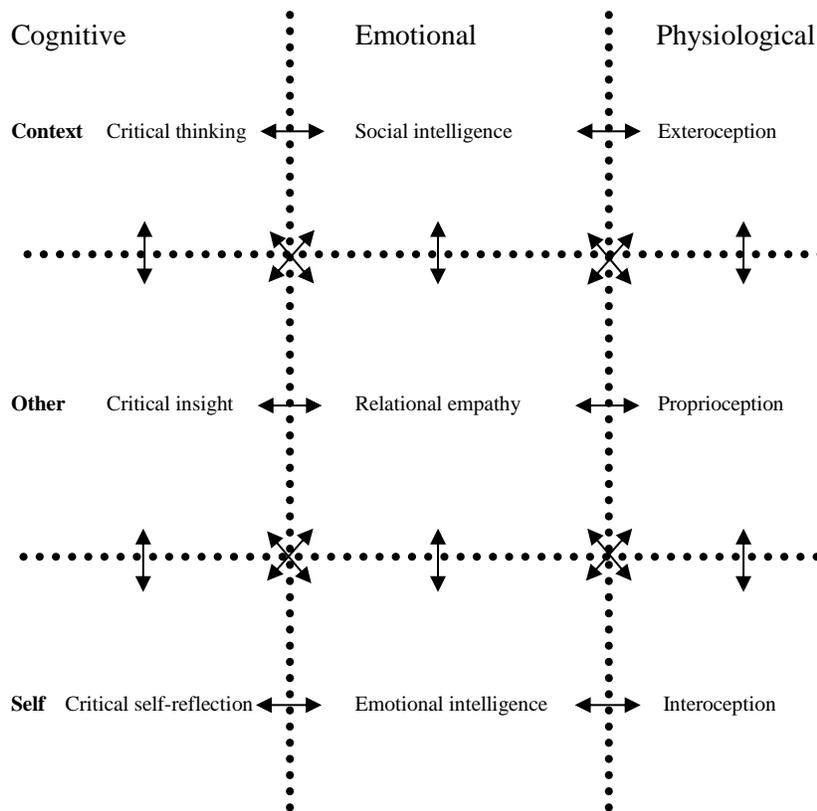
65. Willis Overton, *A Relational and Embodied Perspective on Resolving Psychology's Antinomies*, in *SOCIAL INTERACTION AND THE DEVELOPMENT OF KNOWLEDGE* 20 (Jeremy I. M. Carpendale & Ulrich Muller eds., 2004); see also Lynne Keevers & Lesley Treleaven, *Organizing Practices of Reflection: A Practice-Based Study*, 42 *MGMT. LEARNING* 505, 506, 515 (2011) (using the metaphor of “diffraction” to describe reflexive practice, and describing the concept of “prismatic dialogue,” which highlights the importance of emotion and body in reflective practice). Professor Mary Anne Noone, a participant in the Scholarship Roundtable, similarly uses the metaphor of “prism” as an instructional tool to help law students better understand the multiple ways in which they see the world.

66. Table 1 is not dissimilar to the “Johari Window,” which articulates a simple matrix of awareness. See, e.g., *The Johari Window: What You Don't Know Can Hurt You*, in *THE ENCYCLOPEDIA OF LEADERSHIP: A PRACTICAL GUIDE TO POPULAR LEADERSHIP THEORIES AND TECHNIQUES* 459–61 (Murray Hiebert & Bruce Klatt eds., 2001).

67. One risk of using terminology that has been described in other sources is that the very meaning of the words used may differ from one writer to another. I attempt to be explicit in my intended meaning.

68. This model is a work in progress. I invite further reflection and refinement.

TABLE 1



As depicted by the dotted lines and small arrows, these nine dimensions are not separate cells that stand independently from one another. Nor do any of the dimensions belong solely within any one column or row. Instead, they are all dimensions of the same holistic body of knowing and awareness. For example, reflexive practice includes greater awareness of ourselves, cognitively, emotionally, and physiologically. As we develop greater self-awareness, we also become aware in new ways of others and of the greater context. Similarly, as we develop greater awareness of others and of our

context, we develop new and greater awareness of ourselves. This has been described as “intra-action,” a concept that stresses that human actors in a relationship “should not be seen as distinct entities but as entangled agencies that establish each other as well as being created themselves.”⁶⁹ When taken together, these dimensions build a prism that helps us more fully understand what constitutes embodied reflexive conflict practice.⁷⁰ What follows is a closer examination of each of the nine dimensions of this prism.

A. Cognitive Dimension of Awareness

The cognitive dimension of awareness focuses on becoming better attuned to the ways we process sensory and other information. It is most closely associated with notions of how we “think” about conflict.

Critical Thinking—At the broadest, macro level, we must be aware of the context in which a conflict unfolds (and, reflexively, the ways we make sense of it). By context, I mean the larger environment and circumstances that surround a conflict event, as well as the related dispute resolution process. Context includes such things as practical surroundings (both immediate and larger environment, including the larger constellation of people and entities that relate to the conflict). It also includes the social and cultural context in which the conflict unfolds and in which the dispute resolution process takes place (including the relative social positioning of the relevant parties and stakeholders⁷¹). Finally, it includes our understanding of the worldviews and ways of thinking of those related to the conflict, among other things.

69. Keevers & Treleaven, *supra* note 65, at 508.

70. See Cunliffe, *Reflexive Dialogical Practice*, *supra* note 48, at 44 (using the analogy of a mosaic to describe the challenge of grasping a sense of the whole, while at the same time understanding its many parts).

71. For example, if I am an economically disadvantaged adult female member of a non-dominant social group in a male-dominated environment, I may be seen (and as a result, treated) very differently than if I were a professional adult male member of the dominant group, even if all other factors are identical. This has implications related to power and the ways of interpreting the meaning of words and actions, among other things.

Critical thinking is a form of “intelligent thinking” that employs meta-cognitive processes to enhance learning and understanding.⁷² “Intelligent thinking uses cognition to learn and to adapt in different contexts by updating, improving, changing, or generating new mental representations” of the events we observe.⁷³ It is a disciplined process of thinking that is clear, rational, open-minded, and informed by evidence, and it approaches a problem from multiple perspectives. It can lead to a comprehensive and evidence-based “problem formulation,” which takes into account multiple contextual factors to be sure the right problem is being addressed.⁷⁴ And, from a constructionist perspective, at the same time we seek to comprehensively formulate the problem, we must also critically examine our own assumptions about what we see and how we have conceptualized our own formulation. Cunliffe describes this as “critically reflexive practice,”⁷⁵ which I suggest is an essential part of critical thinking.

Similar to critical thinking from a management perspective, the negotiation literature describes “3-D” negotiating, where the negotiator moves beyond the table to understand, and incorporate into her strategy, a broad range of variables that can shape or change what occurs “at the table.”⁷⁶ This approach to negotiation similarly involves taking a macro view of the conflict situation, and a methodical process by which to formulate a negotiation strategy.⁷⁷

Critical Insight—At a more immediate level, we must be aware of, and attuned to, our counterpart(s) and the parties who are most directly part of the conflict as it unfolds and as it is addressed. We must also develop our awareness of the complexity of the immediate situation. Critical insight requires close observation. It calls upon us to develop a sense of curiosity—a strong and genuine desire to learn

72. See generally NICKERSON, *supra* note 28.

73. *Id.* at 4.

74. See Marcus Baer, Kurt T. Dirks & Jackson A. Nickerson, *Microfoundations of Strategic Problem Formulation*, 34 STRATEGIC MGMT. J. 197–214 (2013).

75. Cunliffe, *On Becoming*, *supra* note 11, at 407.

76. See, e.g., DAVID LAX & JAMES SEBENIUS, 3-D NEGOTIATION: POWERFUL TOOLS TO CHANGE THE GAME IN YOUR MOST IMPORTANT DEALS 9–19 (2006).

77. *Id.* A contextual *analysis*, on its own, would be a form of modernist, reflective practice. In order to move toward *reflexive* practice, we must move beyond analysis to develop ways to be open to, and interact with, the context in which the conflict is unfolding.

from and about another as they see and experience conflict.⁷⁸ It also calls upon us to apply our critical thinking skills to the more immediate elements of a conflict, discerning the perspectives and ideological standpoints of our counterpart(s) and the ways in which they formulate the conflict. And, like critical thinking, it requires that we engage in critically reflexive practice, examining our own assumptions about what we observe in others.

Critical Self-Reflection—At the level of self, we must finally develop our capacity to be critically self-aware. As described above, this means an awareness of our own worldviews, ideological standpoints, assumptions, and thought-processes—those mental belief systems and frameworks that help us organize, interpret, and judge the information we receive.⁷⁹ Critical self-awareness also includes an understanding of our cognitive biases or impediments—heuristics—those cognitive shortcuts that can shape and misshape our judgments about what we observe.⁸⁰ And, critical self-reflection, as with all of the dimensions described in this Essay, requires that we not only understand but also critically question our own worldviews, ideological standpoints, assumptions, and thought-processes, remaining open to the unsettling experience it might bring.

Finally, critical self-reflection does not exist as an exclusively cognitive process. It also involves our emotional and physiological dimensions of awareness. As Alexander and LeBaron have stated, “[A]ll decision-making involves rational *and* emotional processes centered in the body, so we cannot observe, think or respond clearly without our bodies and our feelings.”⁸¹ From within the cognitive dimension, critical self-awareness calls upon us to develop a deeper understanding of what, and why, we think and believe as we do about ourselves, our counterparts, and the context in which we work.

78. Chris Guthrie, *I'm Curious: Can We Teach Curiosity?*, in *RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE* 65 (Christopher Honeyman, James Coben & Giuseppe De Palo eds., 2009).

79. See, e.g., Fox, *Negotiation as a Post-Modern Process*, *supra* note 7, at 21.

80. See, e.g., Russell Korobkin & Chris Guthrie, *Heuristics and Biases at the Bargaining Table*, 87 MARQ. L. REV. 795, 797 (2004).

81. Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 555.

B. Emotional Dimension of Awareness

The emotional dimension of awareness taps into various facets of emotional experience and being. Although this dimension is discussed separately, emotion is not separate from cognition or from physiological awareness. In fact, the term “emotional intelligence” frequently refers to qualities that reflect strong “links between emotion and cognition, coalescing this knowledge into a comprehensive model . . . called emotional intelligence.”⁸² My purpose for describing it separately is to elevate this dimension of awareness for focused attention.

Social Awareness—At the macro level, emotional intelligence involves social awareness. Julie Nearass describes social awareness in the following way:

Humans have an awareness of me and you, of mine and yours, of my actions and your actions, and of my intentions and your intentions. It is likely that this kind of thinking, especially the ability to take into account intentions and beliefs of others, enabled us to use language more deliberately and intentionally, to guide others toward a common purpose, and to conform with others to form distinct societies and traditions.⁸³

Social awareness includes social intelligence, which involves our capacity to negotiate complex social interactions, relationships, and environments in effective and appropriate ways.⁸⁴

It also involves cultural intelligence, “an individual’s capability to function and manage effectively in culturally diverse settings.”⁸⁵ Conflict practitioners who work in a global environment must have

82. Peter Jordan, Neal M. Ashkanasy & Kaylene W. Ascough, *Emotional Intelligence in Organizational Behavior and Industrial-Organizational Psychology*, in *THE SCIENCE OF EMOTIONAL INTELLIGENCE: KNOWN AND UNKNOWN* 356, 357 (Gerald Matthews, Moshe Zeidner & Richard D. Roberts eds., 2007).

83. J.J. Neiwirth, *Thinking about Me: How Social Awareness Evolved*, 18 *CURRENT DIRECTIONS IN PSYCHOL. SCI.* 143 (2009).

84. See, e.g., Simon Baron-Cohen et al., *Social Intelligence in the Normal and Autistic Brain: An FMRI Study*, 11 *EURO. J. NEUROSCI.* 1891, 1891 (1999).

85. Soon Ang & Linn Van Dyne, *Conceptualization of Cultural Intelligence: Definition, Distinctiveness, and Nomological Network*, in *HANDBOOK OF CULTURAL INTELLIGENCE: THEORY, MEASUREMENT, AND APPLICATIONS* 3 (Soon Ang & Linn Van Dyne eds., 2008).

the awareness and ability to function appropriately in diverse and sometimes confusing social worlds.

Relational Empathy—At the interpersonal level, the emotional dimension of awareness involves empathy, which has been variously defined as “sensitivity to, and understanding of, the mental states of others”;⁸⁶ “the act of constructing for oneself another person’s mental state”;⁸⁷ “an affective response more appropriate to someone else’s situation than to one’s own”;⁸⁸ and “an emotional response that stems from another’s emotional state or condition and that is congruent with the other’s emotional state or situation.”⁸⁹ Empathy has cognitive, affective, and physiological dimensions.⁹⁰ It also has a relational dimension⁹¹ and is an extension of mindfulness. I use the term “relational” empathy here because it “goes beyond individual psychology and focuses on the creation of *shared* meaning during the interpersonal encounter.”⁹² Cultivating a focus on empathy as the creation of shared meaning strengthens a conflict practitioner’s engagement with reflexive practice.

Emotional Intelligence—Emotional intelligence can be defined as “the ability or tendency to perceive, understand, regulate and harness emotions adaptively in the self and in others.”⁹³ It includes “intrapersonal intelligence” or the knowledge of one’s own emotions and thoughts, emotional creativity, and emotional competence.⁹⁴

86. Adam Smith, *Cognitive Empathy and Emotional Empathy in Human Behavior and Emotion*, 56 *PSYCHOL. RECORD* 3 (2006).

87. *Id.* (quoting Robert Hogan, *Development of an Empathy Scale*, 33 *J. CONSULTING & CLINICAL PSYCHOL.* 307, 308 (1969)).

88. *Id.* (quoting Martin L. Hoffman, *The Contribution of Empathy to Justice and Moral Judgment*, in *EMPATHY AND ITS DEVELOPMENT* 47, 48 (Nancy Eisenberg & Janet Strayer eds., 1987)).

89. *Id.* (quoting Nancy Eisenberg & Janet Strayer, *Critical Issues in the Study of Empathy*, in *EMPATHY AND ITS DEVELOPMENT* 3, 5 (1990)).

90. *See id.* As I discuss further below, neuroscience has explored empathy as an “embodied” phenomenon. *See* Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 554.

91. Benjamin J. Broome, *Managing Differences in Conflict Resolution: The Role of Relational Empathy*, in *CONFLICT RESOLUTION THEORY AND PRACTICE: INTEGRATION AND APPLICATION* 97, 98 (D. Sandole & H. van der Merwe eds., 1993).

92. *Id.* at 98.

93. Nicola S. Schutte et al., *Emotional Intelligence and Interpersonal Relations*, 141 *J. SOC. PSYCHOL.* 523, 523 (2001).

94. *Id.* at 524.

While emotional intelligence includes an awareness of others' emotional states, central to the development of emotional intelligence is the ability to know one's own emotional state, as it is being experienced.

C. Physiological Dimension of Awareness

The final dimension of awareness centers on the physical body. Anthropologist Kathryn Geurts has argued that a culture's "sensory order is one of the first and most basic elements of *making ourselves human*."⁹⁵ Sensing is a bodily way of gathering information, and "is profoundly involved with a society's epistemology, the development of cultural identity, and its forms of being-in-the-world."⁹⁶ A sensory order (or "sensorium"⁹⁷) is a pattern of relative importance to the various senses, through which we learn to perceive and to experience the world.⁹⁸ In other words, we embody our experiences.

Only recently have western conflict practitioners paid close attention to this notion of embodiment. This may have to do with a long-held European, Anglo-American (Cartesian⁹⁹) worldview, wherein the mind and body are seen as separate, and the intellect is privileged as the primary instrument for knowing "truth" and "reality."¹⁰⁰ Yet, "embodied" knowledge is part of who we are and, as

95. KATHRYN LINN GEURTS, CULTURE AND THE SENSES: BODILY WAYS OF KNOWING IN AN AFRICAN COMMUNITY 5 (2006).

96. *Id.* at 3.

97. *Id.* at 5.

98. *Id.*

99. DeCartes' famous claim, *cogito ergo sum* (I think, therefore I am), is emblematic of our modern, Western intellectual tradition.

100. GEURTS, *supra* note 95, at 7. Nadja Alexander and Michelle LeBaron also write of this dichotomy:

The artificial and still deeply entrenched separation of mind and body; logos and ethos; and brains and brawn is a legacy of the eighteenth century Age of Enlightenment, also referred to as the Age of Reason. In order to preserve the purity and perceived superiority of intellectual reason, cognitive intelligence was separated from the arts, skills and other intelligences associated with physicality, creativity, imagination and emotionality. As a result, the Western intellectual tradition yielded pedagogy in universities and professional training contexts that privilege rational functioning, often to the exclusion of other senses and intelligences.

Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 543.

a result, part of the experience and an important dimension of knowing conflict.

When we think of the senses, we often think of Aristotle's group of five: seeing, hearing, smelling, tasting, and touching.¹⁰¹ From an anthropological view, this schema of five senses is culturally embedded in Western thinking.¹⁰² Research supports alternative ways of thinking of our senses: "Galen said there were six, Erasmus Darwin thought there were [twelve], and Von Fre reduced them down to eight."¹⁰³ Geurts argues that sensory scientists would identify nine senses:

- (1) visual apparatus . . . ;
- (2) auditory apparatus . . . ;
- (3) olfactory apparatus;
- (4) gustatory apparatus;
- (5) tactile apparatus, responding to mechanical impressions;
- (6) tactile apparatus, responding to thermal impressions;
- (7) tactile apparatus, responding to kinesthetic impressions;
- (8) labyrinthine apparatus, governing balance; and
- (9) affective apparatus (pleasant and painful), responding to impressions of tickling, itching, voluptuousness, desiccation, burning, distention, pinching, pressure, and so forth.¹⁰⁴

Yet a different schema organizes our sensations into three general categories: extero-receptors, which include the five commonly known senses and provide a person with information about external objects; intero-receptors, which capture internal sensations (including pressure on internal surfaces, such as the esophagus, stomach, and intestines); and proprio-receptors, which provide information about three conditions: the state of one's deep tissue, one's own movements and activity, and the effects of one's own displacement in space.¹⁰⁵ Whether one settles on three, five, six, twelve, or another number of senses, there are multiple ways of knowing our physical selves in relation to our environment.

101. GEURTS, *supra* note 95, at 7.

102. *Id.* at 9.

103. *Id.* at 7.

104. *Id.* at 8–9.

105. *Id.* at 9.

Our senses “are ways of embodying cultural categories, or making into body certain cultural values or aspects of *being* that the particular cultural community has historically deemed precious and dear.”¹⁰⁶ In other words, the way we physically experience and interact with our environment is culturally connected and socially constructed. Yet, our modern Western way of interacting with our environment is to “suppress this inner environment and see only the outer environment before our eyes.”¹⁰⁷

Alexander and LeBaron describe Howard Gardner’s work about the concept of “multiple intelligences, which includes, among others, musical, bodily-kinesthetic, and spatial-visual.”¹⁰⁸ They go on to describe how neuroscience research similarly supports the notion that we hold multiple embodied intelligences, among them that “what we come to experience as ‘emotions’ are in fact interpretations of physical sensations.”¹⁰⁹

If our senses are more than physiological organs, but are also part of culturally constructed ways of being in the world, then we can, and I argue, must, learn to become more aware of the physical dimension of our being. And if conflict is a whole-person experience for those in it, then, as conflict practitioners, body-awareness is an important additional dimension of our professional repertoire. As Alexander and LeBaron state, much of the “awareness” described above is pre-cognitive.¹¹⁰ “[I]ncreasing body-awareness can work to enhance perception of the subtle cues and signals—both internal and external—in which such intuition is grounded.”¹¹¹ As a result, “it becomes crucial to directly engage the body to bring perceptions, judgments, and emotions to a conscious level of choice.”¹¹²

What, then, does it mean to engage in conflict work in an embodied way? This is a recently developing area of study and

106. *Id.* at 10.

107. *Id.* at 9–10 (internal citation omitted).

108. Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 552.

109. *Id.* Examples of such physical sensations of feelings include “goose bumps, blushing, sweaty palms, shortness of breath, butterflies in the stomach and other manifestations of energy in the body.” *Id.*

110. *Id.* at 553.

111. *Id.* (internal citation omitted).

112. *Id.*

practice, and much more is to be learned.¹¹³ However, for our purposes here, I offer the following dimensions.

Exteroception—At a macro level, body-awareness involves exteroception—our ability to sense stimuli that originate outside the body.¹¹⁴ Exteroception relates to the senses we most commonly associate with body knowing: sight, sound, touch, taste, and smell. We rely on our senses to interact with the external world. We can also attune ourselves to bodily sensations that originate externally. Just ask a food lover to describe the difference in experience between a Michelin three-star prix-fixe dinner and a freeze-dried backpacker’s meal.

One application of the concept of body awareness of external stimuli in the conflict field is “constellation” work.¹¹⁵ Constellation work involves participants creating human spatial maps of conflict by physically placing surrogates to stand in various proximities to the person seeking to understand her conflict.¹¹⁶ The process of placing people in different physical orientations to the client and to one another creates a “constellation” of spatial relations, unlocking physical reactions and insights into the actual conflict itself.¹¹⁷

Proprioception—A closer dimension of physiological awareness is proprioception—the body’s sense of its own location in the environment.¹¹⁸ In addition to our external senses, we have internal awareness—of our physical position, balance, and orientation in space. Because of proprioceptors throughout our bodies, we can develop physical coordination and the ability to navigate space with

113. The conflict field has taken an important step forward with the recent publication of *THE CHOREOGRAPHY OF RESOLUTION: CONFLICT, MOVEMENT, AND NEUROSCIENCE* (Michelle LeBaron, Carrie MacLeod & Andrew Floyer Acland eds., 2013) [hereinafter *CHOREOGRAPHY OF RESOLUTION*].

114. Emily Beausoleil, *Dance and Neuroscience: Implications for Conflict Transformation*, in *CHOREOGRAPHY OF RESOLUTION*, *supra* note 113, at 4.

115. Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 546. See generally INSA SPARRER, *MIRACLE, SOLUTION AND SYSTEM: SOLUTION-FOCUSED SYSTEMIC STRUCTURAL CONSTELLATIONS FOR THERAPY AND ORGANIZATIONAL CHANGE* (Samuel Onn trans., 2007).

116. See Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 546.

117. See *id.* In a related way, some biologists have suggested that humans have an innate—biological—impulse to sense and be connected with other forms of life in nature, referred to as “biophilia.” See EDWARD O. WILSON, *BIOPHILIA* 1, 85 (1984).

118. Beausoleil, *supra* note 114, at 4.

minimal external stimuli. Examples include standing on a balance beam without falling, knowing how to move in absolute darkness, and knowing the most relaxing yoga positions.

Closely related to proprioception is kinesthesia, which relates to our self-awareness of body movement.¹¹⁹ As Alexander and LeBaron explain, “[L]earning about the subtle cues, demands and tendencies of one’s own body has been linked to understanding empathy, or how *other* moving bodies might feel.”¹²⁰ Alexander and LeBaron describe how dance can be used to learn how to more accurately perceive not only our own personal states but others’ personal and cultural positions, as well.¹²¹

Interoception—Finally, the physiological dimension of awareness includes an awareness of our own body’s internal workings. Common parlance illustrates this concept: we have “gut feelings”; some people give us heartburn; we feel “flush” with joy; we carry the weight of the world on our shoulders. Each of these expressions is more than figurative. Each exemplifies the physical sensations we experience and how we interpret these sensations in relation to our external world. Our bodies are telling us something. Part of reflexive practice is learning to listen.

Neurobiologist Antonio Damasio has argued that

central to human consciousness, and to the problem of how we know what we know, is the experience of bodily feeling. . . . Consciousness involves two things: the brain engendering mental patterns that we call images of objects, and the brain engendering a “sense of self in the act of knowing.”¹²²

Playing on DesCartes’ “*cogito ergo sum*” (I think therefore I am), Damasio suggests an alternative: “I feel, therefore I know.” Put differently, knowledge is embodied beyond the limitations of traditional mind-body dualism.¹²³ As described above, our sensory

119. Alexander & LeBaron, *Embodied Conflict Resolution*, *supra* note 62, at 554.

120. *Id.* (internal citations omitted).

121. *Id.*

122. Kathryn Linn Geurts, *Consciousness as ‘Feeling in the Body’: A West African Theory of Embodiment, Emotion and the Making of Mind*, in *EMPIRE OF THE SENSES: THE SENSUAL CULTURES READER* 164 (David Howes ed., 2005) (internal citation omitted).

123. Beausoleil, *supra* note 114, at 3.

perceptions include: exteroception—the body’s sense of the external world; proprioception—the body’s sense of its own location in space; and interoception—the body’s sense of its own internal stimuli, such as pain, temperature, and itch.¹²⁴ Becoming more attuned to our own body gives the conflict practitioner another dimension of awareness—knowing—about the experience of conflict.¹²⁵

Taken as a whole, the nine dimensions describe a dynamic and holistic prism of conflict awareness.

IV. IMPLICATIONS

It is fair to ask, “So what do you DO with this prism?” Each of the nine dimensions described in this Essay suggests a corresponding set of practices to help conflict practitioners develop their knowledge and awareness. Some practices already exist.¹²⁶ Others need development. Further research and experimentation is needed to translate these ideas into fully developed reflexive practices. But even where practices on all nine dimensions do not yet exist, we can still recognize the various facets of reflexive practice and develop our awareness on as many dimensions as possible.¹²⁷ And, like other life skills, developing these dimensions of awareness can be helpful well beyond global dispute resolution practice.

124. *Id.* at 4.

125. Michelle LeBaron has commented about the preposterous idea of middle-aged diplomats and “expensively accoutered lawyers” exchanging their dark suits for dancing shoes. CHOREOGRAPHY OF RESOLUTION, *supra* note 113, at 1–2. Referring to a Swiss workshop, in *Dancing at the Crossroads*, LeBaron states that we can look forward, “if not to dancing lawyers and diplomats—at least to lawyers and diplomats who have an understanding of why movement matters in their repertoire of skills.” *Id.* at 2.

126. *See, e.g.*, Riskin, *The Contemplative Lawyer*, *supra* note 64, at 23. *See also, e.g.*, SCHÖN, EDUCATING, *supra* note 10, at 18 (describing a “reflective practicum” to build professional artistry).

127. In addition to supporting professional practice, this prism is a useful articulation for classroom use. Recognizing and developing these dimensions of awareness in ADR courses (whether negotiation, mediation, conflict coaching, or other courses) will ground students in the humanness of conflict work.

CONCLUSION

Conflict practitioners increasingly engage in cooperative dispute resolution processes that cross legal, economic, cultural, and social worlds. This work calls upon them to use skills and knowledge that go well beyond the law—to draw upon knowledge, insights, and skills related to communication, culture, history, language, philosophy, psychology, and sociology, among many other fields. They must also draw upon their own lived experience. One new direction for cooperative global dispute resolution processes is to develop increasingly sophisticated reflexive practices—practices that embody the full complexity of human experience and interaction in constructive conflict work.