Berghof Conflict Research

Human Rights and Conflict Transformation

The Challenges of Just Peace

Véronique Dudouet and Beatrix Schmelzle (eds.)

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Berghof Handbook Dialogue Series

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Introduction: Towards Peace with Justice

Beatrix Schmelzle and Véronique Dudouet

The relationship between human rights protection and conflict transformation seems straightforward, but it is not an easy one. Over and over again, the question has been asked whether the two share a common agenda or actually pursue competing goals.

Most frequently, this debate has been cushioned in the polarising language of "peace versus justice". Persistent stereotypes see "pragmatism [pitted] against principle and politics against norms", and posit that human rights concerns may be "complicating the conflict resolution process by introducing or exacerbating 'the moral dimension of conflict'".[1] From this perspective, consolidated camps with firm strategies emerge: on the one hand the naming-and-shaming rights activists with their maximalist demands, on the other, the pragmatic, deal-making conflict managers.

At the same time, the two fields carry their very own dilemmas with them. The human rights discourse has seen, over the decades, contentious debates about its essence and outreach: claims of universal applicability have been held against the criticism that human rights are of western origin and do not fit well with cultural differences; the emphasis on necessary trade-offs between (core) rights and (non-essential) aspirations has been held against an all-encompassing vision of indivisible and interdependent rights; debate has ensued about duty bearers beyond the state (e.g. international corporations). These human rights debates have also been tied up in political rifts: the struggle between the Cold War blocks became, among others, manifest in a struggle about the core understanding of human rights. In this debate, civil and political rights were being upheld by the West and social, economic and cultural rights were being pushed by the Eastern block; a divide in emphasis that to this day shapes debates between 'the' North and 'the' South.

The schools of conflict resolution and transformation, on the other hand, have struggled as well to find their internal balance between pragmatism and principle. Although they have only

1 Parlevliet 2010, in this volume, 36.

emerged much more recently in the academic and policy arenas, their short history has been marked by numerous controversies and debates, leading to the formation of contending schools of thought. Such debates have revolved primarily around the origins and causes of conflict (e.g. agency-based or structural approaches); the dynamics of conflict escalation and de-escalation (e.g. linear, circular or systemic); the mechanisms and outcomes of conflict management (negative or positive peace, top-down and bottom-up approaches); and, finally, the ethics and strategy of third-party intervention (soft-handed or power-based mediation, prescriptive or 'elicitive' approaches, etc).

With all their history, both fields are now firmly on the international agenda. Human rights have become an "institutionalised part of international politics"[2], strengthened by the recent International Tribunals for the Former Yugoslavia and for Rwanda, the establishment of the International Criminal Court and the global transitional justice movement. At the same time, conflict resolution and transformation initiatives and rhetoric – including a strong emphasis on dealing with the past and reconciliation – are prevalent in local, national and international responses to armed conflict. The vast majority of contemporary armed conflicts have been resolved through negotiated settlements, often with active support from international diplomats, professional facilitators or insider mediators. With the realization that nearly one third of settled conflicts relapse into violent warfare within five years,[3] post-war peace consolidation programmes aimed at demilitarising, democratising, developing and reconciling these countries have become essential components of international intervention and are now firmly placed on the UN, EU and World Bank agendas.

Given the growing emphasis on comprehensive transitional justice and reconciliation processes, the overlap between the fields is becoming larger, and the implementation and process management of "peace with justice" are now emerging as the main challenges. Despite all the tension portrayed above, many analysts and commentators also detect a strong common calling among what Peter Uvin calls the "communit[ies] of principled social change"[4], made up of development workers, human rights activists and conflict transformation / peacebuilding practitioners. This common calling is a dedication to building structures and communities that do justice to the needs and potential of every human being that is part of them.

In this Dialogue, we are hence aiming to go beyond the divide to explore how the two approaches could become mutually enforcing and enriching rather than work in isolation or competition. We do not have the ambition of resolving all dilemmas and trade-offs – these will persist in the political realities in which both human rights and conflict transformation work are carried out. Rather, we enter the Dialogue with the vision of gaining a clearer understanding of the potential – and limits – of bringing together human rights and conflict transformation in specific contexts.

Michelle Parlevliet contributes the lead article to the Dialogue, on which in the following six comments are based. Parlevliet has been working on the nexus of human rights and peace work for nearly 15 years in various capacities and contexts. Most recently, she completed a posting as senior conflict transformation advisor for Danida's Human Rights and Good Governance Programme in Nepal. She has previously worked with the Centre of Conflict Resolution in South Africa, the South African Truth and Reconciliation Commission and the International Criminal Tribunal for the Former Yugoslavia.

2 Emily Pia/Thomas Diez 2007, *Conflict and Human Rights: A Theoretical Framework*, SHUR Working Paper Series 1/07, 13.

3 Human Security Center 2008, *Human Security Brief 2007*. Vancouver, Simon Fraser University, 37.

4 Peter Uvin 2004, *Human Rights and Development*. Bloomfield, CT: Kumarian Press, 4.

Parlevliet's basic proposition is that understanding and applying human rights and conflict transformation in conjunction improves both the analysis and practice involved in moving from violence to sustainable peace. On this assumption, she bases a tentative conceptual framework for the relationship between human rights and conflict (transformation). The framework underlines, first, that "human rights violations can be both causes and consequences of violent conflict" (in this volume, 18). Like with an iceberg (or a termite mound), what are visible on the surface are human rights violations as symptoms of violent conflict – this may be excessive use of force by police, censorship, politically motivated rape, etc. Yet the bulk of the iceberg/mound remains hidden, as is often the case with the "denial of human rights [that] is embedded in the structures of society and governance" (ibid.). This may provide fertile ground for the eruption of violence if conditions of inequality, inequity, injustice and insecurity are left to fester. Whether sustained denial of human rights becomes a cause of violent conflict depends, in Parlevliet's analysis, mostly on political structures: "the way the state is organised and functions determines in large part whether needs are satisfied or frustrated over the long term" (19). In instances of discontent, "the choices made by the state, communal groups and political opponents about how to engage with one another, help determine whether or not societal tensions [...] will evolve into violence" (20).

The second strand of the framework consists of a multi-dimensional understanding of human rights, based on the insight that "a narrow, legalistic understanding [...] is insufficient in the context of conflict transformation" (22). Parlevliet spells out four different dimensions: rules; structures and institutions; relationships; and process. *Rights as rules* highlight "the need to legally recognize human rights and institutionalise respect for them through the adoption, implementation and enforcement of relevant legislation", both nationally and internationally (ibid.). *Rights as structures and institutions* relate to "the structural division of power and resources in society and the mechanisms that exist to handle conflicts that may arise in this regard" (ibid.). *Rights as relationships* refer to "the relevance of rights for organising and governing the interaction between state and citizens, and amongst individuals and groups in society" (ibid.). Finally, *rights as process* underscore the importance of aiming for legitimacy and sustainability by taking care of "*how* issues of access, protection and identity are addressed", paying attention to dignity, participation, inclusion, protection and accountability (23; emphasis original).

From this understanding of the interface between human rights and conflict (transformation), Parlevliet develops five main implications for conflict transformation practice. The *first* challenge is to make connections between addressing symptoms and causes in any given intervention. Human rights and, we may add, conflict transformation practitioners often focus their attention on the immediate symptoms at hand. Yet it is vital "to deal with symptoms *while* keeping in mind the larger, more structural conditions" (25; emphasis added). The *second* challenge is to find better ways to work, simultaneously, on understanding (and changing) "the nature, organisation and functioning of the state" and on empowering weaker parties and marginalised people to "become aware and capable of challenging the status quo in such a way that the dominant party cannot afford to ignore" (27). This would include working with the "demand side" of civil society without neglecting the "supply side" of government institutions, since neglecting the latter could lead to increased frustration and further violence. Resistance, which is most likely to arise in such contexts, should be anticipated and used as transformative energy. Also, instead of focusing exclusively on what Parlevliet calls the "hardware" of public institutions, e.g. capacity-building in technical skills such as financial management, reporting, etc., it is crucial also to work on the institutional "software", for example communication patterns, institutional culture and values, perceptions, etc. The *third* challenge, then, is to find ways to "work to enhance state capacity [...] without lending support [...] to undemocratic

forces, attitudes and beliefs" (28). Parlevliet acknowledges that this will be difficult in single cases, yet proposes to focus on processes (giving people experiences of doing things differently) and on intensifying and improving relationships between state and non-state actors by facilitating discussion and interaction. The *fourth* challenge is to carefully balance conflict intensification and conflict sensitivity. In certain contexts, actors should not hold back "from undertaking or supporting initiatives that may cause tension or feed into existing divisions" (30). They must do so, though, on the basis of careful analysis, "so that interveners can anticipate tension, resistance or outright conflict that may be triggered and develop strategies for handling these" (ibid.). In this context, she points to the importance of nonviolent strategic action, non-adversarial advocacy and employing different tactics at different points in time. The *fifth* challenge, finally, lies in achieving role clarity and role integrity for actors. This is of particular importance where the circumstances make it necessary to combine facilitator and advocacy roles in one person or organisation. In asymmetric conflicts in particular, combining these roles may lead to resistance or rejection. Here, a division of roles and labour may become inevitable.

In sum, Parlevliet proposes that applying a perspective of human rights brings conflict transformation closer to its aims by forcing greater emphasis on changing structural conditions, especially tackling the role of the state, systems of governance and issues of power. Reflecting on the persistent (albeit dwindling) stereotypes and confrontation between the two fields, she hypothesises that "the human rights and the conflict fields, much as they complement one another, also tap into one another's 'weak spot' [...]; each field touches at the core of what actors in the other field struggle with and/or feel sensitive about" (33/34).

The lead article includes an extensive review of literature on human rights and conflict resolution, which illustrates that over the past decades, the debate has indeed moved from "postulating a direct, inherent tension between the two to recognizing a more complementary relationship" (40). Still, it continues to straddle "three different but inter-related elements: [...] a) the relationship between human rights and conflict; b) the interaction between actors from different backgrounds operating in conflict contexts; and c) the interface between the 'fields' […] of conflict resolution and human rights in terms of concepts, analysis and perspectives" (41).

All of these overlapping debates about how 'peace *with* justice' can be achieved are further developed and illustrated in the contributions by the six authors we have invited to respond to the lead article of this Dialogue.

The first comment comes from *Thomas Diez*, professor of political science and international relations at the University of Tübingen, Germany, and *Emily Pia*, lecturer in peace and conflict studies at the University of St. Andrews, UK. Both have been closely involved with the EU-funded project "Human Rights in Conflicts – The Role of Civil Society", which ran from 2006 to 2009 and whose findings inform their observations in this Dialogue.

While agreeing with Parlevliet that human rights claims (what Diez and Pia call "human rights invocations") need to be embedded in a broader context and can be part of conflict transformation processes, they argue that Parlevliet's holistic view on human rights (as rules, structures and institutions, relationships and process) risks reducing "the analytical purchase of the concept" as well as "losing sight of the need to investigate the effects of human rights articulations as legal norms in conflict" (in this volume, 48). Diez and Pia insist that the potentially conflict-intensifying effect of human rights claims needs to be examined more closely.

Human rights, in this reading, are "by definition related to a threat to the very existence

of an individual or group. As long as this existence is not seen as being threatened, there is no need to invoke human rights" (ibid.). Borrowing from the literature on security studies, such references to an existential threat are called "securitising": the public discourse is being prepared for potential emergency measures outside the bounds of normal political procedure. In an extreme consequence, this may lead to a "legitimisation of further action and even violence" (49).

Diez and Pia go on to argue that the invocation of human rights as ahistorical, "non-political, non-negotiable moral absolutes" in contemporary international discourse is problematic exactly because it ignores the emergence and development of the concept in a specific history and tradition (50), i.e. that of western liberal values. The authors thus recommend that conflict resolution and human rights practitioners conceptualize human rights as an intrinsic political and legal "instrument for articulating the needs of the marginalised and the excluded" (ibid.).

Diez and Pia conclude that rather than treating human rights as "a panacea to overcome conflict" (51), analysts and advocates should focus on *how* human rights are being invoked. They propose two dimensions for measuring this: first, whether the reference point is the individual or the group/collective, with the latter being potentially more exclusive; and second, whether the rights claim is inclusive, i.e. relating to all parties in conflict, or exclusive, i.e. relating to only one party and thus potentially reinforcing antagonisms. Taking into account contextual factors and the timing of human rights articulations, Diez and Pia underline that "there is no simple correlation between human rights and conflicts" but rather "different ways of making human rights claims, with different consequences for the future of conflict societies" (52/53).

The second comment comes from *Alice Nderitu*, who was, at the time of writing, the Kenya-based director for Education for Social Justice at Fahamu, a non-governmental organisation dedicated to the strengthening of human rights and social justice movements. Coming from a strong human rights background, she offers a very different critical reading of the understanding of human rights in Parlevliet's article, as well as a reflection on the factors that perpetuate the mutual stalemate in which Nderitu sees human rights and conflict transformation practitioners caught.

By contrast to Diez and Pia's objection to Parlevliet's overly broad definition of human rights, Nderidu's first critique concerns in fact an implicitly under-complex understanding of human rights: she detects that while Parlevliet "argues that human rights should be considered in a multi-dimensional way that does not reduce them to their legal foundations", her definition of human rights places them "squarely in the legal frameworks that define these 'internationally agreed values, standards or rules'" (in this volume, 56). Many academics and practitioners, in Nderitu's experience, do in fact prefer to base their understanding of human rights on international humanitarian law in its practically enforceable form, rather than on a comprehensive perspective which is seen as being abstract rather than practical. Yet Nderitu argues for an all-encompassing understanding: "human rights are a set of internationally agreed legal *and* moral standards. They establish the basic civil, political, economic, social and cultural entitlements of every human being anywhere in the world at all times" (57). Both moral and legal strands (should) also run through conflict transformation processes and provide parameters within which to achieve social change.

The second critique concerns the categorization and classification of human rights. Rather than establishing positive and negative, first category and second category rights, Nderitu argues that "states and the international community must take steps to create the conditions and legal frameworks necessary for exercising [civil, political, social, economic and cultural rights], which emphasises the principles of universality, indivisibility and interdependence of all human rights" (ibid.). She acknowledges that changing practice towards such a "wholesale" approach has been

difficult, but recounts an example of her work with law enforcement officers and farmers in the Mt. Elgon community as a case in point, demonstrating that "it can be and it has been done" (58).

Nderitu, who is an experienced trainer on human rights, peace and conflict for UN agencies, civil society organisations, law enforcement and military officers, turns next to the practice of UN integrated (civil-military) missions. While they mark a distinct "shift in conceptualizing human rights as part of the conflict resolution agenda" (60), in practice "the role of […] human rights practitioners is still to a large extent seen as support for the military component" of such missions (ibid.). She states that "much value would be added [...] if the human rights and conflict transformation practitioners (both civilian and military) were put in a position to transfer skills" to each other (61). This should entail better role definition and priority setting in mixed teams, one of several recommendations she formulates to address the mutual stalemate between human rights and conflict transformation. The others are: to adjust tactics and methods depending on whether one is working in conflict settings or in post-conflict or peaceful settings; to strive for both awareness of and respect for traditional local practices and to ensure a sense of shared local ownership; and to fully analyse the root causes of conflict by binding them back to human needs.

Eileen Babbitt, professor of international conflict management practice, director of the International Negotiation and Conflict Resolution Program and co-director of the Program on Human Rights and Conflict Resolution at the Fletcher School of Law and Diplomacy at Tufts University in the USA, next turns to the other side of the coin to ask: "... what about the reverse? How could human rights work benefit from a more systematic inclusion of conflict transformation principles?" (in this volume, 67). She asserts that learning should happen in both directions and explores this question focusing on the example of negotiating constitutions after violent intra-state conflict.

Conceptually, Babbitt notes that it is important to keep in mind that the human rights field and the conflict resolution/transformation fields subscribe to different theories of social change: "in human rights, social change is thought to proceed by defining the end state and then finding effective means to reach that end" (68). Conflict transformation work, on the other hand, holds the premise that "the end result of any change process will be fair and sustainable if the means include transformation of behaviour and attitudes as well as structures" (ibid.). Hence, the latter is seen as putting more attention on "facilitating change from within a society" (ibid.).

Politically, Babbitt argues that constitution-making is of particular importance since it enshrines the ongoing human rights commitment of emerging governments after violent conflict. At the same time, "it is not only the documented agreements that promote peaceful and just societies (i.e. the rules and structures), but also the process by which such agreements are negotiated (i.e. relationships and process)" (69). This insight is reflected in what is called "new (or participatory) constitutionalism", which includes widespread civic involvement in the process of constitution-writing. Six principles are at its core: publicity, consensus, legal continuity, plurality of forms of democratic participation, a 'veil of ignorance' that precludes one group from dominating the process and finally reflexivity, i.e. learning from past and present experience. Two examples – the successful case of South Africa and the problematic case of Iraq – serve to stress that it is "not enough to simply list these principles as being necessary – it is critical that people involved in the [...] process actually know how to create the conditions for these steps to take place" (70). Especially where there is no functioning state or no history of civilian participation in governance, relationship-building and creating strong participatory processes are exceptionally important. It is in shaping such processes that conflict resolution/transformation practitioners have most to offer, although their contribution is not always as warmly welcomed as Babbitt (as well as Parlevliet) would recommend.

The last three contributions offer some comments and illustrations on the overall theme of this Dialogue by experienced local practitioners in three particularly relevant ongoing conflicts. *Albert Gomes-Mugumya*, project officer at the Centre for Conflict Resolution (CECORE) in Uganda, examines the interface between peace and justice in the controversial context of northern Uganda, where the debate between conflict resolvers and human rights activists "has been intensely emotive at times, as the two have viewed each other with suspicion and sometimes even animosity" (in this volume, 75).

He starts off by indicating some areas of recurring tension between the interest-based approach of conflict resolution practitioners and the rights-based solutions advocated by human rights workers. He considers that these two approaches are especially at odds when it comes to defining justice and also when issues of responsibility for past violations are raised. He asks, with regards to the atrocities committed by the Lord's Resistance Army (LRA) in northern Uganda, whether "communities [should] forget their years of torment to achieve healing – as many conflict resolvers would want – or […] seek accountability, punish the guilty, establish the truth and circumvent impunity in order to achieve sustainable peace – as largely human rights activists have argued" (77). In contrast to these two opposing views, which respectively support either amnesty laws and reintegration in the name of peace, or the indictments issued against LRA leaders by the International Criminal Court, Gomes-Mugumya promotes a third way, namely, using traditional justice mechanisms based on local history and customs, like the *Mato oput* ceremonies, which help to promote community reconciliation, restore fractured relations and reassert lost dignity.

He then goes on to highlight some integrative aspects through which conflict transformation and human rights methods mutually complement each other, and stresses the usefulness of Parlevliet's multi-dimensional framework that helps to integrate human rights into peacebuilding interventions. In particular, he develops a more detailed analysis of the rules and institutions dimensions of human rights, which he sees as necessary to regulate the exercise of political rights and guarantee social peace. For instance, he argues that the right to peaceful assembly, enshrined in the Ugandan Constitution, is necessary for democracy, but also that the exercise of this right might at times become a source of conflict by resulting in a perceived or real threat to public order and subsequent violent police action. Hence the need arises for rules and working institutions. Faced with this predicament of "balancing rights and responsibilities", his organisation CECORE intervenes to help moderate relations between those who wish to protest and those who have responsibility for the control of public order, and to establish "structures and institutions that would be respected by all parties concerned" (81). Gomes-Mugumya ends his comment by citing some recent institutional efforts in Uganda to put in place integrated structures and strategies which will help to "apply a needs-based approach to conflict resolution and work to address structural causes of conflict while promoting restorative justice" (82).

In the next comment *Marwan Darweish*, senior lecturer at Coventry University's Centre for Peace and Reconciliation Studies, UK, probes the relevance of Parlevliet's propositions for the starkly asymmetric conflict between Israel and Palestine. He bases his observations on his own prior work as director of the Middle East programme at the UK-based NGO Responding to Conflict.

This line of inquiry is particularly pertinent since in the Palestinian-Israeli conflict, as in Sri Lanka, human rights and conflict resolution agendas have become associated strongly with one particular side of the conflict. Here, those (among the weaker party) who claim that injustice is intrinsic in the very foundations of a state and society with whom dialogue seems futile often see conflict resolution work as a mere attempt at pacification by the more powerful party (see Parlevliet in this volume, 37; Darweish in this volume, 92).

Darweish first introduces the so-called ABC triangle (in the tradition of Johan Galtung) which he sees as being more appropriate than the somewhat static iceberg image "to illustrate the important circular influences and dynamics between the three main dimensions of rights-based conflicts" (in this volume, 86): *attitudes* ("feelings and values that serve as a source of discrimination and justification of oppression"); *behaviour* ("manifestations [or symptoms] of human rights violations") and *context* ("structures and systems in the state and society that institutionalise inequality and control"). All three aspects are interrelated and tend to reinforce one another, which Darweish illustrates by portraying the situation and perceptions of Palestinians in the West Bank and Gaza Strip as well as inside Israel. The picture that emerges is one of state structures that are deeply biased.

Darweish thinks that Parlevliet's lead article "over-emphasises the role of the state and underplays the role of civil society, nationally and internationally" (91). In his opinion, the main challenge is "to communicate with and influence Israeli public opinion, to present a different discourse to the state's dominant discourse and to raise their awareness of the violation of human rights experienced by their fellow Palestinian citizens and the Palestinians in the West Bank and Gaza Strip" (ibid.). He argues for "a social change movement that can mobilise for a shared peaceful vision of society in Israel and Palestine" (ibid.).

In this process, Darweish criticises that so far "most of the financial and human resources have been utilised to address symptoms or consequences of the structural and direct violence of the conflict", although there is a "necessity to address concerns of the Israeli society, in order to transform their attitudes and perception towards the Palestinians" (ibid.) – a stance that is by no means common or uncontroversial among Palestinian civil society organisations. Therefore, Darweish delineates several immediate tasks for the future: to provide "further capacity-building in conflict transformation, while providing space for civil society organisations to meet, analyse, reflect on their work and develop joint strategies for intervention" (92); to increase coordination and networking amongst organisations and to encourage external actors to play a role in this process; and specifically to jointly analyse, lobby and mobilise support for social change and more balanced power relations, even if this means a temporary (nonviolent) intensification of the conflict.

The final comment in this Dialogue comes from *Mauricio García-Durán*, director of the Center for Research and Popular Education (CINEP) in Bogotá, Colombia; a Jesuit priest and researcher on peace processes and social mobilisation for peace. Writing from the particular perspective of the Colombian conflict, García-Durán stresses that unique challenges arise from protracted and *ongoing* armed conflict when tackling human rights and conflict transformation issues.

García-Durán offers two important amendments to Parlevliet's analysis. First, he insists that the interrelation (and potential complementarity) of human rights and conflict transformation work can only be judged (and improved) with a clear understanding of the conflict phase in which the two approaches are set. Differences arise when one is talking about initiatives taking place during latent conflict, rather than during violent conflict escalation, conflict de-escalation, peace agreements ending violent conflict or post-agreement: "each phase [...] demands specific practices both from human rights defenders and conflict transformation practitioners. In some cases those practices tend to converge; in others they diverge..." (in this volume, 99). Current practice could be improved if practitioners adopted a less exclusive and sequential view of conflict, as "the different phases of the conflict cycle *coexist*. At the same moment in time, it is possible to find regions with a latent conflict, others with an escalated conflict, some others with negotiation initiatives, and, finally, still others with post-conflict dynamics" (ibid., emphasis original).

Second, he stresses that both discourses are themselves bound up in power dynamics and

that "the interaction between the fields of conflict transformation and human rights requires an analysis of their political use" (ibid.). In the case of Colombia, this political content analysis reveals that there are at least three different human rights 'communities' which have distinctly different connections to the conflict transformation endeavour. First, there are activists that use human rights frameworks to explain and condemn violence by the state against left-wing groups and organisations. In this context, the state is seen as an incorrigible enemy, leaving no room to engage in conflict resolution initiatives which try to reform the state or to cooperate in efforts that are perceived as potentially undermining justice and accountability. A second group of human rights activists play a critical rather than antagonistic role vis-à-vis the state, monitoring and denouncing human rights violations in a professional manner in accordance with international standards. While this group is finding it easier to interact and cooperate with peacebuilding and conflict transformation initiatives, there is notable tension *within* the human rights 'camp' between the first and second group. A third group, according to García-Durán, are state and government agencies which uphold their own, often diffuse and bureaucratised notion of human rights. This 'human rights camp' is only open to supporting conflict transformation if the latter serves its (shifting) official policies. In sum, the way in which human rights and conflict transformation frameworks interact cannot be understood schematically, but "is dependent on the political perspective in which they are used" (100). In Colombia, the associated dilemmas and tensions are particularly obvious in various attempts to develop peace processes with illegal armed groups. García-Durán advocates that in order to navigate this challenge, it is "necessary for both fields to have at their core the perspective of the victims" as well as to adopt a "historical approach" (102) that is firmly rooted in the political context of each initiative.

How do these various insights contribute to a more acute understanding of the tensions, contradictions and/or overlaps and complementarity between conflict transformation and human rights? Given the various professional backgrounds and conceptual underpinnings of the authors, they offer different but mutually enriching perspectives on this debate, illustrating the contentions between, but also within, the two communities. Some of them have chosen to highlight areas where the two sets of practices, in their most extreme forms, might be at odds with each other, such as the dangers that human rights demands might potentially lead to conflict escalation (Diez/Pia), or the limits of conflict resolution's emphasis on pragmatism and stability at the expense of justice and accountability (Gomes-Mugumya). Others have preferred instead to place more emphasis on the areas of mutual linkages between human rights violations and conflict (Parlevliet, Darweish) and, consequently, between the search for justice and conflict transformation, which help to "fill each other's gaps" (Parlevliet, Nderitu, Babbitt, García-Durán).

With regards to the primary purpose of the lead article, namely, to rethink conflict transformation from a human rights perspective, the various contributors to this volume do indeed confirm that a more thorough emphasis on human rights – as causes and manifestation of conflicts, but also as normative and practical intervention tools – does contribute to deepening "one's analysis of what is involved in moving from violence to sustainable peace" (Parlevliet in this volume, 16). By highlighting more concretely the relationship between conflict symptoms and their structural conditions, and providing a legal framework through which claims to social justice can be made, human rights frameworks such as Parlevliet's iceberg metaphor do indeed help to bring conflict transformation closer to its aim of tackling conflicts at their deepest roots.

When it comes to implementing such a holistic approach in practice, the authors insist on the need for closer cooperation on the ground between peace facilitators (or promoters) and rights advocates. Without necessarily arguing for a combination of roles by the same actors, they

explore areas of intersection between the two sets of practices and encourage mutual learning and joint work. They also raise a number of cautionary remarks against universalistic or schematic models and formulas, by stressing the importance of locally-designed, timely and context-specific initiatives, and of a hard-nosed analysis of the political context and use of human rights and conflict transformation discourses.

Open questions for practitioners and scholars raised by the contributors and emphasised in Parlevliet's concluding reflection (in this volume, 105-114) include the need to clarify the terminology and concepts in use in order to have a meaningful debate, and more substantially, to investigate further where and when conflict transformation and human rights practices converge and/or diverge, according to the conflict timing, issues at stake, level of intervention and underlying theories of change. The lead author also rightly points to some remaining challenges which both fields will have to grapple with in the years to come. The "global/local" dilemma calls for a legitimate appreciation of traditional mechanisms for dispute resolution and addressing human rights abuses without 'romanticising' them, and in turn for upholding universal values without imposing hegemonic norms. For its part, the "accountability dilemma" which lies at the heart of the peace/justice debate highlights the danger of taking absolutist approaches to peacebuilding (i.e. blanket amnesties versus extensive criminal prosecutions), and reminds us of the value of approaching both human rights and conflict transformation so that they serve the needs of the people on the ground in post-conflict societies.

At the end of this Dialogue, Michelle Parlevliet acknowledges that complementarity and controversy between human rights and conflict transformation do persist as "concurrent realities". While the conversation has not produced any easy answers, quick-fix solutions or clear-cut profiles, it is our hope that it has increased the understanding of where the commonalities and differences lie and need to be explored. Our task is to keep asking – both within the camps we assign ourselves to and across their boundaries – what each can contribute at which point and with which repertoire to creating conditions that allow more just and peaceful communities to be built amidst and after (violent) conflict. As always, the conversations have been rich – and they will continue. Our thanks go to all the contributors to this Dialogue. We hope to hear from many of our readers with their reflections on the interface between human rights and conflict transformation in the months to come.

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Berghof Conflict Research

Rethinking Conflict Transformation from a Human Rights Perspective

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1. Introduction*

The question at hand seems relatively simple and straightforward: whether and to what extent the protection and promotion of human rights is necessary for efforts to address conflict and build peace. The issue has been much debated over time. The 1948 Universal Declaration of Human Rights forcefully associated the protection of human rights with the prevention of violent conflict, stating that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law" (UN 1948, preamble). Yet in 1996, an anonymous author in *Human Rights Quarterly* accused the international human rights movement of prolonging the war in Bosnia-Herzegovina. There, human rights activists had rejected pragmatic deals that could have ended the violence and, from hindsight, were no worse than the eventual agreement in rewarding ethnic cleansing and aggression. In that author's view, it made "today's living the dead of tomorrow" by pursuing a perfectly just and moral peace that would bring "justice for yesterday's victims of atrocities" (Anonymous 1996, 259).

Since then, the idea that the normative nature of human rights standards may complicate the practical demands of peacemaking has been a recurrent theme in discussions on the relationship between human rights and efforts to address violent conflict. This is especially the case when the latter is conceived of in terms of conflict settlement or resolution. Questions of definitions and objectives are thus key. Also relevant are the time frame, context and level of intervention one focuses on, though few authors on the subject make this explicit. In addition, narrow perceptions and generalisations abound in this debate as people working on human rights, peace and conflict

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have been grouped into categories of 'human rights activists' and 'conflict resolvers' as if these were homogenous and coherent clusters of actors.

In this paper, I argue that considering human rights and conflict transformation *in conjunction* deepens one's analysis of what is involved in moving from violence to sustainable peace. It is informed by the idea that the two fill 'gaps' in one another, in that each contributes to a better understanding of the other by highlighting elements that are relatively under-explored in the theory and practice of each separate field. For conflict transformation, which will be the main focus of this paper, the perspective of human rights forces a greater emphasis on structural conditions, especially the role of the state, systems of governance and issues of power in generating, escalating and transforming violent conflict. Considering human rights in relation to conflict transformation, moreover, highlights the need to employ a holistic, multi-dimensional understanding of human rights that does not reduce them to their legal foundations. This paper suggests that conflict transformation, because of its explicit grounding in social justice and hence inherently normative foundation, may provide a more nuanced and fruitful conceptual space for thinking about human rights, conflict and peace than conflict resolution and conflict management. Placing constructive social change at its core, conflict transformation acknowledges the need for addressing power imbalances and recognizes a role for advocacy and the importance of voices that challenge the status quo. Its concern with direct, structural and cultural violence is thus also highly relevant from a rights perspective.

In order to place these ideas in context, the paper will briefly comment on literature that has been published on human rights and approaches for addressing conflict and building peace (*Section 2*; an extensive literature review can be found in *Annex A*). *Section 3* proposes a framework for understanding the relationship between human rights and conflict transformation, using the metaphor of an iceberg, with its graphic image of things visible connected to matters unseen. It also introduces four dimensions of human rights that need to be taken into account in processes to build a just and sustainable peace. *Section 4* discusses some of the practical implications of adopting a human rights perspective on conflict transformation. Nepal, South Africa, and other countries where I have worked over the past 13 years, are used as illustrative examples throughout Sections 3 and 4. Finally, *Section 5* concludes and points to some areas for further research.

2. Definitions and Conceptual Debates to Date

This article builds on my previous work and its use of terminology reflects the evolution in my own thinking and practice. While my writing was initially framed in terms of exploring the relationship between human rights and "conflict management", I now prefer using the term "conflict transformation", informed by other analyses which suggest that a distinct theory and practice of conflict transformation is emerging (Lederach 2003; Miall 2004; Dudouet 2006).[1] Having evolved in response to a growing concern with protracted social conflict (Azar 1990), conflict transformation is particularly relevant in the context of asymmetric conflicts, where transforming power imbalances and unjust social relationships is key. It addresses the wider social, political and cultural sources of conflict and hence does not only focus on addressing the behavioural and attitudinal manifestations but also on deeper structural origins (Miall 2004, 4-5). In more concrete terms, Responding to

1 My human rights perspective on conflict and peace pointed to the importance of fundamental social change in relation to certain structural conditions that give rise to conflict and violence. Conflict management, with its frequent connotation of containment and mitigation of violence, did not fit the bill. Conflict resolution, despite its greater theoretical focus on underlying causes of conflict, in practice seemed too often content with focusing on short-term processes and an emphasis on ending something that was not desired, rather than on building something that *is* (Lederach 2003, 28-33; Mitchell 2002).

Conflict, a conflict transformation organisation, puts it as follows: "conflict transformation is not about making a situation of injustice more bearable, but about transforming the very systems, structures and relationships which give rise to violence and injustice."[2] The conflict transformation approach perceives conflict as a catalyst for social change and places primary emphasis on the question of social justice (Mitchell 2002; Lederach 2005; Bloomfield et al. 2006). Being concerned with process and outcome, conflict transformation focuses attention on resources for peacebuilding in the local context rather than highlighting the role of external, international interveners.

Human rights can be defined as "internationally agreed values, standards or rules regulating the conduct of states towards their own citizens and towards non-citizens" (Baehr 1999, 1). Some instruct states *to refrain from* certain actions (e.g. killing, torture) while others impose obligations on the state *to act* in certain ways (e.g. provide equal access to health care). Civil and political rights generally fall within the first domain, and protect citizens against unwarranted interference and abuse of power by the state; examples are the rights to life, to freedom of expression and assembly and to due process. Social, economic and cultural rights are concerned with the welfare and well-being of human beings, and generally belong to the second category; they include the rights to work, to an adequate standard of living, education and the right to freely participate in the cultural life of the community. The primary human rights framework informing this article is the Universal Declaration of Human Rights (adopted in 1948), which has been further developed in a range of treaties and conventions, including the International Covenant on Civil and Political Rights (UN 1966a) and the International Covenant on Social, Economic and Cultural Rights (UN 1966b). The right to equality and the principle of non-discrimination is an integral part of all three instruments.

Strictly speaking, only the state can violate human rights, since they principally exist to protect people from political, legal and social abuses by the state. Actions by non-state actors are formally referred to as abuses rather than violations, yet they have a state dimension in that they imply its failure to protect the rights of its citizens. This article considers human rights as inherent, universal and inalienable, meaning that "they are held by everyone by virtue of being human and cannot be given up or taken away" (Thoms/Ron 2007, 683). Still, it acknowledges that the meaning and relative weight of human rights may be interpreted differently in different social, political and cultural contexts.

In the literature, early contributions on the human rights/conflict resolution relationship focused mostly on the differences between human rights activists and conflict resolution practitioners and the possible resultant tensions when both sets of actors operate in the same context (Baker 1996; Arnold 1998a).[3] The differences identified relate to:

- *strategies and approaches* (adversarial vs. cooperative; principled vs. pragmatic; rigid vs. flexible; emphasis on outcome vs. emphasis on process; prescriptive vs. facilitative);
- *objectives pursued* (justice vs. peace; justice vs. reconciliation; human rights protection as a requisite for establishing peace or establishing peace as a requisite for human rights protection);
- *roles played* (advocate, investigator, monitor vs. facilitator, mediator, convenor); and
- *principles guiding the actions* (speaking out on injustice and attributing responsibility vs. remaining impartial with respect to all parties, being even-handed and not judging).

A review of some of the core literature on the human rights/conflict resolution relationship (presented in full in *Annex A*), indicates that over the years the debate went from postulating a direct, inherent tension between the two to recognizing a more complementary relationship. Over time, human

2 See RTC's website, www.respond.org (last accessed 25 May 2009).

3 In tracing the debate, approaches for addressing conflict and building peace will be referred to once more as conflict resolution, because this term has been most commonly used in the literature.

rights have come to be considered as important in the generation, manifestation, resolution and prevention of violent conflict. The language used in the literature to discuss the relationship between human rights and conflict resolution reflects this shift. It has moved from "either/or" terminology to "both/and" language; today what is subject to debate is peace *with* justice rather than peace *versus* justice. It is now largely accepted that human rights protection and promotion are important for the long-term stability and development of societies that have experienced or are experiencing violent conflict. It has become increasingly recognized that there is no peace without justice, and that the absence of justice is frequently the reason for the absence of peace. This is not to say that any tension between human rights and conflict resolution previously observed can be purely attributed to flawed perceptions and lack of understanding, although it is probably fair to say that these have contributed to the perception of a clash between the two. Clearly, substantial differences may arise between conflict resolution practitioners and human rights actors about priorities and appropriate approaches, especially in relation to the pursuit of accountability for past human rights violations. Still, rather than assuming an absolute and insurmountable tension *per se* between human rights and conflict resolution, such differences may be better understood as challenges or dilemmas that need to be addressed on a case by case basis, taking into consideration a range of factors including context, time frame and developing international standards. From reviewing the literature, it also appears as if the debate thus far has mixed discussion about three different, but inter-related, elements: a) the relationship between human rights and conflict; b) the interaction between actors from different backgrounds operating in conflict contexts; and c) the interface between the 'fields' or 'disciplines' of conflict resolution and human rights in terms of concepts, analysis and perspectives.

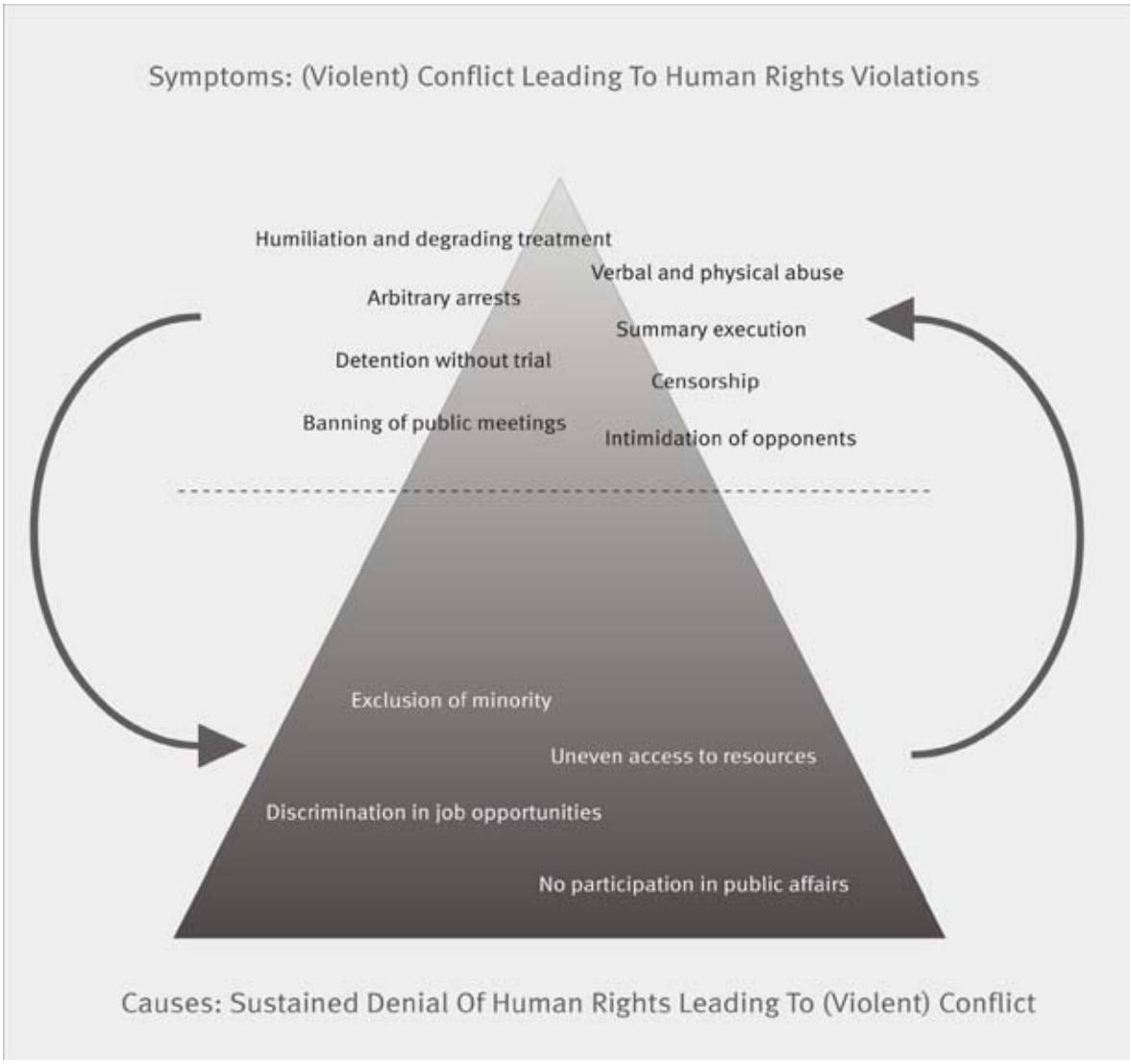
Regarding the latter, it is clear that the debate has moved from an implied focus on conflict settlement to conflict resolution, paying more attention to longer-term time frames and underlying causes of conflict. With the 'peace and conflict field' moving more and more to the notion of conflict transformation, it is appropriate to look at the interface between human rights and conflict transformation in more detail, and to spell out some of the implications that a differentiated understanding could have for scholars and practitioners of conflict transformation. This is the aim of the following sections.

3. Towards a Conceptual Framework

3.1 Human Rights Violations as Causes and Consequences of Violent Conflict

Over the years, I have found the metaphor of an iceberg useful to illustrate the notion that human rights violations can be both causes and consequences of violent conflict (see *Diagram 1* overleaf). The top of the iceberg, pointing above the waterline, represents human rights violations as symptoms of violent conflict. Like the top, these violations tend to be highly visible, and may include excessive use of force by the police, intimidation of political opponents, rape, summary executions, disappearances, torture and censorship. Yet manifestations of violent conflict are seldom confined to violations of civil and political rights; the destruction of infrastructure such as schools and health clinics affects social and economic rights, as does the displacement of civilian populations. The bottom of the iceberg below the waterline symbolises violations of human rights as causes of conflict. It represents situations where denial of human rights is embedded in the structures of society and governance, in terms of how the state is organised, how institutions operate and how society functions. For example, a state may be characterized by a consistent lack of development in those regions where the majority of citizens are members of a social group other than the politically

Diagram 1



Source: M. Parlevliet, 1999; originally developed for the Human Rights and Conflict Management Programme, Centre for Conflict Resolution, South Africa

dominant group. Alternatively, a country's legislative and policy framework may be biased against certain identity groups resulting in their exclusion and marginalisation from political, economic and social spheres of life. Such conditions create structural fault lines in society that may be less visible at first sight, but provide fertile ground for the outbreak of violence.

The two levels of the violent conflict/rights relationship interact with one another on an ongoing basis, reflected in the arrows. Denial of human rights as a cause of conflict gives rise to (symptomatic) human rights violations. Yet, a pattern of specific violations may, if left unchecked, gradually become a structural condition in itself that fuels further conflict – this is the case with systematic torture, indiscriminate killings and widespread impunity.

The iceberg image is a simple tool to distinguish between human rights violations in terms of causes and symptoms, but it does not clarify *how* or *why* a sustained denial of human rights can be a cause of violent conflict. One theoretical explanation draws on human needs theory and combines

work of Burton (1990), Azar (1990) and Galtung and Wirak (1977). It posits a close link between human rights and basic human needs, arguing that the denial of rights implies a frustration of needs related to identity, welfare, freedom and security, which are fundamental for human survival, subsistence and development. Rights are a means to satisfy needs; they are "an instrument of individual and collective struggle to protect core interests" (Osaghae 1996, 72). If rights are denied, needs are frustrated, which creates a potential for violent conflict as people seek to find ways to address their basic needs, since these are non-negotiable (Parlevliet 2002, 16-19).

This needs-based explanation does not suggest that violations of human rights will *necessarily* cause the outbreak of violence or that they constitute the *sole* cause of any particular (violent) conflict. The role of the state and issues of governance are key. The way the state is organised and functions determines in large part whether needs are satisfied or frustrated over the long term: it allows or denies individuals and groups access to the resources, opportunities and processes they need to address their needs – or to raise concern about the frustration of their needs (Azar 1990, 10). A human rights perspective on conflict transformation thus underscores the "centrality and primacy of the political" (Clements 2004, 3).

In general, a state's *inability* to protect rights may be due to, for example, weak state structures and lack of resources, both material and moral (legitimacy). Yet a state's *unwillingness* relates to how power is divided in society and how a certain way of functioning and making decisions may be to the advantage of some while being at the expense of others. It may also have a cultural dimension, if strong belief systems exist in society about who is deemed superior and fit to govern and who is not, and whose interests should be protected or can be ignored. Alternatively – or additionally – the dominant political culture may revolve around the notion of 'winner-takes-all'/'your gain is my loss' and may as such be averse to accommodating diverse interests and collaborating with opponents. Especially in contexts where a particular group or elite has captured the state and government institutions, this means that calls for wider political participation, greater access to economic resources and opportunities or self-determination – all of which can be framed in terms of rights and relate to needs of identity, access and security – are likely to be perceived as a threat by those in power, limiting the potential for accommodation. In Nepal, for instance, the inability and unwillingness of the state – both authoritarian and democratic – to ensure the rights and accommodate the interests of marginalised groups and political opponents, and address widespread poverty and exclusion, has been a main cause of (violent) conflict. Excluded groups have had few political avenues at their disposal to express dissent due to lack of representation embedded in the nature of the political system and the intense stratification of Nepali society. Access to justice was almost non-existent, and law enforcement was politicised, corrupt, violent and replicated societal discrimination.

In such instances of discontent, the choices made by the state, communal groups and political opponents about how to engage with one another, help determine whether or not societal tensions around denial of rights, frustration of needs and the (in)adequacy of political, legal, economic and social institutions, will evolve into violence (Miall 2004, 5; Azar 1990). In an in-depth study of whether human rights violations cause internal conflict, for example, Thoms and Ron find that state violations of civil and political rights "provide a clear link to escalation" and argue that "state repression is a major risk factor because it can transform latent grievances into active antagonisms, providing the persecuted with strong motivations for violence" (2007, 695). If, on the other hand, communal groups or political opponents adopt a strategy of violent rebellion, this is also likely to result in a destructive cycle, as it may prompt government repression and conflict escalation.

Various factors influence the choices made and strategies adopted by political actors, including structural, historical, cultural, but also geographic and economic ones, which impact

both on the human rights situation and on the prospects for conflict transformation. An important *structural* factor is whether legitimate and effective mechanisms exist through which individuals and groups can raise their discontent if their needs are frustrated or their rights are denied. The presence or absence of institutional checks and balances on the use of force by the state is also relevant, as is the extent to which the rule of law is upheld, subverted or manipulated by the state and political elites in government. *Historical* experiences and memories of violence matter too. Strong evidence exists that "government repression is habit-forming and that past levels of repression have a powerful effect on current behaviour" (Thoms/Ron 2007, 695). If memories of violence committed against communal groups form an important part of their identity, this may lower the barrier for such groups to use violence themselves, especially if the state has been associated with such violence in the past and is hence suspect. *Cultural* factors can also come into play: the state may not be highly concerned about the use of violence against individuals or groups deemed inferior, whether committed by its own forces or by non-state groups protesting state policies and actions. *Geography* may compound this, if violence takes place in remote areas and if there is a strong disconnect between the centre and the periphery. Finally, *economic* considerations are likely to influence actors' decisions on how to position themselves and engage with others, especially when current or potential sources of income are at stake (for example, oil or diamonds).

In sum, a human rights perspective on (violent) conflict emphasises inequality, inequity, injustice and insecurity as structural conditions underpinning violent conflicts. It highlights the nature and functioning of state institutions and systems of governance as pivotal in understanding protracted social conflicts. It also underscores the need to address direct, structural and cultural violence, each of which is relevant from a human rights perspective, as highlighted in *Table 1* below.

Table 1

Type of Violence	Human Rights Relevance
Direct violence	The rights of an individual or group are violated by the state or abused by a non-state actor; if the latter, the state fails to protect the rights of the individual or group as it is supposed to do. Rights involved are civil and political rights (the right to life, to bodily and mental integrity, freedom from torture, freedom of speech, freedom of peaceful assembly, etc.).
Structural violence	The rights of an individual or group are denied by the way that society functions and the state is organised. Individuals or groups cannot exercise their rights (civil, political, social, economic and cultural) and are not able to develop their full potential as they have differential access to social, political and economic resources.
Cultural violence	The humanity and dignity of individuals or groups is denied (stereotyping or demonising of 'the other'). They are therefore not afforded the respect and treatment due to them as human beings and are subject to discrimination.

3.2 A Holistic Approach to Human Rights in Conflict Transformation

A narrow, legalistic understanding of human rights is insufficient in the context of conflict transformation. It does not capture what is involved in ensuring respect for human rights in a society where injustice, insecurity, inequity and inequality have long been entrenched. Moreover, however significant the legal protection of human rights is for addressing conflict (Parlevliet 2002, 20-21), the law has its limitations.[4] I have therefore come to think of human rights as having several dimensions, derived from human rights values. Each of these dimensions must be carefully considered in efforts to transform conflict and build a just peace:

- human rights as rules;
- human rights as structures and institutions;
- human rights as relationships; and
- human rights as process.

The *first dimension* of human rights, rights as rules, refers to the legal aspect of rights: the standards that outlaw certain behaviours and actions and demand others, as contained in international instruments and domestic legislation and as enforceable through a court of law. It highlights the need to legally recognize human rights and institutionalise respect for them through the adoption, implementation and enforcement of relevant legislation. This rules dimension also underscores that any efforts towards addressing and transforming latent and manifest conflict are to take place within the framework of international law and national standards; solutions must be sought within the parameters of this framework. Human rights standards define benchmarks for desirable outcomes (Jonsson 2005, 49). However, it must be noted that, while fundamental human rights can be taken as absolute concepts that are non-negotiable, their application, interpretation and realization is not absolute. Instead, it is negotiable within the context of specific political, cultural and historical conditions (e.g. Gready/Ensor 2005, 11; Parlevliet 2002, 24-26). Thus, rights set the parameters for conflict transformation, but there is great scope for variation in how specific rights are realized in a given context. For example, the Universal Declaration of Human Rights contains the right to take part in the government of one's country, which implies the need for democratic governance. Yet there is no *single* form of democracy that applies across the world; the form and shape of democratic institutions differs from context to context.

The *second dimension*, human rights as structures and institutions, links back to the discussion in the previous section. It relates to the structural division of power and resources in society and the mechanisms that exist to handle conflicts that may arise in this regard. This dimension of rights emphasises the need to address the underlying causes of conflict, and to examine the structures in society that govern issues of power, resources, identity and security, and that determine access to and decision-making over such assets. It also reflects that, if human rights are to have meaning beyond the paper they are written on, conflict transformation must involve the development of legitimate, independent and capable institutions to support the realization and orderly expression of rights and secure remedies. Moreover, "the question is not only whether particular laws or institutions exist or how they appear, but rather how laws and institutions relate to people and how people perceive, use, change and develop them" (Tomas 2005, 172).

The *third dimension*, human rights as relationships, refers to the relevance of rights for organising and governing the interaction between state and citizens, and amongst individuals and groups in society, so that these are constructive, geared towards nonviolence and allowing for

4 In many societies experiencing or emerging from violent conflict, the law may be inaccessible to the most vulnerable members of society, or an effective legal system or remedy may not exist. Laws may still contain traces of oppression, and/or the existing judicial system may sustain or reinforce discrimination. Even if progressive legislation does exist, failure to implement and enforce such legislation limits the law's impact on society.

the recognition of humanity in others. Rights standards are a means to effectuate certain kinds of relationship in the public sphere: they are concerned with how people should be treated so that their dignity is respected, their integrity remains intact and so that they can fulfil their full potential. Historically, the relational aspect of human rights has been mostly acknowledged in the context of the relationship between state and citizens, with the latter being the rights holders and the former the duty bearer. However, it is clear that inflicting abuse on citizens is not the sole prerogative of state agents and that protection of rights is not only dependent on state action. Human rights must thus be considered as relating to both *vertical* and *horizontal* relationships in the context of conflict transformation; the development of healthy relationships in both directions is essential.

A vertical application of human rights is necessary to emphasise the responsibility of the state towards its citizens, and to provide citizens with a platform for demanding accountability. For conflict transformation, this implies the need to address structural concerns that impact on the relationship between state and citizens and to develop "vertical capacity" – building connections between leadership at different levels of society and helping them recognize how their roles, capacities and contributions to conflict transformation are interdependent (Lederach 1999, 30).

A horizontal application highlights that ordinary people also have responsibilities in how they relate to one another and in how society functions; their actions and beliefs impact on the extent to which others are able to realize their rights (e.g. Jonsson 2005, 50). It recognizes that human rights exist in a social context and are reciprocal, and that "recognition of the other" is a core value of human rights (Douzinas 2000).[5] This aspect of the rights dimension captures the imperative to address negative attitudes, stereotypes and patterns of behaviour between parties in conflict, and to help them develop an understanding of their responsibilities towards themselves, their context and others, and an appreciation of their interdependence.

Finally, the *fourth*, process dimension of human rights reflects a concern with *how* issues of access, protection and identity are addressed. It is based on the recognition that the sustainability of peace depends both on its substance and on the process by which peace is developed. If local or national stakeholders consider a process as flawed, this will contaminate the 'peace' (or outcome) resulting from that process and undermine its legitimacy and sustainability. For example, in early 2007 serious unrest erupted in Nepal's southern plains, soon after the Interim Constitution was adopted to guide the country's peace process and democratic transition. The local Madhesi population protested that the Interim Constitution did not sufficiently take their historical marginalisation into account nor did it offer them adequate recognition and protection. Their suspicion of the Interim Constitution was in part triggered by the drafting process, which they perceived as non-transparent, non-consultative and elite-dominated.

The process dimension highlights the need to give meaning to fundamental human rights values and principles – such as dignity, participation, inclusion, protection of marginalised or minority voices, accountability – by integrating them into conflict transformation processes at various levels of society; they specify criteria for an acceptable process and highlight the need to include civil society in peace processes (Jonsson 2005, 49; ICHRP 2006, 112). Applying them will help lay the foundation for pluralism, tolerance, equality and participation in society, can break the pattern of negative interaction prevailing thus far and encourages ownership of a new future. The peace accord structures established in South Africa during the transition in the early 1990s are a case in point. Bringing together many actors (political parties, police, trade unions, business, churches, traditional

5 Human rights actors have at times been reluctant to consider a horizontal application of human rights because it deviates from the classical understanding of rights as relating to the state. As such, it risks downplaying the state's fundamental responsibility towards citizens and may weaken rights arguments. Yet human rights are dynamic rather than static and continue to develop as new types of entitlement are proclaimed and recognized over time.

leaders), the peace committees focused on mitigating ongoing violence through negotiation of local peace accords and addressing contentious issues locally. Their dialogue and problem-solving orientation prompted the various stakeholders to engage across racial, cultural, party political or religious boundaries, recognize others' humanity and develop a practice of participatory decision-making and collaboration. It also encouraged communities to take responsibility and get involved in the management of local problems (e.g. Parlevliet 2009; Collin Marks 2000; Gastrow 1995).

This multi-dimensional understanding of human rights has been helpful in my work as a conflict transformation practitioner, especially as a tool for conflict analysis and process design (e.g. Galant/Parlevliet 2005, 118-121). The understanding of human rights proposed here also reflects that aspirations such as "building a just peace", "building a culture of human rights" or "establishing the rule of law" go beyond legislation, policies, institutions and the state. Such aspirations embody the desire that rights become a living reality for all in society. This involves matters of governance, law and institutional reform, as well as the internalisation of rights norms, values and principles so that these guide people's behaviour, attitudes and belief systems in relation to self, others and the state. The conceptual framework outlined here, consisting of the iceberg and the holistic understanding human rights, also has clear implications for conflict transformation practice, which I will now turn to.

4. Implications for Conflict Transformation Practice

4.1 Connecting Causes and Symptoms

The iceberg image introduced earlier (see *Section 3.1*) provides a useful tool to classify interventions in conflict situations according to the types of human rights abuses that they target and the objectives they seek to achieve. At the level of human rights violations (HRV) as symptoms – e.g. violence, intimidation – the primary objective is to protect people from further abuses and halt ongoing *direct, physical violence* through methods such as negotiation of ceasefires, peacekeeping, humanitarian relief and human rights monitoring. At the causal level, the objective is to transform the underlying conditions that create a societal propensity for violence and as such pose a threat to human security and the stability of the state. The focus here is thus on *structural violence* and on working towards *positive peace*, through, for example, institution-building, accommodation of diversity by protecting minorities, development and reconstruction and strengthening the rule of law.

The iceberg metaphor also suggests the relative weight of violations as causes and consequences in terms of their significance for effective and sustainable intervention. It shows that focusing on the symptoms is of limited sustainability if underlying structural conditions are not addressed. While it may be possible to contain, mitigate or suppress the visible manifestations of conflict for some time, the potential for violence remains as long as systemic denial of human rights persists. Of course, this is not to underestimate the importance of activities aimed at mitigating violence in the midst of violent conflict. Efforts to achieve positive peace are fundamentally tied to the ability of parties to end hostilities, stabilise the country and prevent further violations of human rights. This means that conflict transformation scholars and practitioners, while geared towards long-term change, cannot afford to disregard what is happening at the surface level. This is especially so because it will take considerable time before strategies related to structural reform translate into changed circumstances for those living in poverty and exclusion and with limited, if any, access to redress. Lederach's notion of the "justice gap"[6] is relevant here: after an agreement,

6 By this he means the gap between people's expectations for peace and what peace actually delivered (Lederach 1999, 31-32).

change may come in terms of increased space for political participation, but the expectations for social, economic, cultural and religious change are often not achieved. The presence of such a justice gap may provide a reservoir of disillusionment, frustration and resentment that can feed further conflict and may trigger violence. This risk is probably particularly present in contexts where the use of force is perceived to have paid off in advancing specific political, economic and social demands. In Nepal, many identity groups have become radicalised in the last few years, with several referring to the Maoists' rise in political power as proof that violence 'works'.[7]

Ongoing violence and public disorder in a post-settlement context will negatively affect peacebuilding efforts in several ways. At the grass-roots level, it undermines confidence in the peace process due to continuing fear, mistrust and insecurity, and casts doubt about the state's ability (and/or willingness) to establish the rule of law and provide public security. At the elite level, it will challenge trust between the leadership of different parties in one another's commitment to finding an effective and sustainable political solution if they suspect others of orchestrating violence behind the scenes. Thus, negotiations in Northern Ireland between the main political actors before and after the signing of the 1998 Good Friday/Belfast Agreement were affected by parading disputes that showed little sign of abating, in which nationalist and unionist communities were pitted against one another (Jarman 2009). The disputes were long dogged by allegations that contrary actions by the unionist-aligned Orange Order were being condoned or even encouraged by unionist political parties, and that Sinn Fein was fomenting protests amongst nationalist residents.

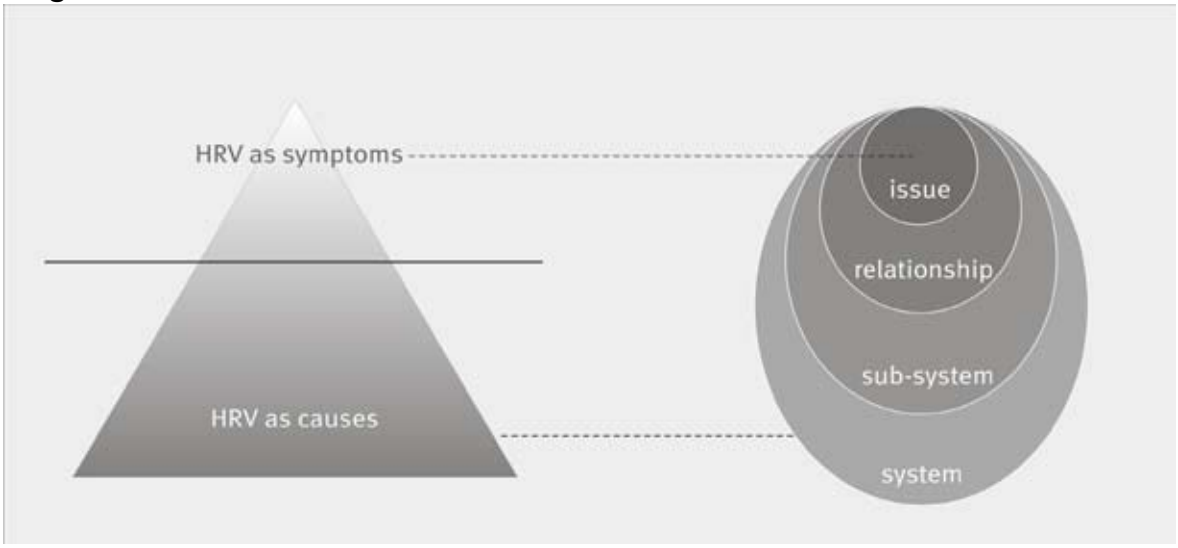
A primary challenge is to deal with symptoms while keeping in mind the larger, more structural conditions to be addressed. This is also relevant because many rights-focused activities in conflict tend to be symptom-oriented (handling complaints of human rights violations, investigation of individual cases, monitoring abuses) and as such run the risk of disregarding underlying patterns.[8] Thus the question arises, can symptoms be tackled in a way that contributes to the desired long-term change, and if so, how?

I have found it useful in this regard to draw on Lederach's work on levels of response in addressing conflict situations, based on Dugan's nested paradigm model (1996). This model proposes that conflict can be analysed and understood at four different yet interconnected levels: issue, relationships, sub-system, system (Lederach 1997, 56-60). While interventions at both the issue and the system level are necessary, Lederach argues that strategies focusing on the relationship and sub-system levels have the potential to "serve as sources of practical, immediate action *and* to sustain long-term transformation in settings" (1997, 61). The nested paradigm can be linked to the discussion at hand on human rights and conflict transformation by relating it to the iceberg metaphor (see *Diagram 2* overleaf).

7 Mobilisation on the basis of identity was started by the Maoists in the late 1990s as a strategy to rally the rural poor (see Baechler 2008, 5-6). Many of those thus mobilised have since become disappointed with the Maoist leadership and the peace process, because of ongoing elite domination and little concrete progress in addressing identity-based grievances. This has fuelled recent radicalisation of several identity groups. Since the 2006 peace agreement, some identity-based armed factions – often led by individuals previously associated with the Maoists – have emerged that utilise 'tested and proven' tactics of intimidation, transport blockades and abduction to draw attention to their cause.

8 This is somewhat paradoxical, since a human rights perspective on conflict emphasises structural conditions underpinning conflict and hence structural solutions for conflict. The symptom-oriented nature of some human rights methods can result in human rights actors viewing individual cases and complaints in isolation instead of seeing them as indicators of broader systemic human rights issues, which can diminish their effectiveness (e.g. ICHRP 2004, 71-72; Felner 2004, 4).

Diagram 2



Source: Dugan 1996, 9-20; Lederach 1997, 56-60; see also Diagram 1

Combining the two images suggests that considering the relationship and sub-system contexts in which abuses take place may hold promise for connecting efforts targeting human rights violations as symptoms (at the issue-specific level) and causes of conflict (at the system level). In Nepal, for example, the land rights movement has started to map land distribution in several districts to serve as a basis for, amongst other things, negotiating local solutions to disputes with owners and government officials to ensure more equitable distribution and ownership of land. For now, land reform on a national, systemic level is still too contentious. Targeting the (sub-system) district level, however, is likely to address the immediate, 'micro' human rights issues in the particular social, economic and political setting within a district – yet it may also impact on broader systemic concerns by feeding into future policies and legislation.

4.2 Power, the State and Resistance to Change

The analysis in *Section 3* highlights the need to examine the division of power and resources in society and the extent to which this division may be systematically skewed in favour of those who happen to be in power at any given time. It also suggests that conflict transformation, both as a theoretical discipline and a field of practice, should become far more concerned with the nature, organisation and functioning of the state than it has been so far. Without paying attention to the institutions, mechanisms and processes that are supposed to generate effective participatory governance and order, it is very hard to address the core issues of structural violence, political marginalisation and socio-economic injustice.

As Clements points out, conflict resolution workers have tended to be ambivalent towards state and political systems, in part because of their "critique of the state's monopoly of power and a rejection of threat and coercion as the primary means for generating order and stability" (2004, 5). In fact, some scholars use the term conflict transformation in a relatively narrow way, to refer to "strategies for building effective relationships and communication patterns between groups in conflict" (Schirch 2006, 63). Yet the adversarial nature of relationships between parties in conflict may originally stem from their differential access to political, social and economic resources, and the extent to which the power and institutions of the state may have been used to dominate and exclude some. Thus, attention needs to be devoted to transforming *both* the relationships between parties

and systems of governance. It is therefore fortunate that there seems to be growing recognition of the need to consider the state in the context of conflict transformation (Baechler 2004; OECD-DAC 2008).

The power imbalance embedded in many (internal) conflicts has important consequences for actors seeking to support constructive processes geared towards developing more fair, participatory and equitable relationships, institutions and mechanisms. It means that a genuine transformation may only become possible once the weaker party has become aware and capable of challenging the status quo in such a way that the dominant party cannot afford to ignore such challenges. This point is well-recognized in the conflict transformation literature, especially with reference to the work of Curle (Curle 1971; see also Lederach 1997, 63-70; Francis 2004, 7-10). It is exemplified by the experiences of the Treatment Action Campaign (TAC) in South Africa. Emphasising HIV treatment literacy in its conflict with the South African state about access to treatment, TAC consciously sought to become a "social movement where poor people [become] their own advocates" and are able "to articulate human rights, [and learn] how to apply them as demands in relation to specific social and political issues" (Heywood 2009, 17). The literature further acknowledges that demands for human rights can at times intensify conflict in the short- to medium-term, albeit leading to "positive societal developments in the long run because of the undoing of injustices" (Pia/Diez 2007, 20).

Another implication of such power imbalance is, however, generally less acknowledged: the fact that those who benefit from the status quo are likely to resent and resist demands for change. Those in power may well perceive assertions of rights as a threat or nuisance (Gready/Ensor 2005, 27). Hence, the state may be reluctant to accommodate demands for change (especially if it has been captured by a particular identity group or elite), even if those have been formally agreed upon in a peace settlement, or even if the state is formally obliged to abide by international human rights treaties and instruments it has ratified. Considerable and sustained public pressure may hence be needed to get the state to act in the best interests of a diverse population rather than a narrow few. Moreover, when encountering resistance, a challenge for interveners is to refrain from working *against* that resistance but rather try to work *with* it as a potential energy for change; pathologising it in terms of 'spoilers' is not necessarily helpful. As Baechler puts it, "systems are constituted by many actors, and not only by those we like" (2008, 3).[9]

The above implies that there is much scope for empowerment, mobilisation and advocacy in social change processes. Indeed, in Nepal, much development aid has been allocated to supporting human rights awareness-raising and advocacy. Efforts in this area have sought to enable those who have been excluded to 'raise their voice' and make rights claims by way of 'confronting' the state and pressure it into acting on its human rights obligations. While relevant and necessary, this emphasis on supporting the 'demand' side – which is usually facilitated through civil society actors – risks neglecting the 'supply' side: the extent to which existing state institutions and systems of governance are able and willing to meet the participation, identity, welfare and security needs of

9 Such resistance may have transformative power, as colleagues from the Centre for Conflict Resolution and I found during an intervention with South Africa's Office of the Public Protector (OPP) in 2004. The OPP had been grafted onto the Ombudsman's Office established before the 1994 transition, with a different mandate, greater powers, an increase in staff numbers, a more diverse staff, and a new management structure and style. Thus, the previous body had to be transformed into an institution that would consider the interests of South Africa's diverse population and strengthen constitutional democracy. Consequently, internal dynamics were intense – often negative – and impacted on the way the OPP functioned externally. Many staff found it difficult to see themselves in a service mode, and did not treat complainants with the necessary respect. We helped revise this through a renewed consciousness about the meaning of human dignity as applied to the organisation and the relationships within it, and the implications this would have for their attitudes and practices, including their engagement with people outside. Working with people's resistance meant providing space for people to voice their concerns, to grapple with the fear of comfort zones disappearing, and to develop an understanding that the change in and around the institution was inevitable, but that they could be agents in shaping or co-creating it themselves.

citizens. If the supply side is weak, increased demand for rights may intensify frustration amongst citizens about the failure of the state to deliver effectively and equitably. This, in turn, can create further potential for conflict.

In this respect, it is noteworthy that the OECD-DAC guidelines for international engagement in fragile states identify state-building as the central objective, with emphasis on supporting the legitimacy and accountability of states and on strengthening their capability to fulfil their core functions (OECD-DAC 2007). Hence, attention may be devoted to improving public service delivery and public sector management, and to supporting decentralization, security sector reform, anti-corruption and justice sector reform. Such processes are relevant for conflict transformation in terms of facilitating structural change (Baechler 2004), but they often focus primarily on the 'technical' side of structural reform, by building capacity in technical skills (e.g. financial management, case management in formal courts, investigation techniques) and development of policies and systems (e.g. procurement policies) – what could be called the *hardware* of public institutions. They seldom take into account how the prevailing *software* in such institutions – for example, institutional culture and values, communication patterns, perceptions of self and others, management style – may limit the impact of improved hardware. Yet this can be considerable, especially if the state and its bureaucracy have played a major role in exclusion, strong biases exist against certain groups, and/or the political and institutional culture is averse to the accommodation of diverse interests and the participation of a wide range of stakeholders.

Hardware-focused reform efforts impact on a state's *ability*. Yet addressing the software is of prime importance if the state's *willingness* to respect human rights and provide access to the resources and processes necessary for people to meet their needs is to be enhanced – also because this software is where resistance to change is largely grounded.

4.3 Process Orientation and Constructive Engagement between State and Civil Society

The above raises the question of how to work on the technical side of improving state capacity in a way that takes into account how political and institutional culture (including political will, attitudes, systemic biases) may affect or undermine such efforts. Or, put differently, how can we work to enhance state capacity while simultaneously challenging the existing culture, will and practices, without lending support (and/or legitimacy) to undemocratic forces, attitudes and beliefs within the state, government and civil service? Such questions defy easy answers, but at least two strategies may have particular potential: a) focusing on process and b) improving relationships between state and non-state actors.

Paying *greater attention to process* is based on the recognition that the manner in which issues are addressed can either impact positively on underlying conditions and patterns or can exacerbate them and undermine the change desired (as discussed in *Section 3.2*). A process orientation is valuable in working towards change at the structural and cultural level, as it can give people experiences of 'doing things differently' (as was the case in the South African peace committees mentioned above). As such, it helps with imagining what *can* be rather than basing behaviour and attitudes on what is or what *has been*. Implicit here is the importance of recognizing the relational and the personal level in conflict transformation, even in relation to structural issues – state institutions are not anonymous entities. Instead, they are "structures filled with life and meaning by the people within, who were and are faced with choices everyday that shape the institution, its legitimacy and image as well as its capacities to do good or harm" (Kayser-Whande/Schell-Faucon 2009, 22).

However, as suggested earlier, it must be recognized that individuals working in state institutions may not necessarily *want* to do things differently. Bureaucracies tend to be intrinsically conservative, as the people within have grown used to certain practices and ways of doing things and may benefit from the status quo. Combining process orientation with pressure from outside is therefore useful, in that the latter then serves as a consistent reminder of the need for reform. This can in part be achieved by ensuring *greater and more substantial engagement between state and civil society actors*. Much more effort should be made to facilitate discussion and interaction between those who are supposed to deliver (the state) and those whose right it is to benefit, to ensure that there is a constant engagement on why change is needed, what change is needed and how it can be achieved. Such pressure from outside can also assist in monitoring the pace, scope and contents of reform.

In Nepal, the land rights movement has started to focus much more attention on interacting frequently with national and local government officials. Activists do so with a view to enhancing the officials' understanding of the need for land reform and to obtaining their collaboration in practical matters, such as tenant registration, data collection and nonviolent evictions. Such interactions complement the movement's main strategies of empowering and mobilising landless people through more confrontational techniques of nonviolent action (e.g. protests and sit-ins at government offices).[10]

This emphasis on greater engagement between state and non-state actors suggests that it may be necessary for conflict transformation practitioners to help facilitate relationships between the state and civil society that are more problem-solving oriented than adversarial. A recent study from the World Bank indeed identifies fostering positive state-citizen relationships as 'the missing link' in state-building practice and policy (Von Kaltenborn-Stachau 2008). Clements thus concludes: "Perhaps this is the major contribution that the conflict resolution community can make to transform corrupt deficient state systems. It can begin modelling political processes which are collaborative rather than competitive, unconditionally constructive rather than adversarial and where the interests of all are placed at the heart of the political process" (2004, 14). Yet this may raise another dilemma: how does this emphasis on collaboration, positive relationships and problem-solving relate to the need pointed out earlier, for advocacy, empowering the weaker party and confronting the status quo?

4.4 Conflict Sensitivity: 'Do No Harm' or Conflict Intensification?

The emphasis on analysing power and challenging existing power relations proposed here means that conflict transformation may at times be at odds with conflict sensitivity, if the latter is understood simplistically. Formally, the notion "conflict sensitivity" refers to the importance of understanding the context in which interventions take place so as to prevent impacting negatively on the local context while maximising positive impact.[11] In practice, however, the term is often uncritically applied to highlight the need to avoid feeding into local conflict dynamics or to not exacerbate existing divisions – without recognizing that this may lead actors to refrain from challenging a status quo worth challenging and to shy away from raising critical, justice-related issues in a local context. For example, during a workshop with land rights activists, a district coordinator shared his bewilderment about the emphasis placed by donors on 'doing no harm'. He

10 Personal communication with Jagat Basnet, Jagat Deuja and Kalpana Karki from the Community Self-Reliance Centre (CSRC), Kathmandu, January 2009. CSRC is the main facilitator of the national land rights movement, which covers 42 districts in Nepal (as at December 2008).

11 The notion conflict sensitivity originally arose in the context of humanitarian assistance but has increasingly been applied to broader development work. This is based on the recognition that development initiatives are external interventions with the potential to contribute to dividing or connecting tendencies in the communities, institutions and local context they are meant to benefit (Anderson 1999; International Alert et al. 2004).

noted that raising the awareness of landless farmers and tenants and helping them to form "people's organisations" to stand stronger in their interactions with land owners, government officials and politicians, was by definition perceived as 'doing harm' by landlords because "it creates trouble". "But", he asked, "if we don't do so, surely that does much more harm, by maintaining or reinforcing social injustice?" Many of his colleagues shared his confusion.

The practical implementation of human rights measures also generally creates resistance on the part of forces that benefit from the status quo because it involves a transfer of power (ICHRP 2006, 101). Even if political elites profess strong rhetorical commitment to human rights, deeply entrenched social and political systems and practices may impede rights-based change in a specific context (see also *Section 4.2*). Writing on Rwanda, Jones identifies hierarchical leadership, passive acceptance of the status quo and a culture of silence, rumours and mistrust as factors that limit the civic space and fuel government suspicion of rights-based action and mobilisation of grass-roots populations (2005, 95).

The above means that an emphasis on conflict sensitivity should not hold actors back from undertaking or supporting initiatives that may cause tension or feed into existing divisions. It highlights the need for careful analysis, so that interveners can anticipate tension, resistance or outright conflict that may be triggered and develop strategies for handling these. It also presents a dilemma of how to challenge vested interests in a constructive way and realize thus-far repressed rights without triggering a repressive or violent response from the powers that be. In the discussion prompted by the district coordinator's question, the question of *how* activists raise awareness amongst landless people and help them demand respect for rights, surfaced as essential. Activists noted that while padlocking public offices or calling a transport strike are regular mobilisation and advocacy tactics in Nepal, neither is necessarily constructive or strategic, especially when used frequently. They tend to generate anger and irritation, and may make people in positions of authority reluctant to engage. In general, the concrete realization of rights requires the collaboration of others – whether provided willingly or grudgingly – which means that people must be able to talk about, defend and present their rights in a way that makes such collaboration more, not less, likely.

Thus, intensification or escalation of conflict may be necessary in a context of injustice, but it has to be nonviolent and strategic, i.e. with a view to the possible ramifications of one's actions and to the aims pursued. In many instances, rights claims are presented as positions – demands of what a party wants or believes should be done. If stated in an adversarial manner, this easily triggers a defensive reaction as it increases the recipients' perception of threat and may reduce their receptiveness to the rights claim being made. Other factors may feed into this dynamic, for example if rights claims are associated with – or perceived as – attributing blame; when they are used as political propaganda; or when parties in conflict articulate rights in such a way that they only benefit themselves, and disregard others' rights (e.g. Parlevliet 2009; Pia/Diez 2007; Felner 2004). For this reason, I have started exploring the notion of non-adversarial advocacy as a possible strategy for raising human rights concerns, in which rights demands are framed in terms of the underlying needs and interests of various stakeholders.[12] Like Mahony's "persuasive human rights diplomacy" (see *Annex A*, 40), it is a strategy geared towards rights protection and social change that tries to combine challenging the status quo *and* a problem-solving orientation. This is not to suggest that there is no place for adversarial and/or confrontational tactics when seeking to expose latent conflict; there is, both in contexts of repression and in post-settlement environments or emerging democracies. In the former, 'joint problem-solving' with an authoritarian and illegitimate state may be both far-fetched

12 In previous publications I have spoken in this context of a confidence-building approach to human rights work, which "seeks to obtain the co-operation of parties through dialogue, relationship-building and the development of trust, by exploring the parties' needs and interests, and communicating about rights in terms of such interests and needs" (Parlevliet 2002, 36).

and inappropriate. In the latter, litigation can be very effective in "getting governments to do their duties" (Heywood 2009, 19).

This discussion highlights the importance of understanding the context in which one operates – and of recognizing how different tactics are necessary at various points in time and in different contexts when working for transformation and a just peace. Manifesting latent conflict comes in different forms, requiring a combination of mobilisation, confrontation, negotiation and other tactics. As Heywood (2009, 29) acknowledges, the space between collaboration and confrontation can be a difficult one to occupy for civil society actors. Here, conflict transformation practitioners can help parties in conflict and other stakeholders to assess their options for action.

4.5 Balancing Facilitation and Advocacy Roles

Considering the points made above about the importance of mobilisation and advocacy in conflict transformation, what does this mean for conflict transformation practitioners? Can or should they play such roles, or must they refrain from doing so? If they were to function as advocates, how would that impact on more facilitative roles? Such questions have been debated before, prompted by the recognition that the traditional conflict resolution emphasis on facilitators or interveners being impartial, neutral and non-partisan can pose serious moral and political problems in contexts of grave injustice or serious power imbalances (e.g. Meijer 1997; Lampen 1997; Arnold 1998b). They are all the more relevant in the context of conflict transformation, given its concern with social change and justice.

I used to believe that combining facilitator and advocacy roles in one person or organisation was both impossible and problematic, but my view has gradually become more nuanced. It now seems to me that it is possible, difficult and not necessarily ideal – but sometimes the reality. In practice, actors seeking to impact constructively on a conflict situation may get caught up in both types of roles. For example, during Nepal's armed conflict, some human rights activists served as facilitators and/or mediators at grass-roots level, negotiating with combatants on either side to assist in the release of abducted or arrested individuals, to relieve a community from being targeted by both sides, or to ensure that schools were respected as "zones for peace". Their work in this regard did not hold them back in their human rights advocacy, nor did the latter prevent them from being effective facilitators. In fact, their strong and well-known human rights stance enhanced their credibility amongst communities and combatants to function as facilitators; they made human rights the parameters for dialogue and negotiation with the parties in conflict.[13] In Zimbabwe, on the other hand, a non-denominational network of churches in Manicaland found itself challenged when combining their commitment to justice with their desire to seek peace. The former led them to denounce abuses, call for accountability and assist victims of violence, while the latter prompted them to intervene in local conflict situations and facilitate dialogue involving youth militia, war veterans, security forces and local communities. The more they engaged with perpetrators of violence, the more they experienced pressure from community members to stand up for what was 'right'; yet being outspoken and active on issues of justice made them less acceptable as a facilitator to one side or another, because it created a perception of bias. Meanwhile, they were torn internally, as some prioritised one role and others wanted to concentrate on the other.[14]

The above suggests that in relation to combining different roles, much depends on the context, the specific conflict and power dynamics, the credibility of the intervener, the level at

13 Conversations with staff members of present and past partner organisations of Danida's Human Rights and Good Governance Programme (DanidaHUGOU), Nepal (2006-2009); and discussion at the DanidaHUGOU synergy workshop, in Nepalgunj in July 2007, with participants from seven partner organisations.

14 Based on work conducted in 2003 and 2004 with churches in Manicaland (see also Galant/Parlevliet 2005, 124-125).

which he or she operates, and his/her relationships with conflicting parties. It also matters what we understand by advocacy, how this advocacy is done and what it is about. Advocacy is generally associated with speaking out, drawing attention to one's cause and taking a clear, public stance on a particular issue or cause. Yet speaking out and taking a stance can also occur outside of the limelight, in the relationship between a facilitator and a conflict party, where criticism "may be accepted […] which would be ignored if it was made in public" (Lampen 1997); the non-adversarial approach to advocacy suggested earlier comes to mind here.

Kraybill (1992, 13-14) distinguishes four types of advocacy: a *party advocate* promotes a particular party's interests; an *outcome advocate* pursues an outcome that he or she considers desirable irrespective of who happens to benefit from it; a *process advocate* promotes a specific way of deciding things or getting things done, while a *values advocate* champions certain concepts or principles such as democracy, fair play and the rule of law. He argues that conflict transformation practitioners ought to engage in the latter two types of advocacy and must be upfront about the values that motivate them and the nature of the process they facilitate (ibid). Outcome advocacy is not necessarily outside the realm of conflict transformation either, if understood as advocating in general terms for an outcome that fits within a rights framework, rather than for a specific substantive outcome (Galant/Parlevliet 2005, 117). Party advocacy, however, is problematic if one seeks to be acceptable as a facilitator or mediator to opposing parties in conflict. In other words, some forms of advocacy can be combined with acting in facilitative roles. Still, a practical challenge lies in the possibility of parties conflating an intervener's values advocacy (e.g. on fairness, human rights) with party advocacy. This arises especially in asymmetric conflicts where advocacy of human rights standards is quickly perceived as reflecting a stance in favour of one party or another (e.g. Felner 2004).

Of course, facilitation and advocacy are but two of the roles that are required in conflict transformation processes; many others are relevant too. Generally, any one actor (organisation or individual) is likely to play multiple roles in a conflict context when working towards peace and transformation. Pursuing role integrity is an important imperative in such instances; this means that an actor does not play any roles that have conflicting principles or objectives (Arnold 1998b, 15). Where performance of one role may compromise the actor's ability to function effectively in another role, we need to consider whether one of the two can be cast aside or transferred to another actor whose other functions are more in line with that role. A division of labour may thus ensue in which different actors intervening in a particular context play different primary roles.

At times, a division of labour may be possible within one and the same organisation or network. Within the United Nations, for example, the Office of the High Commissioner for Human Rights is positioned "as the 'bad cop' who should impose limits on the deals [senior UN officials] negotiate" (Hannum, 2006, 24). In Manicaland, the churches developed a division of labour amongst themselves to balance their 'peace' and their 'justice' roles, once they had clarified their different roles as a network and their respective strengths and limitations. A Nepali human rights organisation involved in peacebuilding work tends to let its community activists focus on human rights education and facilitation of dialogue on issues of violence and human rights abuse, while its regional offices emphasise advocacy, fact-finding and denunciation of human rights violations that occur at grass-roots level.[15] When establishing role integrity through a division of labour amongst different actors, it is necessary to develop effective coordination and communication mechanisms in order to prevent them from working at cross-purposes. In this way, they can join their comparative strengths while

15 Interview with regional coordinator and community workers of the Informal Sector Service Centre (INSEC), Nepalgunj office, Nepal.

keeping their unique identities. If, however, a combination of contradictory roles cannot be avoided in specific instances, one needs at least to anticipate confusion and tension that may arise and devise strategies to manage possible negative ramifications. In sum, role integrity is the goal, but role clarity is a necessity.

5. Conclusion and Further Research

Over the years, I have often wondered why the mutual stereotypes about human rights actors and conflict transformation practitioners remain so strong. Also, why is the perception of a clash between the two fields so persistent, despite the increasing recognition of the close link between human rights, conflict and peace, and of peace and justice being complementary? This is not just a theoretical question. It has practical relevance in terms of the possible lost opportunities for effective collaboration and maximising impact in a specific context. The literature review in *Annex A* identifies several factors that fuel the sense of a clear-cut dichotomy, such as competition for resources; protection of professional turf and identity, especially when operating at an international policy level; and caricatures of both 'constituencies'. Elsewhere, it has also been suggested that practitioners and scholars in the two fields operate on different assumptions relating to the acceptability and role of violence. While the conflict transformation field emphasises 'constructive' (i.e. nonviolent) approaches to conflict, human rights norms do not prohibit war or violence *per se* and international humanitarian law only governs the conduct of war, not its legality (Hannum 2006, 5; Saunders 2001, 2; Lutz et al. 2003, 179). Yet another explanation can be found in Bell's argument that human rights promoters and conflict resolvers have a fundamentally different analysis of the causes of conflict, neither of which leaves room for the other. At the root of conflict lies either inter-group hatred (i.e. subjective issues such as emotions, perceptions, relationships – the domain of conflict resolvers) or a lack of democracy (i.e. substantive issues, which are the domain of human rights promoters). Hence, strategies for intervention differ fundamentally and are at odds with one another (Bell 2006, 356-357).[16]

The discussion in this article suggests that both conflict analyses are valid at one and the same time. Governance-related issues and relationships are intertwined, forming structural conditions that create tensions in society which provide fertile ground for violent conflict. As the peace and conflict field has started to focus more on the notion of conflict transformation, concerns with justice and fundamental reform have become more explicit. In the same vein, it would be unwise to dismiss relationships as being irrelevant to human rights, given that the latter are rooted in human dignity and that rights standards help to cultivate a certain type of relationships in the public sphere.

There is probably no one, definitive, explanation of why the 'clash' perception remains so strong and the resultant stereotypes are so persistent. As recognized earlier, real differences between the two fields do exist, and simplistic interpretations are hard to eradicate. Yet something else may be at play too, besides the factors noted above. My own hypothesis (as yet untested), is that the human rights and the conflict fields, much as they complement one another, also tap into one another's 'weak spot'. While the human rights field's emphasis on tackling structural, underlying conditions is accepted by the conflict transformation field, this is an area where we find it hard to show results and develop effective strategies. On the other hand, the human rights field tends to perceive the

16 Bell does not comment on it, but the question can also be raised how educational background comes into play, given the extent to which one's analysis may be shaped differently by the law (prevalent in the human rights field) or social sciences (widespread amongst conflict transformation scholars and practitioners).

world in terms of right and wrong, black and white, while peace and conflict work highlights – and capitalises on – the areas of grey that exist in reality. This can be difficult for human rights actors in that it may create a slippery slope of morality. In other words, each field touches at the core of what actors in the other field struggle with and/or feel sensitive about. However contentious this thesis may be, the question it seeks to address does matter, because the lasting stereotypes and sense of division can fuel mistrust, impatience, and lack of understanding between human rights actors and conflict workers that can complicate the interventions in which they are both involved.

The central argument in this article has been that the transformation of violent conflict to sustainable peace requires insights and strategies from both the human rights and the conflict transformation fields. Considering the two in conjunction enhances one's analysis of the underlying causes, dynamics and manifestations of conflict. A human rights perspective highlights the socio-political nature of conflict transformation. It suggests the need to recognize the role and responsibility of the state and the nature and functioning of systems of governance. While Azar's work on protracted social conflict (1990) – which attributes considerable weight to the state – has informed our thinking on conflict transformation, ongoing practice and scholarship has focused extensively on civil society initiatives, relationship-building and bottom-up processes. Less attention has been given to the crucial role of the state in generating (violent) conflict or causing it to escalate.

This means that more explicit attention should be devoted to issues of power in the analysis of conflict and in the design of processes for addressing and transforming conflict. Considering human rights in relation to conflict transformation substantiates the latter's normative basis and makes it more explicit. It reflects that the project of conflict transformation is not geared towards just 'any peace' but peace of a certain quality. Failure to recognize issues of power, justice, equality and democratisation risks depoliticising conflict transformation, undermining its impact. It may result in conflict transformation "acting as a tool for pacification rather than for the achievement of genuinely peaceful (i.e., just) relationships" (Francis 2004, 2).

It has also been argued that in efforts to build a sustainable peace, a narrow, legalistic understanding does not suffice. Considering human rights in the context of conflict transformation emphasises the importance of combining state-building and institutional reform with relationship-building and with attention to process, and of combining a focus on the responsibilities of the state with a focus on the responsibilities of citizens. Addressing these dimensions of human rights in conflict transformation helps to create an environment in which institutions of governance are legitimate, the division of power, resources and opportunities is fair, processes exist to manage conflicts constructively and effectively, and where respect for human dignity is at the core of relationships between state and citizens and amongst citizens themselves.

Various issues raised in this article warrant further exploration in research and practice. There are also areas that have not been discussed here, yet should be examined to develop a more in-depth understanding of how conflict transformation and human rights interact in general and in specific settings. For me, a few issues arising from the reflections in this article include the following (not listed in order of importance):

Firstly, this article has concentrated on intra-state conflict and has highlighted the role of the state in relation to citizens. It has, however, not engaged with other facets of reality that also characterize many contemporary conflicts, such as cross-border linkages and the role of non-state actors including customary institutions (traditional leaders, informal justice systems) and other social entities (e.g. warlords, religious movements, gang leaders). Such non-state actors are often

an integral part of the political order in regions of apparent fragility as formal state institutions tend to be weak and have limited reach (Boege et al. 2008, 10). What are the implications of this reality for processes to transform conflict with due consideration of human rights? For one, it underscores the need for a horizontal application of human rights, in which rights standards are considered in the relationships between and amongst citizens and non-state actors, and are not confined to the relationship between the state and citizens. Yet it also raises questions of enforcement, with respect to the limitations of such informal or customary orders of governance in terms of human rights and social justice. Such mechanisms may flout human rights values and principles, especially those relating to due process, fairness, non-discrimination, gender equality and participation. They can also reinforce unequal power relations and structural discrimination. This raises a dilemma of how to facilitate a "positive mutual accommodation" of state and non-state mechanisms in hybrid political orders (Boege et al. 2008, 12) while grounding the resultant political order on a normative basis in line with international standards.

Secondly, the interaction between the local and the international should also be given greater consideration. Conflict transformation emphasises the importance of local ownership, while human rights form part of an international normative framework. A tension may thus arise between "global norms and local agency" (Orentlicher 2007); this has come poignantly to the fore in relation to war crimes cases pursued by the International Criminal Court (ICC). For example, contentious debate has erupted on how the arrest warrants issued by the ICC for key leaders of the Lord's Resistance Army (LRA) relate to the interests and preferences of the local population, which has borne the brunt of the violence committed by the LRA and the Ugandan security forces (e.g. Branch 2007). This suggests that the tension between global norms and local agency may be especially likely to surface in situations where a settlement between conflicting parties has not yet been reached; where the norms are enforced by an international body outside the context where violence was committed; and/or retributive justice is prioritised in enforcing global norms.

Thirdly, despite the emphasis on structural change in both conflict transformation and human rights, we are far from clear about how structural change might be achieved and how it can best be supported. Nor is there clarity on the scope for and limitations of external involvement in such change processes. It might be useful to compare theories of change that prevail in the human rights field and the conflict transformation field, respectively. In considering structural change, more attention should also be paid to resistance to change within institutions and amongst political elites, and how best to handle that. For a field that is concerned with transforming the underlying conditions that create direct, structural and cultural violence, it is surprising that handling resistance to change has been given so little, if any, consideration – yet it is so important in determining what can be achieved in a given situation. More research and better practice is needed in this area, to enhance our ability to work with such resistance rather than working against it.

Annex A:

Tracing the Debate from Clash to Complementarity – A Literature Review

The 'First Wave': Peace *or* Justice

Early contributions on the human rights/conflict resolution relationship focused mostly on the differences between human rights activists and conflict resolution practitioners and the possible resultant tensions when both sets of actors operate in the same context (Baker 1996; Arnold 1998a).[17] It is therefore no surprise that the language used is often that of "either/or", or "versus", dividing the two fields in no uncertain terms. The differences identified relate to:

- *strategies and approaches* (adversarial vs. cooperative; principled vs. pragmatic; rigid vs. flexible; emphasis on outcome vs. emphasis on process; prescriptive vs. facilitative);
- *objectives pursued* (justice vs. peace; justice vs. reconciliation; human rights protection as a requisite for establishing peace or establishing peace as a requisite for human rights protection);
- *roles played* (advocate, investigator, monitor vs. facilitator, mediator, convenor); and
- *principles guiding the actions* (speaking out on injustice and attributing responsibility vs. remaining impartial with respect to all parties, being even-handed and not judging).

Without necessarily being stated as such, the context for this early discussion was that of efforts to end violent conflict through a negotiated settlement. This sharpened the asserted differences between the two fields. The focus on reaching political agreement between conflicting parties in order to end violence seemed to pit pragmatism against principle and politics against norms. The emphasis on norms – reflected, for example, in appeals that those responsible for atrocities should be excluded from peace negotiations and/or be prosecuted, or that agreements should fully abide by human rights standards – places certain demands on peacemaking that appear to limit the prospects for reaching a settlement. Human rights can thus be perceived as complicating the conflict resolution process by introducing or exacerbating "the moral dimension of conflict" (Nherere/Ansah-Koi 1990, 34). A clash between the fields was also identified in terms of time frame and focus. Those working on conflict were said to "concentrate on short-term solutions that address the precipitous events that sparked the conflict; above all, they seek a swift and expedient end to the violence" (Baker 1996, 568). Those concerned with human rights, on the other hand, purportedly "tend to concentrate on the longer-term solutions that address the root causes of the conflict; they search for enduring democratic stability" (ibid.). This summary shows that the emphasis in these publications was mostly on a particular understanding of peace, namely peace as the absence of violence (*negative peace*); a particular conception of the scope and purpose of interventions in conflict (*conflict settlement*); a particular time frame (*during, or in the midst of, crisis*) and a particular level of intervention (*Track I*).

The 'Second Wave': Peace *and* Justice

The debate started to shift with the increasing recognition that ending violence is not the only goal of efforts to address conflict and that peace and justice are closely linked. As a result, subsequent publications highlighted that human rights and conflict resolution share a common goal in limiting abuses and ensuring the existence of stable, peaceful societies based on the rule of law and democratic institutions (Kaufman/Bisharat 1998; Saunders 2001; Parlevliet 2002; Carnegie

17 In tracing the debate, approaches for addressing conflict and building peace will be referred to once more as "conflict resolution" because this term has been most commonly used in the literature.

Council 2002; Lutz et al. 2003). These authors acknowledged differences between the fields and conceded that tensions may arise. Yet they also explored the linkages between human rights and conflict resolution and sought to raise mutual understanding between actors in both fields. Hence, a recurrent theme in this 'second wave' of publications is complementarity, rather than competition and contradiction. As such, they were "acts of advocacy" (Lutz et al. 2003, 192), arguing for greater learning and collaboration and more cross-fertilisation. The authors generally drew insights from practical efforts to facilitate such learning and interaction.[18]

Explicit discussion of the relationship between human rights and conflict was central to these analyses. It was highlighted that violent conflict generally leads to human rights abuses, but may also result from such abuses. With this emphasis on rights abuse as a cause of conflict, the focus of discussion broadened in scope: it concerned itself with pre- and post-crisis contexts, including post-settlement environments and addressed conflict *resolution* rather than conflict settlement. It also moved from the earlier emphasis on negative peace to a greater emphasis on *positive peace*, in recognition that peace must have substantive content if it is to last. Some authors argued that human rights should be integrated into peace processes and that rights could provide a basis for finding common ground between the parties (e.g. Kaufman/Bisharat 1998). Institutionalised protection of human rights, including the structural accommodation of diversity, was emphasised as being important in conflict prevention (Parlevliet 2002, 20-22). Authors also referred to research highlighting the importance of protecting minority rights (e.g. Osaghae 1996; Hannum 1996; Van der Stoel 1999).

The recognition of human rights as being important in the generation, manifestation, resolution and prevention of violent conflict spawned a more nuanced debate on the differences between human rights and conflict resolution. Distinctions were made (either explicitly or implicitly) between interventions at Track I, II and III levels, and between international and national contexts. For example, it was noted that differences between human rights and conflict resolution may be more pronounced in the North than in the South. In the former, large international human rights and conflict resolution organisations vie for funding and seek to influence formal peace processes facilitated by international organisations and state actors. In the South, on the other hand, practitioners work in closer proximity, with fewer resources and less stake in protecting professional turf and identity (Saunders 2001; also Schirch 2006, 63-64). Another dynamic observed presents a greater obstacle for effective collaboration: the possibility that the human rights and the conflict resolution agenda could become associated with one or the other side in conflict. For example, Perera (2002) and Thiagarajah (2002) noted that human rights and peace groups in Sri Lanka were split along ethnic divisions in society, with the former being dominated by Tamils and the latter by Sinhalese. Such dynamics can in part be explained by the asymmetric nature of the conflicts involved, combined with human rights' traditional focus on the state.

In this 'second wave' of publications on human rights and conflict resolution, one issue remained particularly challenging: the question of ending violence while also meeting the demands of justice by holding perpetrators of gross human rights violations to account. Yet while this was initially framed as a choice *between* peace or justice, the question was now captured as a dilemma of "negotiating peace *with* justice" (Martin 2000, 82, emphasis added) or in terms of "balancing short-term *and* long-term goals" (Lutz et al. 2003). These authors emphasised timing as an important

18 For example, my own work built on experiences gathered through the Human Rights and Conflict Management Programme, established in 1999 at the Centre for Conflict Resolution (South Africa). The Centre for Human Rights and Conflict Resolution, established in 2000 at the Fletcher School at Tufts University, provided the context for the work undertaken by Lutz and her colleagues. In 2001, the Carnegie Council brought together human rights advocates and conflict resolution specialists to inform a special issue of its journal *Human Rights Dialogue* on integrating human rights and peace work (Carnegie Council 2002).

variable: "in some circumstances [...] it may better serve the cause of justice that the issue [of accountability for abuses] is not addressed at a time when the balance is weighted towards the needs for immediate peace. [...] [T]ime is likely to be on the side of those who claim justice, and what is politically impossible now may become politically feasible later" (Martin 2000, 83). Others challenged the conception of justice being utilised, arguing that justice should also encompass reparation schemes and civil suits, besides establishing criminal responsibility for violations through prosecutions (Nesiah/Van Zyl 2002, 17).

Of course, these discussions on human rights and conflict resolution did not take place in a vacuum, however abstract they may appear at times (Bell 2006, 348). Various national and international developments have formed the backdrop for this debate. With the deepening of the international human rights regime and expansion of international law after the end of the Cold War, human rights have become an "institutionalised part of international politics" (Pia/Diez 2007, 13). The United Nations has increasingly integrated human rights into its analysis and practice. This has led, for example, to a clear signal that amnesty should never be granted for genocide, crimes against humanity, war crimes or other serious violations of international humanitarian law. The Security Council also adopted Resolution 1325 on the involvement of women in peace processes (UN 2000a). In 2001, the UN Secretary-General's report on the prevention of armed conflict identified four conditions as "key structural risk factors that fuel violent conflict", namely inequity, inequality, injustice and insecurity, all of which are closely related to human rights (UN 2001, 24 par. 100). Other developments include the Brahimi Commission, which highlighted the need for UN peace operations to pay more attention to rule of law and respect for human rights (UN 2000b), and the first report by the UN Secretary-General on the rule of law and transitional justice in conflict and post-conflict societies (UN 2004a). The rise of international criminal justice through the International Tribunals for the former Yugoslavia and Rwanda, and the adoption of the Rome Statute for the International Criminal Court (UN 1998), has also played a role. At the national level, the establishment of truth commissions in various countries has been an important development, prompting discussion on the relevance of human rights for sustainable peace (e.g. Hayner 2001).

The 'Third Wave': Further Diversification

These developments at the international and national level have influenced further debate on the relationship between human rights and conflict resolution. Three main themes stand out in subsequent research on the issue: 1) human rights and peace agreements; 2) transitional justice; and 3) the role of human rights actors in addressing conflict and building peace. These themes are briefly reviewed here, in so far as they further our understanding of the interaction between human rights and conflict resolution.[19] In comparison to the first two 'waves', the question of whether human rights and conflict resolution clash or complement one another has been debated far less in more recent literature; the notion of complementarity seems to have been accepted as the starting point rather than a point of argument. Beyond this, it is difficult to categorize the literature in relation to the variables introduced above – conception of peace; scope, purpose and level of intervention; time frame – because these differ from theme to theme.

19 Questions of human rights and conflict resolution have also arisen in other areas, for example in the context of humanitarian intervention and the responsibility to protect. These are not discussed here because they mostly relate to (military) intervention geared towards ending widespread rights violations and are less concerned with conflict resolution in terms of addressing the underlying causes of violent conflict (e.g. International Commission on Intervention and State Sovereignty 2001; Coady 2002). Also, in the development field, much attention has been devoted to both human rights-based approaches to development and conflict sensitivity in the last decade. Yet these two approaches seem to have evolved on parallel tracks in virtual isolation of one another, with no consideration of their interrelationship (on human rights-based approaches to development, see for example Gready/Ensor 2005 and OHCHR 2006a and 2006b; on conflict sensitivity, see International Alert et al. 2004).

In relation to the *first theme*, human rights and peace agreements, commentators have focused on whether peace agreements contain human rights provisions, and if so, how such provisions came to be included; to what extent they are implemented and whether the inclusion of rights provisions in an agreement influences the degree of human rights protection in the post-settlement phase and beyond; and finally, how specific rights concerns are addressed in agreements, such as accountability for past crimes. It has transpired that assessing the inclusion of human rights in agreements can be difficult, because provisions that do not explicitly mention human rights may still address rights issues, by providing for power-sharing arrangements, reform of the judiciary and police, elections, disarmament and civilian control over the military. Such provisions address concerns related to equality; procedural fair treatment; participation in the public process; freedom of speech, movement and association; substantive limits on legitimate use of state powers, etc. (Putnam 2002, 238; ICHRP 2006, 3). Overall, however, research has not been able to confirm whether more or less attention to human rights "makes it more or less likely either that a peace agreement will be reached or that it will be sustainable" (Hannum 2006, 7). In relation to peace agreements, implementation is the main challenge, irrespective of the scope or substance of human rights provisions. The generic, abstract nature of many clauses in an agreement means that some re-negotiation will take place in the post-settlement phase about the actual meaning and implications of specific provisions, regardless of their relevance for human rights.

Still, analyses of different peace processes indicate that introducing human rights in negotiations is not necessarily the stumbling block it was initially perceived to be. At times, discussion on human rights may act as a lever and build confidence between conflicting parties (Putnam 2002, 238-239). Human rights can have a "facilitative role […] in reaching agreement, by forming a common language through which parties can address their basic needs" (Bell 2006, 356). Also relevant is the finding that a human rights framework can assist in designing peace processes by placing different issues on the agenda at different times in the negotiations (sequencing). Consequently, the imperative of stopping violence may be reconciled with more substantial measures related to reform and accountability. The former is generally addressed at the pre-negotiation stage, for example through a ceasefire; the latter may be dealt with in later, more comprehensive agreements (ICHRP 2006, 111-112; Bell 2000, 295-301). In this way, combining justice and peace in the context of Track I negotiations may not be an either/or choice but rather "a management challenge of how to move pragmatically from violent conflict while keeping open future possibilities for justice" (Bell 2006, 352).

The *second theme* around which the debate on human rights and conflict resolution has occurred in recent years is transitional justice (used here to refer to a society's efforts to address a legacy of gross human rights violations committed in its recent history). The research on this topic is broad.[20] Over time, a consensus has emerged that dealing with a legacy of violence *is* an important component of building sustainable peace. Transitional justice is now firmly on the agenda when it comes to societies emerging from extensive violence. UN treaty bodies, regional courts, international and domestic tribunals have established that individuals have a right to know the truth about the fate of disappeared persons or information about other past abuses (UN 2004b). The international legal norms against impunity have grown increasingly strong, and a legal default position has evolved that those who bear the greatest responsibility for atrocities must be punished (Orentlicher 2007; also Seils/Wierda 2005, 14). At the same time, the notion of reconciliation has gained much prominence

20 The issues considered include whether transitional justice is necessary for a society to achieve sustainable peace; the mechanisms available for sustainable justice, and their respective merits and limitations; the meaning of justice and reconciliation in contexts where extensive violence has occurred; how to deal with those responsible for mass atrocities; and the balance between domestic priorities and international standards.

in relation to transitional justice, despite there being little definitional clarity on the term (Bloomfield 2006, 5). In general, however, opinions still widely differ on how to pursue transitional justice most effectively, appropriately and legitimately, and what may be the best combination of measures in a given context.[21]

The *third theme* reviewed here in relation to the human rights/conflict resolution debate regards the involvement of human rights actors in conflict resolution. Some authors focus on peacemaking and peacebuilding undertaken in the UN context, and consider the role of human rights officials at headquarters or in field operations (e.g. Hannum 2006; O'Flaherty 2007; Howland 2006). Others explore the efforts of non-governmental human rights organisations to mitigate violent conflict (e.g. Mahony 2007, 2003) or to influence peace negotiations (e.g. O'Flaherty 2006; Bell 2006). A third body of work goes beyond this emphasis on national level violent conflict, international engagement and/or Track I efforts and focuses instead on the role of national human rights institutions – bodies established by governments under the constitution, by law or decree, to protect and promote human rights. It examines how such bodies may be engaged in addressing conflict and building peace in their society on an ongoing basis (Parlevliet et al. 2005; Parlevliet 2006).

While the literature in this thematic area acknowledges the ongoing existence of stereotypes about 'human rights actors' and 'conflict resolution people', it yields important insights about the approaches, tactics and strategies of different human rights actors in conflict contexts. It highlights that the notion of human rights actors as always using adversarial tactics and relying solely on naming and shaming should be corrected. They may use other tactics too, including "persuasive human rights diplomacy" which involves displaying political sensitivity and ongoing reminders to abusers, often indirect, that outsiders are watching (O'Flaherty 2007, 18; Mahony 2007, 263). Generally, tactics used by rights actors greatly depend on the context and nature of the actor itself. Protecting and promoting human rights during and after violent conflict is fundamentally different from doing so in functioning states, and hence requires different tactics (Putnam 2002; Hannum 2006). It has also been suggested that in post-settlement contexts, human rights NGOs in the South tend to focus on education, standard-setting and institution-building, while those based in the North rely more on the 'enforcement approach' that focuses on apportioning blame and seeking punishment for transgressions of international standards (Putnam 2002). In sum, a more nuanced appreciation of human rights methods in conflict contexts has developed.

This review of the literature on the human rights/conflict resolution relationship indicates that the debate has gone from postulating a direct, inherent tension between the two to recognizing a more complementary relationship. It is now largely accepted that human rights protection and promotion are important for the long-term stability and development of societies that have experienced or are experiencing violent conflict. It has increasingly been recognized that there is no peace without justice, and that the absence of justice is frequently the reason for the absence of peace. This is not to say that any tension observed earlier can be purely attributed to flawed perceptions and lack of understanding. Clearly, substantial differences may arise between conflict resolution practitioners and human rights actors about priorities and appropriate approaches, especially in relation to the pursuit of accountability for past human rights violations. Still, rather than perceiving

21 Much scholarship in this area has been based on a narrow legal conception of justice, namely retributive justice (punishment of perpetrators through criminal prosecution), although some have suggested restorative justice as an alternative (focusing more on victims and relationships). Either way, such notions of justice are mostly backward-looking whereas justice is concerned with both the past *and* the future, suggesting the need for a more comprehensive understanding of justice (e.g. Parlevliet 2002; Bloomfield 2006, 21).

an absolute and insurmountable tension *per se* between human rights and conflict resolution, such differences may be better understood as challenges or dilemmas that need to be addressed on a case by case basis, taking into consideration a range of factors including context, time frame and developing international standards. Finally, it appears as if the debate thus far has mixed discussion about three different but inter-related elements, which is also reflected in this literature review: a) the relationship between human rights and conflict; b) the interaction between actors from different backgrounds operating in conflict contexts; and c) the interface between the 'fields' or 'disciplines' of conflict resolution and human rights in terms of concepts, analysis and perspectives.

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Berghof Conflict Research

Conflicts and the Politics of Human Rights Invocations

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www.berghof-handbook.net

Michelle Parlevliet's *Rethinking Conflict Transformation from a Human Rights Perspective* undoubtedly is an important contribution to the literature on the relationship between human rights and conflict transformation. Her insistence on this relationship as being complementary – but also, one may add, complex – is needed to bring this debate forward. This is all the more the case as Parlevliet can build on her long-standing expertise as both practitioner and academic. Indeed, her article is exemplary in its combination of theoretical reflection and insights into the practice of conflict transformation and human rights advocacy.

One of the core contributions of Parlevliet's piece lies in what one may call her holistic approach. She rightly recognizes that the importance of human rights does not end in claiming legal changes, but involves changes in and attention to "structures and institutions", "relationships" and the "process" of conflict transformation. Her iceberg model may look simplistic in its rather crude division between human rights violations as symptoms and causes, but it does illustrate very nicely the need to embed the invocation of human rights in a broader context. This is an aspect that we have emphasised in our own work (see e.g. Pia/Diez 2007, 2009) and it may go a long way in understanding why references to human rights in conflicts can sometimes have a conflict-intensifying and sometimes a conflict-diminishing or positively conflict-transforming effect.

Yet it is exactly here that we think that there is also a weakness in Parlevliet's argumentation, although we should hasten to add that this is a weakness that results from the way that she constructs her argument rather than from any substantive issues. The problem, in our view, is that Parlevliet defines human rights as rules, structures and institutions, relationships, and process (in this volume, 22). Even on a superficial level, this seems odd. No doubt all these things are *related to* human rights, but they are not *the same as* human rights. When Parlevliet writes, for instance, of "human rights as structures and institutions", she wants "to examine the structures in society that

govern issues of power, resources, identity and security, and that determine access to and decision-making over such assets" (22). While we do not dispute that such structures have an important impact on the realization of human rights, in particular when it comes to second- or third-generation rights, we do find that incorporating them into the definition of human rights reduces the analytical purchase of the concept and risks losing sight of the need to investigate the effects of human rights articulations as legal norms in conflicts.

Therefore, it seems to us that Parlevliet's choice to integrate these other factors into the definition of human rights makes her overlook or not fully appreciate the problems of invoking human rights as a legal norm. In the following, we would like to suggest three issues that in our view warrant further discussion. First, we argue that invocations of human rights by their very nature articulate an existential threat with a view to legitimising urgent counter-action in the absence of change. This explains their conflict-intensifying potential and alerts us to the political dimension of such invocations. Second, we discuss the extent to which politics is excluded if human rights are seen as purely legal norms. Third, we argue that different kinds of human rights articulations can have different effects on conflicts, and that therefore the articulations themselves matter more than Parlevliet seems to suggest.

1. The Nature of Human Rights as Securitising

Parlevliet acknowledges that human rights can have a conflict-intensifying effect at least in the short to medium term (27). She links this effect rightly to the challenge that the invocation of human rights poses to the dominant power relations (29) and speaks in this context of "conflict sensitivity". Her argument is, and again we agree, that considerations of such sensitivity must not lead to ignoring injustices (30). We will discuss the possibilities of human rights articulations in such circumstances further in our third section, but want first to elaborate on why we think the invocation of human rights has this conflict-intensifying effect, even though human rights and (positive) conflict transformation are usually seen to correlate positively.

The problem, in our view, lies with the rhetorical structure of human rights invocations.[1] They are by definition related to a threat to the very existence of an individual or group. As long as this existence is not seen as being threatened, there is no need to invoke human rights. Existence in this context does not necessarily refer to issues of life and death – the freedom of movement or expression can be seen as core aspects of what it means to be human, and as such their restrictions count as existential threats as much as direct threats to one's life do.

In the literature on Security Studies, such references to an existential threat are called "securitisations". An issue is "securitised", in the words of Buzan, Wæver and de Wilde (1998, 23-24), if it "is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure". There is of course considerable dispute over what 'emergency measures' and 'actions outside the normal bounds of political procedure' may mean. Yet in the context of human rights and conflicts, successful securitisations, i.e. human rights invocations that are persuasive enough in society to have political effects, seem to have two particularly important consequences, which one could see as two extremes of what such extraordinary measures may be.

On one end, increasing levels of securitisation both in terms of societal spread and emergency measures are an indication of greater conflict intensity (see Diez et al. 2006, 566-568).

1 This argument emerged in our early discussions with Thorsten Bonacker in the context of the SHUR project: SHUR – Human Rights in Conflicts: The Role of Civil Society, see www.luiss.it/shur. This paper draws on our work in the context of this project, which was funded by the EU's 6th Framework Programme, contract number CIT5-CT-2006-028815.

This is because securitisations might reinforce conflict identities and legitimise violence towards the other conflict party. The invocation of human rights as a securitising act thus may justify breaking the law, and even violence. If there is a sense that one's human rights are constantly violated or under threat, the invocation of those rights will act as a threat itself, and will legitimise further action that may well leave the bounds of what would otherwise be acceptable within the normal procedures of the political system. As we will discuss in our third argument below, we would expect this kind of legitimisation of further action and even violence in a conflict situation to be more likely to occur if the invoked human rights are linked to a specific group and articulated as exclusive rights.

On the other end of the spectrum, the constitutional guarantee of human rights is also an "extraordinary measure" that removes human rights from the daily play of politics onto a "higher plane". Such a guarantee is as much a reaction to the invocation of a threat as violence is, but it marks agreement rather than continued dispute. While violence is thus directed at a coexisting, threatening 'other', constitutional guarantees refer to the *past* as the threatening other – the past in which human rights had been violated, which therefore had to be removed from politics. The underlying human rights articulation is therefore not "you are violating my rights, I demand that you stop doing so as I will otherwise have to resort to further action", but "our society has in the past been characterized by human rights violations, we have overcome this and need to ensure that such violations do not take place again." Such a notion of "temporal securitisations", referring to the 'past as other' are not unusual and in the literature have mostly been discussed in relation to European integration, in which the tragedy of two world wars plays a central role (see Diez 2004; Hansen 2006, 59-61; Wæver 1996). They also exist in the historical narratives of state identities from Germany (against the injustices of Nazi Germany) to South Africa (the apartheid regime).

Understood in such a way, the securitising nature of human rights invocations does not make them conflict-intensifying *per se*. Yet as long as there is a conflict situation, it seems highly unlikely that the invocation of human rights as such will lead to the other party accepting human rights, and thus to constitutional guarantees. These will need a broader conflict resolution process, in the context of which core notions of identities and interests in the conflict are challenged and transformed. This kind of process is a political process in the sense that identities and interests need to be socially negotiated.

We suppose that Parlevliet will agree with us on the need for such a wider political process, but her broad definition of human rights in our view is not well-tuned to capture the logic of human rights invocations as we have developed them in this section. This logic becomes compounded by phrasing human rights within a legal context, for it is within such a legal context that truth claims ("this is our right") about identities and threats are put beyond the realm of political contestability. In that sense, we agree with Parlevliet that reducing human rights to *legal norms* is problematic. Our next argument will therefore take up the notion of politics once more, and question the effects of invoking human rights as legal norms.

2. The Exclusion of Politics

The human rights discourse has become one of the most significant political ideologies of the second half of the twentieth century, "the acceptable voice – indeed virtually the *only* voice – of morality in international relations" (Robinson 1998, 59). The human rights institutions in the United Nations have increased in size and scope; the international Covenants have turned human rights into binding international law, the establishment of a permanent International Criminal Court, regional

human rights mechanisms like the African Human Rights Court and the Association of Southeast Asian Nations have all advanced the efforts for the protection of human rights, and myriads of human rights NGOs continue to lobby states, international organisations and the international public for mobilisations against human rights violators (Schmitz/Sikkink 2002).

It is ironic that the use of the discourse by so many diverse groups ignores the interrelatedness of politics and human rights. Indeed, the problem of reducing human rights to legal norms, as identified by Parlevliet (in this volume, 16) is not merely one of incomplete analysis. It is in itself a political act that lends credibility and authority to those that speak in the name of human rights, and at the same time puts their claims beyond political contestation in the name of an indisputable universal truth. This move has significant consequences for the role of human rights in conflicts.

On the one hand, the language of human rights has been appropriated by a plethora of actors to support and legitimise their multifarious aims and objectives within a conflict environment – not all of them with conflict resolution in mind. Human rights articulations in conflict constitute a discourse that has been characterized by high malleability and international appeal, lending legitimacy and authority to its interlocutors for dispute and power contestation in the political arena, and therefore for the continued securitisation of conflicts. For example, wars in the former Yugoslavia were fought in the name of human rights. Croats used the discourse of human rights in their campaigns against Serbs in Croatia and against the Muslims in Bosnia. Likewise, conservative Serbian intellectuals and officials claimed that Serbs were the victims of 'genocide' and that their rights as Serbs were being violated in the rest of Yugoslavia.

On the other hand, human rights are portrayed as non-political, non-negotiable moral absolutes. Yet what is expressed as universal morality in the international legal order does not take into account that the concept emerged and developed in a specific history and tradition, namely the Enlightenment and liberal political philosophy. Several scholars have pointed to the limitations of such an apolitical human rights discourse. Evans (2001) questions the relationship between human rights and democracy and argues that the cause of human rights violations lies in the structures of the global political economy. Globalisation and its agents (multinational corporations, international financial institutions) support a very thin understanding of human rights without responsibilities. Similarly for wa Matua (2000), human rights express the basic Western liberal values and are being exported throughout the world, and especially the non-Western world. Although it is important to understand the contradictions that shape the human rights language of moral intervention, it is equally important to engage with its dynamic character for the accommodation of difference.

The human rights discourse is available to an unlimited range of actors as a means to pursue their political objectives. It has been constructed and articulated within the demands of social movements for equality and justice. It has been shaped by the struggles against authoritarianism, racial discrimination and colonisation as well as by mobilisation for the rights of workers, women, ethnic minorities and indigenous people. When it comes to being used by conflict resolution and human rights practitioners, its political character must be taken into account. Thus, conflict resolution and human rights practitioners should be better off to acknowledge the fact that the human rights discourse is far from being a universal and ahistorical doctrine, and to conceptualize it as an instrument for articulating the needs of the marginalised and the excluded, which is both political and legal in character.

3. The Effect of Different Kinds of Human Rights Articulations

Human rights and conflict transformation are seen as being inextricably intertwined and complementary. Human rights have been perceived as the cornerstone for the development of a stable environment in post-conflict societies, and most peace agreements include human rights in order to transform war-shattered states. In our view, human rights cannot be used as a panacea to overcome conflict. Moreover, the concept of human rights has never been uniform. It is therefore not the invocation of human rights *per se* that is problematic, but how they are invoked. This takes two forms: the first one has to do with the reference point of the human right being invoked, namely the individual or the group; the second one has to do with the inclusivity of a human right, i.e. whether or not it is related to only one conflict party and thus reinforcing antagonisms. The articulation of human rights is more likely to have a de-securitising effect, in the sense of moving issues off the security agenda and back into the realm of public political discourse through no longer articulating them as existential threats legitimising extraordinary measures (see Williams 2003, 523), if they refer to the individual and if they are characterized by inclusivity (Pia/Diez 2009).

In relation to conflicts, the first distinction between individual and collective rights is very important in that collective rights make reference to and therefore inscribe particular group identities. They refer to the right of the collective as a whole and cannot be reduced to individual rights (Sanders 1991; Dinstein 1976). For example, there is a difference between the invocation of the right to speak the Kurdish language and the right of the Kurdish culture to exist. In this example, both rights are intertwined in that the collective right to culture presupposes the individual right to speak one's mother tongue. Yet collective and individual rights can also clash with each other, especially when the collective rights are invoked to protect cultural practices that infringe on individual freedoms. The underlying problem here is that the claim for collective rights may be seen as a reassertion of the traditional community over the individual (Howard 1992). At the same time, collective rights seem pertinent for the survival of cultures, especially in a globalised era where local and regional expressions of identity have been curtailed. It is clear that collective rights cannot be reduced to individual rights. Nevertheless, activists have the option to pursue their aims by either invoking individual or collective rights. In the Kurdish example, demanding the right to speak one's language may not be sufficient to guarantee the survival of group culture in the eyes of those who are predominantly interested in such survival, yet such a right is a precondition of and first step towards the articulation of Kurdish identity, without presupposing its undisputed existence.

Thus, the Human Rights Association (IHD) in Turkey initially focused its activities on demonstrating the state's responsibility in the persistence of violence in the region as a result of the continuing violations of the human rights of Kurds. But the criticisms and the negative political climate have led the IHD to move towards a more multicultural discourse, promoting the rights of all Turkey's citizens. In this way, it has managed to provide a common platform for the better co-ordination of human rights activities and a more receptive environment for these demands (Tocci/Kaliber 2008). On the other hand, the Mesopotamia Culture Centre in Turkey, which exclusively advocates Kurdish collective rights, is perceived as an actor that promotes a hidden separatist agenda.

The second dimension to human rights articulation is the difference between inclusive and exclusive articulations. In relation to individual rights, it is rather difficult to discern how this is possible, as individual rights are by definition universal and therefore inclusive. Yet such rights are often, and especially in conflicts, only invoked for individuals that belong to a particular group, and thus can be called "group rights". Here we have cases where individual rights are claimed on

behalf of members of a group because of discrimination or other forms of disadvantage. Once more, activists can choose to articulate rights in a universal manner or to invoke them merely on behalf of the members of the group for which they speak.

For example KAMER, a Kurdish women's rights organisation, has adopted a more neutral and universal language of human rights and left behind the prevalent discourse of many Kurdish human rights organisations that were interested exclusively in the protection of Kurdish rights as supported by the Kurdish nationalist movement (Tocci/Kaliber 2008). Thus, KAMER works for improving conditions for all women in Turkey by avoiding the use of a securitising discourse that reintroduces binary oppositions. On the other hand the main objective of Turkiye Kamu-Sen, a confederation of trade unions and public employees, is to promote the rights only of its members. Turning the usual perception of the Kurdish-Turkish conflict on its head, it has focused on the human rights of Turks and adamantly denied the collective dimension of the Kurdish question (Tocci/Kaliber 2008). In this case, the rejection of a Kurdish culture and identity generates further misunderstandings and discrimination for the Kurds.

It appears that inclusive articulations of human rights tend to have a de-securitising effect. For example, the Turkish business association (TÜSIAD) has included the Kurdish question in their efforts to promote democratisation and further reforms in Turkey. Thus, this civil society organisation tries to cultivate a friendlier and more inclusive environment for business and EU accession prospects and ultimately contributes to peacebuilding (Tocci/Kaliber 2008). Of course, even for an inclusive articulation to have an effect, many contextual factors must come to the fore, especially the timing of the articulation. Likewise, we suggest that there is no simple correlation between human rights and conflicts. The way that human rights are articulated should always be problematised and analysed, in order to have a better understanding of their relation.

4. Conclusion

The arguments we put forward in this paper do not question the substance of Michelle Parlevliet's excellent paper. Rather, we see them as an extension that emphasises the discursive logic of human rights articulations and its consequences for conflict transformation. Within such a framework, we have pointed to the inherently securitising logic of human rights articulations and the consequential danger of intensifying conflict. As a way forward, we argued that human rights articulations should turn to the past rather than contemporary foes as their 'other', emphasising a shared responsibility. This would create a reflexive identity, an identity that acknowledges its own failings and that includes both sides of a conflict, while providing the legitimising basis for an institutional framework that makes human rights violations less likely in the future. Clearly, this means that those who articulate human rights must take that leap and not use history to reproduce present conflicts. This may be a lot to ask, yet it may also be a litmus test to see which civil society organisations are really interested in human rights, rather than the reproduction of conflict identities.

Secondly, we argued that the articulation of human rights as purely legal concepts not only renders the nature of human rights incomplete but also restricts the debate about their role in conflicts by turning them into an apolitical, technical and universally valid concept. Ironically, such an apolitical concept, as we discussed in our second step, can be used to reproduce conflict. Thus, the role that human rights articulations play in protracted conflicts such as Cyprus is rather problematic (see Demetriou/Gürel 2008, 10-11): here it is exactly the reference to their legal nature, combined with their use in the name of identity claims on both sides, that makes human rights a core part of

the conflict rather than a means for conflict transformation. We have therefore argued in favour of an openly political notion of human rights that aims at protecting and integrating those that are marginalised into a broader societal framework. And finally, we developed a four-fold categorization of human rights articulations along two axes: individual/collective and inclusive/exclusive. We argued that in most cases, actors in conflict societies can articulate human rights in more than one way, and that it is inclusive articulations that are more likely to lead to conflict transformation.

To reiterate, we did not want to suggest that human rights cannot make a contribution to conflict transformation. Nor did we want to argue that it is always wrong to invoke human rights even if this leads to an intensification of conflict at least in the short to medium term. Our arguments do however point to the highly ambiguous role of human rights articulations in conflict, and they serve as a warning both to actors in conflict and analysts that there are different ways of making human rights claims, with different consequences for the future of conflict societies.

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Berghof Conflict Research

Conflict Transformation and Human Rights: A Mutual Stalemate?

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The statement that begins the conclusion of Michelle Parlevliet's lead article provides a good entry point into the much discussed and rarely agreed upon topic of conflict and human rights. She states: "Over the years, I have often wondered why the mutual stereotypes about human rights actors and conflict transformation practitioners remain so strong" and why "the perception of a clash between the two fields [is] so persistent, despite the increasing recognition of the close link between human rights, conflict and peace" (in this volume, 33).

In quite a number of ways, human rights and conflict transformation would appear to be naturally suited. In many cases both work towards seeking to end human suffering. Human rights and conflict transformation practitioners, however, may agree that they are naturally suited on paper, but they rarely do so in practice. It is crucial to address the background to this mutual stalemate so as to understand why this is so and whether it can be resolved.

There are many reasons for the stalemate. They include the historical development of human rights and conflict transformation as separate disciplines; the different influences of armed conflict and the cold war on both; and the lack of a complete human rights framework in relation to all aspects of conflict and peacebuilding (and vice versa) which has led to gaps in the definition of specific human rights goals and in the steps taken for their realization in implementing conflict transformation processes. It has been argued elsewhere that the "business of building peace and the business of building a robust regime for the protection of human rights are hardly mutually exclusive endeavours" (Putnam 2002, 264) and also that human rights and conflict are interlinked to the extent that human rights abuses are both symptoms and causes of violent conflict (Parlevliet 2002). The mutual stalemate, though, results from and in competing interests that affect the general applicability and enforcement of both human rights and conflict transformation. Before turning to this mutual stalemate in more detail, some conceptual issues need to be addressed.

1. Human Rights in Conflict Transformation: An Aspect of International Humanitarian Law?

Parlevliet warns that the main thrust of her paper is conflict transformation, but the title of the article is "rethinking conflict transformation *from a human rights perspective*" (emphasis added). This then leaves me with little choice but to read it from both a human rights *and* a conflict transformation perspective. Parlevliet argues that human rights should be considered in a multi-dimensional way that does not reduce them to their legal foundations, yet the definition she gives of human rights as "internationally agreed values, standards or rules regulating the conduct of states towards their own citizens and towards non-citizens" (in this volume, 17; quoting Baehr 1999) places human rights squarely in the legal frameworks that define these "internationally agreed values, standards or rules". To understand human rights in theory and practice, I believe this reading needs fleshing out.

Many academics and practitioners in fact prefer to view human rights in conflict transformation from the vantage point of International Humanitarian Law, finding it more concrete to assess the practicality of human rights from a humanitarian intervention perspective (Donnelly 2003, 242), rather than from the more comprehensive human rights perspective, which is usually seen as theoretical rather than practical.

Interestingly, International Human Rights Law and International Humanitarian Law as they currently exist were largely shaped by conflict. Wars waged as a bid to fight for rights have contributed heavily to human rights instruments and discourse. Consider how conflict has shaped the spread of religions: paradoxically, religion was spread by force through jihads and crusades while the religious texts uphold various standards and rules on how human beings relate to each other (for example in the Old Testament, dating back to 1200-300 BCE, and the original text of the Koran, dating back to 644-656 CE). These religions arguably laid the foundations for human rights.

Consider too, the French and American revolutions, the anti-slavery campaign and the resulting codified human rights instruments, such as the 1791 United States' Bill of Rights, the French Revolution's Declaration of the Rights of Man and Citizens (1789), the 1863 Emancipation Proclamation and 1926 Slavery Convention. Consider the battle of Solferino that gave us the 1864/1949 Geneva Conventions and the International Red Cross. The culmination of this conflict and violence were the world wars that led to the drafting of International Human Rights Law.

The United Nations, charged with advancing and codifying human rights, is in itself an organisation whose need was borne out of ending conflict and which was formed as a result of the Second World War. Wars of independence by colonial states as well as the 1947 nonviolent protests led by Mohandas Gandhi, which resulted in India's independence, were waged on human rights agendas, such as freedom of speech, assembly and information as well as the right to vote. These human rights agendas were in turn reflected in the constitutions of the newly independent states.

For human rights, the Universal Declaration of Human Rights (UDHR) of 1948, which Parlevliet refers to repeatedly, is seen as the authoritative interpretation of the term "human rights" in the Charter of the United Nations. Together with the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both adopted in 1966, it constitutes what has become known as the International Bill of Human Rights. However, since 1948, human rights and fundamental freedoms have been codified in hundreds of universal and regional, binding and non-binding instruments, touching almost every aspect of human life including conflict and peacebuilding and covering a broad range of civil, political, economic, social and cultural rights.

All this goes to say that both the human rights and conflict transformation agendas should be aware of their precursors and need to be firmly above a narrow legalistic understanding, especially considering that human rights are a set of internationally agreed legal *and* moral standards. They establish the basic civil, political, economic, social and cultural entitlements of every human being anywhere in the world at all times. Both human rights' moral and legal standards run through conflict transformation processes across countries, cultures and races and provide limits within which to redefine, appropriate and transform conflicts for constructive social change from a human rights lens.

2. Classification and Categorization of Human Rights: Dividing the Indivisible

When it comes to classifying human rights, Parlevliet reproduces the classical division of negative and positive rights. This division sticks to an old definition of human rights as typically divided into two categories: negative human rights (rights to be free from) and positive human rights (rights to), or what Urban Jonsson defined as negative rights to liberty (civil and political rights) and positive rights of welfarism (economic and social rights).[1] Jonsson argued, and I concur with him, that both sets of rights have positive and negative dimensions and that this categorization should therefore not be used.

Parlevliet goes on to classify civil and political rights as first category rights and the social, economic and cultural rights as second category rights. The trouble is that such a categorization is reminiscent of discussions which are well captured in a much-quoted argument by Maurice Cranston: that whereas traditional civil and political rights to life, liberty and property are "universal, paramount, categorical moral rights" (1964, 40), economic and social rights "belong to a different logical category" (ibid, 54; both quoted in Donnelly 2003, 28) – and are therefore not real human rights.

The "categorization" language was used a lot during the cold war, mostly between the western world and the Soviet bloc. The western world largely regarded civil and political rights as real rights and social, economic and cultural rights as rights that one could only aspire to (or as a communist agenda), while the Soviet bloc regarded real rights as those that were 'tangible' – such as rights to food, shelter and health.

Today it is widely accepted that although civil and political rights are based on the concept of non-interference – whereas social, economic and cultural rights require the state to take positive action – for human rights and conflict transformation to become a reality as a whole, states and the international community must take steps to create the conditions and legal frameworks necessary for exercising both, which emphasises the principles of universality, indivisibility and interdependence of all human rights.

Each human right entails and depends on other human rights; therefore violating one such right affects the exercise of other human rights. For example, the right to life presupposes respect for the right to shelter and to an adequate standard of living. Accordingly, civil and political rights and economic, social and cultural rights are complementary and respect for all rights is a prerequisite to sustainable peace and development. Amartya Sen, Nobel Laureate in economics, linked the right to information with the right to food and provided empirical proof that human rights are indivisible and interdependent (Sen 1982).[2] The international community affirmed the holistic concept of human

1 Jonsson during a workshop on rights-based approaches to development, held in Nairobi on 25-29 April 2007.

2 In his research on famines, Sen found that there is a direct link between the right to information and lack of famine in both rich and poor countries. He was able to demonstrate that no functioning democracy has ever suffered a major famine, mainly because in a country that enjoys the right to information the media calls attention to the famine.

rights at the World Conference on Human Rights, held in Vienna in 1993.[3]

Granted, all this sounds good in theory, but it has been difficult to change mindsets towards working on wholesale (civil, political, social, economic and cultural) human rights, especially within conflict transformation practice. Mary Robinson, former Irish President and UN High Commissioner, acknowledges this difficulty: "When I took up office as UN High Commissioner for Human Rights […], I underestimated both the degree of the divides and the battles […]. The truth is that there was not in 1997, and there is still not in 2006, almost ten years later, any clear consensus internationally about what we mean by 'international human rights'."[4]

However, it can be and it has been done. While working on a practical assignment for a course tutored by Parlevliet on conflict prevention in 2004,[5] we were able to work with law enforcement officers on building dialogue with community leaders and farmers. We did so by drawing linkages between what were in essence social, economic and cultural rights (which they saw as access to farms and water) and civil and political rights (which they saw as freedom of association and information). In doing so, we were able to halt the conflict (see *Box 1*).

Box 1 – A Process for Linking Rights: The Example of Mt. Elgon

The course work required the participants to submit a conflict prevention action plan, which I based on work we were already doing with the Ministry of Agriculture on human rights-based approaches to development as part of a strategy of building capacities for strengthening farmers. Our work included training agricultural and livestock development officers who would in turn train farmers on human rights issues, especially in regard to the right to food and water. The action plan was ideal for this group as the farmers were located in the Mt. Elgon area that is prone to what is referred to here in Kenya as 'politically ethnic-based clashes'. The assignment therefore gave me an opportunity to combine development, security and human rights.

Mt. Elgon has several settlement schemes that are perceived to be at the root of conflicts. The *underlying causes* of the conflict, however, are numerous and include land access, ethnicity, local political struggles, insecurity, etc. As a result of the land issue, there was insecurity in the area with a group of people – the Sabaot Land Defence Forces (SLDF) – taking up arms to protect the settlement scheme that they consider rightfully theirs. There have been clear political influences both on the allocation of the land and the formation of the SLDF. (This exercise happened in 2004. In 2008, SLDF leaders were shot dead by military and law enforcement officers when the violence began again.)

After monitoring the human rights abuses that were occurring in the area, we decided that it was vital that all actors in the process work towards ensuring that peace is restored, in order to pave the way for any meaningful discussions to take place on the allocation of land in the controversial scheme. We began a process of dialogue with authentic community leaders, the farmers and law enforcement officers, by drawing linkages to development, human rights and conflict prevention. The process worked by getting the actors to engage in dialogue, by asking questions based on particular activities such as:

3 The Vienna declaration states "All human rights are universal, indivisible and interdependent and interrelated. The International Community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis." See Section I, Art. 5 (www2.ohchr.org/english/law/vienna.htm; accessed 25 January 2010).

4 Mary Robinson 2006. "A Human Rights Approach to Social Justice". Article posted on www.unlockdemocracy.org.uk/?p=720 (accessed 1 March 2010).

5 The course was sponsored by Fahamu and the Office of the High Commissioner for Human Rights. At the time, I was working as head of education at the Kenya National Commission on Human Rights.

(i) Conducting a Stakeholder Analysis to identify both duty bearers and claim holders by asking: what is the role of the government officials as duty bearers? What is the role of the communities as claim holders?

(ii) Conducting a Broad-Based Survey to identify and analyse problems and their manifestation in terms of human rights and conflict transformation (such as access to food and water, child labour, low participation of women, environmental degradation, etc.) by asking: who is most affected? Why are they affected? What can be done?

(iii) Developing a Community Action Plan with both the community and the duty bearer committing resources towards a peace process by asking them: who stands to benefit from the peace? What rights are protected by the peace (right to association, information, food, water)?

(iv) Identifying and disaggregating claim holders into men, women, the youth, and resource poor and vulnerable; then finding out: are people affected differently by the conflict?

(v) Capacity Building through training of the law enforcement officers and farmers' representatives to integrate principles of conflict prevention and transformation into their work, in addition to identifying violations of rights to association, access to information, delivery of agricultural and water services. The training was focused on changing attitudes, information-sharing and public participation. The farmers were sensitised to participate in decisions affecting their rights and demand accountability and transparency. The security forces were trained on their roles as duty bearers and as capacities for peace. Questions addressed were: what are the steps for building trust? Will informed decisions affect the conflict transformation process?

(vi) Networking. Different categories of the community were encouraged to build up networks with relevant providers such as donor-specific sectors in areas such as bee- and poultry-keeping. Questions addressed were: how will the people sustain themselves? How will the communities be made to understand that diversification of activities provides more options and lessens conflict?

(vii) Rewarding Effort. The Commission awarded a human rights award to the area's provincial commissioner Mr. Hussein Noor (on 18 February 2007) for his role in conflict prevention. In addition to working with the local communities, he was a key part of the process of training the law enforcement officers.

A review of the human rights, conflict prevention and transformation action plan must acknowledge the need to look for equilibrium between all rights (civil and political and social, economic and cultural) as well as the imperative short-term security solutions and the long-term development solutions for sustainability of the process as a whole.

My point is that categorizing human rights leads to further misinterpretation of conflict transformation processes. For example, many peace agreements specify that post-conflict governments should work with democratic systems of government, which include reforming or setting up institutions such as the judiciary or police, ensuring protection of fundamental rights and freedoms and establishing the rule of law. When categorizations of human rights are brought into play in such a setting, the danger

of splitting hairs over which rights are more important can divert from the more important matter of ending the conflict.

3. Integrated Missions in Practice: The Challenge of Working Together

Parlevliet gives an excellent overview on the development of human rights and conflict resolution literature. In practice, the shift in conceptualizing human rights as part of the conflict resolution agenda was reflected in, for example, a UN policy framework that appreciates the interdependence and mutual reinforcement of development, security and human rights (Annan 2005, art. 13). The *both/and* as opposed to the *either/or* terminology is now reflected in statements such as "countries which are well governed and reflect the human rights of their citizens are better placed to avoid the horrors of conflict" (ibid.). This policy framework built on the Brahimi report of 2000, which had suggested that integrated mission task forces for mission planning and support would include, for the first time, those responsible for human rights, political analysis and military strategy, among others.[6]

This framework and others contributed to a shift in UN policy towards defining a practical, integrated-missions approach that involves, among other initiatives, a civil-military coordination training course.[7] Accompanying handbooks on specific areas such as human rights, humanitarian perspectives and demobilising, demilitarising and reintegrating combatants are now mandatory in the training for peacekeepers. The training courses target not just UN workers but also human rights organisations and humanitarian agencies on the ground.

However, in general the role of civilians such as human rights practitioners is still to a large extent seen as support for the military component. This is, for example, reflected in the aims of the civil-military module that I received from the military component leaders to prepare for teaching human rights to a peacekeeping force.[8] They read: "the aim of the Human Rights Module is to provide participants with an understanding and working knowledge of the Human Rights instruments, agencies and activities operating in a DPKO [Department of Peacekeeping Operations] field mission, in order to understand the roles of the Senior Management Team in the area of Human Rights to enhance and support the execution of the mission mandate through cooperation, consensus, communication, coordination and integration by component leaders".

Interpretations of what constitutes priorities in identifying needs, interests, objectives and processes in conflict transformation may differ widely, as another example from one of the training courses illustrates. A military general in a civil-military course I was teaching put it this way: "the difference between human rights practitioners and the military is about our different understanding of objectives and processes. When I get an order to, for example, capture a certain bridge my main objective is the bridge. If I am working on an integrated approach with human rights practitioners, they want to know what is happening between the point that I set off from and the bridge. They call that process. What becomes of the bridge is my key objective; the process in between that is so important for human rights constitutes for me dealing with general objectives which means

6 Lakhdar Brahimi chaired the committee that produced the Report of the Panel on United Nations Peace Operations, published in August 2000. Available at www.un.org/peace/reports/peace_operations/docs/a_55_305.pdf (accessed 22 January 2010).

7 See General Assembly Resolution 59/296, in section VI, paragraph 5 of which the Assembly stressed the need for increased cooperation between multiple actors both within and outside the United Nations. Available at www.un.org/Depts/dhl/resguide/r59.htm (accessed 22 January 2010).

8 On file with the author.

accommodating needs and interests that contribute to slowing us down. Human rights practitioners working in conflict areas have to understand that their human rights processes define general objectives, not specific objectives and that therefore we cannot work together except in non-conflict situations."

Hence, there is a clear need for more sustained attention to human rights as a part of conflict transformation, as the key component in the integrated mission leadership is usually military. Although the training is carried out for both human rights and conflict practitioners, in regard to implementation and identifying priority issues differences between both sets of practitioners remain. The military and law enforcement officers do tend to see civilians as being in the way of a conflict transformation process while the civilians see the military approach as largely insensitive and usually as a 'violator' approach.

In my opinion, much value would be added to the conflict transformation process if the human rights and conflict transformation practitioners (both civilian and military) were put in a position to transfer skills. This would include "skills in dialogue and non-violent mobilization so that the beneficiaries will have the tools to promote and negotiate for their rights in constructive ways" (Babbitt/Williams 2008, 10).

4. What Future for Human Rights in a Conflict Situation?

In lieu of a conclusion to this ongoing debate, I want to make the following suggestions for both sets of practitioners, which, while providing a way forward, also show the persistent contradictions that lead to the mutual stalemate.

1. Human rights practitioners tend to argue for the inclusion of human rights language in peace agreements, to contribute towards conflict transformation. In El Salvador, UN special representative Alvaro De Soto insisted on the inclusion of human rights into the peace process that proved, in this case, to be the foundation of a sustainable peace agreement. It must be kept in mind, though, that this does not always work out as successfully but can be counterproductive with respect to application and enforceability. Many countries may have ratified international human rights instruments but that does not mean they adhere to or enforce human rights laws.

   For example, protracted proliferation of intra-state and inter-state conflicts has characterized the Democratic Republic of Congo (DRC). Various attempts to solve the conflicts have resulted in negotiated peace agreements. Key among the agreements is the Lusaka peace agreement of 1999. President Joseph Kabila has signed four peace agreements since the Lusaka agreements, culminating in the recent peace conference in Goma. Meanwhile, the death toll in the DRC is estimated to have reached the three million mark in 2006... In the DRC, the story has been one of a very fragile process and continuous resurgence of conflict, particularly in the Ituri, Katanga and the two Kivu regions.

   In such a case, it is wiser for human rights practitioners to focus less on the inclusion of formal human rights provisions in peace agreements (especially if the peace agreements are ignored by those who sign them) and more on broader objectives that would achieve the same results, for example a ceasefire. Once this is done, human rights practitioners can then work on incorporating specific language into, for example, the constitution or statutes of the country, as well as on incorporating local dispute resolution mechanisms.

2. The UN implementation mandate takes into account human rights concerns. But there is a danger that human rights concerns for civilians will depend on the *interpretation of the mandate implementers,* who do not necessarily have a human rights background. It is therefore necessary to build and enhance institutional and individual capacities to support and enforce the human rights framework for working towards conflict transformation. Based on the dangers in a conflict area, there is logic in the current approach to integrated missions (described in some detail in *Section 3*); and in general, an integrated mission is a good option. Yet it is highly important that the missions clearly define and stress the importance of specific objectives for all members of the team.
3. Implementation of international human rights standards needs to be context-specific. Many of us working with western approaches and models of conflict transformation (including in the training that we carry out) do tend to assume that there were no alternative dispute resolution systems in existence before the war to judge human rights violators in the particular community. The *gacaca* courts in Rwanda may have their weaknesses, but the community has a sense of shared ownership in their processes. Both awareness and respect for traditional practices and participation of the local community are highly important.
4. Without an understanding of the "root causes" of a specific conflict, individuals and organisations making decisions regarding interventions, prescriptions, actions, etc. may only address the symptoms of the conflict that are seen on the surface. Building on Parlevliet's iceberg, and to clarify *why* a sustained denial of human rights can become the cause of violent conflict, it is useful to link human rights and basic human needs through the illustration of the conflict onion (Fisher et al. 2000, 27).[9] In my practice, this has been useful not just for conflict analysis but also for an understanding of conflict transformation.

   The conflict onion builds on the experience that in peaceful situations people relate and act on the basis of their actual needs ("what we have to have"). The lack of basic access to what we have to have lays the foundation for structural violence characterized by resentment, which does not necessarily translate into open conflict. As instability rises, people coalesce around collective interests ("what we want") rather than needs. With the escalation of the conflict, people then withdraw to certain positions ("what we say we want"). The positions we demand at this point – possibly as part of conditions for a peace deal – have their roots in the dynamics of the conflict but may have little to do with actual needs. Working out the conflict issues (at the level of the various positions and interests) and the conflict causes (at the level of the interests and needs) from all positions helps in examining own needs, positions, interests and those on the other side.
5. Central to the idea of human rights principles is their workability as defined by the relationship between right holder and duty bearer. Duty bearers (governments, institutions and individuals) are obliged to respect, protect and fulfil human rights. Right holders are entitled to demand their own rights from duty bearers, but they also have to respect the rights of others. In a society that is restructuring itself from conflict, and in the absence of sound institutions, a lot depends on who wields power in these relationships and who polices them.

   To give an example, a rights-based approach to conflict prevention may use a combination of support and pressure to urge government departments to conduct, for example, peace education and maintain peace, law and order. It supports people and organisations to demand a more

9 The conflict layer model (or "conflict onion") consists of concentric circles showing the needs, interests and objectives or positions of the individual parties to the conflict, from the inside to the outside. See also the 2001 GTZ practical guideline on conflict analysis for project planning and management, at www.gtz.de/de/dokumente/en-conflictanalysis.pdf.

peaceful context from the state in which to go about their day-to-day business. When it works well, a rights-based approach makes use of the standards, principles and approaches of human rights to tackle the power issues that lie at the root of the conflict to promote justice, equality and freedom. Yet in a conflict setting, this may become extremely difficult to put into practice: from whom do the people demand what is their due? How can they avoid just passively accepting whatever the junta/government/ruling militia is willing to give them?

The challenge for human rights organisations is that they mainly use the same tactics whether they work in peaceful societies (to promote and protect human rights) or in conflict societies. The traditional methods are mainly advocacy, investigation and monitoring, and human rights education (Putnam 2002, 264). In a conflict situation, the same methods are frequently used. This may include sending out reports that highlight the differences between what the state has signed up to and the real situation. But as my example on the DRC above indicates, the state being reported on may simply not be bothered. If this strategy has little or no impact in a conflict or post-conflict situation, new strategies must be found and human rights organisations are called upon to be more imaginative.

A new approach that would, in my view, help ensure effective complementarities between conflict and human rights practitioners would involve:

- Ensuring an appropriate legal framework that addresses both conflict and human rights.
- Recognizing the relevance of human rights obligations that are not necessarily based in (international) laws but that could be part of traditional practice and culture.
- Defining clear and specific objectives, expected results and responsibilities for all team members of integrated missions with a (complementary) human rights and conflict transformation agenda in mind.
- Promoting human rights principles as conflict transformation values, i.e. conflict transformation solutions can be founded on the basis of shared needs common to all people and well-understood interests which, depending on where you stand, are human rights concerns.
- Encouraging community participation and ownership of both the conflict transformation and human rights agendas; including identifying conflict transformation change agents from within the post-conflict society itself.

It has been argued that "the high degree of overlap between human rights and the goals of sustainable peace should be viewed as a source of mutual reinforcement […] not confusion […] or as a recipe for the probable diminution of human rights in the implementation process" (Putnam 2002, 264). This complementarity needs to be enhanced; and such enhancement will need more hard work from both human rights and conflict transformation practitioners.

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The New Constitutionalism: An Approach to Human Rights from a Conflict Transformation Perspective

Eileen F. Babbitt

In Michelle Parlevliet's excellent article, *Rethinking Conflict Transformation from a Human Rights Perspective*, she further develops the argument from her seminal 2002 paper (Parlevliet 2002) that human rights and conflict are intimately related and can be addressed synergistically. In reading this updated and well-written version, I noted that the focus was on how human rights might inform (and improve?) conflict transformation theory and practice. However, what about the reverse? How could human rights work benefit from a more systematic inclusion of conflict transformation principles?[1] In this discussion paper, I will briefly look at how the pursuit of human rights could be enhanced by a more skillful and informed attention to the principles of conflict transformation. To do so, I will focus in on one process in which human rights is of great concern – that of negotiating a constitution in the aftermath of violent intra-state conflict. I am particularly interested in the process as it unfolded in South Africa and is playing out currently in Iraq, and I will be drawing upon data from these countries in my analysis.

1. Conflict Transformation Contributions to Human Rights

Parlevliet's primary point is that "[…] considering human rights and conflict transformation *in conjunction* deepen one's analysis of what is involved in moving from violence to sustainable peace" (in this volume, 16; emphasis in original). She then goes on to elucidate, through her "iceberg" metaphor, the ways in which systemic human rights abuses are underlying causes of violence, stemming from state structures that are dysfunctional and discriminatory (18-21). In her

1 I am following Parlevliet's terminology here, using conflict transformation as the reference point rather than conflict mitigation or settlement. I am not convinced that "conflict transformation" actually means something different from "conflict resolution", but I will nonetheless use her term.

view, because conflict transformation is concerned about peace with justice, those engaged in its practice should be more actively addressing these inadequacies in state structure – something they have seemed to shrink from doing (26).

The framework Parlevliet offers for how these two disciplines might relate more effectively is in her "holistic approach to human rights". Here she introduces four dimensions of human rights: rules and structures/institutions, which are what is normally equated with pursuing rights; and relationships and process, two elements not usually considered part of rights-based work. Using this more holistic perspective, she posits several ways in which a human rights perspective can strengthen conflict transformation work: by linking causes and symptoms more explicitly, thereby creating a robust response to violence; by acknowledging power asymmetries and designing processes that are more inclusive of the weaker parties; and by recognizing when *increasing* conflict intensity is a necessary step in a structural transformation process, requiring pressure and advocacy in addition to facilitation.

These are all excellent points, and I agree that there is much that conflict transformation approaches can gain from drawing upon human rights principles. However, I think the learning can also go in the other direction. If, indeed, human rights work is concerned with relationships and process as well as with rules and structures, conflict transformation has a lot to offer in both of these domains. However, in my experience, the *way* in which relationships and processes are conceived and carried out in human rights terms are quite different from how conflict transformation would frame them – and may not be as effective as they could be in achieving human rights goals.

In order to explore why, we can begin with a look at how the theory of social change differs in these two fields (Babbitt 2008). In human rights, social change is thought to proceed by defining the end state and then finding effective means to reach that end. The end state, ideally enshrined in domestic law, is a rights-respecting government (the vertical dimension, according to Parlevliet's analysis, involving citizen-state relations) and a rights-respecting polity (the horizontal dimension, including relations between individuals and groups within society) (in this volume, 23). The means are usually through education and empowerment of civil society, so citizens will know about and advocate for their rights with their government and with each other; and through pressure from the international community on the government or sub-national identity groups to abide by international human rights treaties and norms and to translate these into domestic laws. This latter approach is the "naming and shaming" strategy that many human rights groups do so well.

Conflict transformation work relies upon a different theory of social change. Its premise is that the end result of any change process will be fair and sustainable if the means include transformation of behaviour and attitudes as well as structures. The focus is therefore on constructing processes that support such transformation – by understanding the needs and interests of all parties; ensuring fairness, transparency and the inclusion of all stakeholders; and building the capacity of all parties to learn from and listen to each other as well as drawing upon external expertise to supplement that of the parties themselves.

This conflict transformation theory of change, if taken more seriously in pursuing human rights goals, would therefore put much more attention on facilitating change from within a society, rather than relying so extensively on rules and structures imposed from the outside. In Parlevliet's parlance, this is focusing more on getting the "software" right, rather than relying so much on "hardware" to do the job (28).

In order to explore how this conflict transformation view of relationships and process would look in pursuing human rights goals, I have chosen to focus on the writing of constitutions in the aftermath of violent intra-state conflict. As Parlevliet notes, a leading cause of such violence

is the prolonged abuse of one identity group by another, often because one group controls the levers of governance and systematically disenfranchises other groups by denying their political, economic and/or cultural rights (in this volume, 20/21). In the peace agreements negotiated under such circumstances, especially those brokered by an international third party, human rights often figure prominently (Bell 2000). But it is in its constitution that a government emerging from such a conflict explicitly enshrines its ongoing human rights commitments.

Emerging research on political transitions has begun to show that it is not only the documented agreements that promote peaceful and just societies (i.e. the rules and structures), but also the process by which such agreements are negotiated (i.e. relationships and process). For example, Bell's analysis of human rights and peace agreements indicates that there is a "meta-bargain" occurring in peace negotiations that concerns defining the core causes of the conflict. If these are not fully worked out by the parties in the peace negotiations themselves, they will continue to create conflict during the implementation (Bell 2000, 298-299). Since Bell conceives of peace agreements as interim constitutions, we can assume that her reasoning holds for the negotiations over the final constitution itself.

2. Constitution-Writing as Relationship and Process

My interest in the process by which constitutions are written in war-torn societies stems from my many years of work in Bosnia, and more recently from my involvement with UN reconciliation efforts in Iraq. In both cases, the written constitution provides the "hardware" that frames political relationships within the country. But that hardware is not working well in either of these cases, and in fact is holding back both societies from moving forward in their political reconciliation efforts.

This led me to review a growing literature on the "new constitutionalism", also called participatory constitutionalism, referring to approaches to writing a constitution that include widespread civic involvement in the process (Arato 2000; Brown 2006; Hart 2003; Samuels 2006). While the much larger literature on democracy and democratic transitions certainly includes attention to constitutions as a key element of building democracy, the new constitutionalism focuses on the way in which these agreements are struck, rather than on what they substantively contain. Vivien Hart, writing for a 2003 United States Institute of Peace Special Report, explains it this way:

> We used to think of a constitution as a contract, negotiated by appropriate representatives, concluded, signed, and observed. The constitution of new constitutionalism is, in contrast, a conversation, conducted by all concerned, open to new entrants and issues, seeking a workable formula that will be sustainable rather than assuredly stable (Hart 2003, 3).

Kirsti Samuels of the International Peace Institute, reflecting on a review of twelve cases of constitution-making during political transitions from war to peace, also finds that:

> It is increasingly recognized that *how* constitutions are made, particularly following civil conflict or authoritarian rule, impacts the resulting state and its transition to democracy. The process of constitution-building can provide a forum for the negotiation of solutions to the divisive or contested issues that led to violence. It can also lead to the democratic education of the population, begin a process of healing and reconciliation through societal dialogue, and forge a new consensus vision of the future of the state (Samuels 2006, 667).

One study that launched interest in the new constitutionalism, undertaken by Andrew Arato in 2000 to explore the democratic transitions in central Europe after 1989, identified a number of principles that he saw as resulting in a "legitimate" constitution in those cases (Brown 2006):

1) Publicity – allowing for extensive public discussion;
2) Consensus – rather than relying on majority rule for decision-making during the drafting process;
3) Legal Continuity – maintaining some elements of the old legal order to prevent new political leaders from taking unlimited control;
4) Plurality of Democracies – using different forms of democratic participation at different stages of the drafting process, presumably to forestall control by any one group;
5) Veil of Ignorance – introducing some uncertainty in the drafting process so no one interest group can dominate the design;
6) Reflexivity – learning from past and present experience (and from the experience of others) during the drafting process.

From a conflict transformation perspective, three of these principles are very well-known elements of any effective group decision-making process: publicity, consensus and reflexivity. The first, publicity, provides for not only the participation of all stakeholders in the design but also transparency, so no one feels they are being lied to or duped. Consensus means that everyone must feel satisfied enough not to block the agreement – even if they do not get everything they want. And reflexivity allows for the evolution of thinking that is crucial in a transition process, where the intent is that discriminatory attitudes are slowly replaced with more tolerant ones.

It is not enough to simply list these principles as being necessary – it is critical that people involved in the constitution-making process actually know how to create the conditions for these steps to take place. This is where conflict transformation (CT) expertise is imperative. CT practice includes skill in conflict analysis, design of inter- and intra-group dialogue and problem-solving, and strategies to facilitate learning and the overcoming of prejudice – all designed to build relationships and ensure trust in the drafting process.

The other three principles – legal continuity, plurality of democracies, and veil of ignorance – if seen as reflecting the need for both continuity and change, are also familiar to CT processes. The underlying premise of all three is to find ways to bring the "old guard" along into the new regime while at the same time not allowing them – or any one group – to dominate others in the new political structure. A CT perspective would not, however, advise imposing the *form* such protections would take in constitution-making (e.g. not insisting on a veil of ignorance, as it might undermine the need for transparency), but instead would make sure that the process provides these protections in some appropriate way.

2.1 South Africa – A Success Story

The constitution-making process in South Africa "[…] has been hailed as a key part of the successful transition from the oppression of apartheid to a democratic society" (Hart 2003, 7). It took seven years, from 1989 to 1996. According to Vivien Hart, there were several key phases in the process (Hart 2003, 7-8). The first phase, from 1989-1994, was entirely focused on determining *how* the constitution would be negotiated – a process that took five years. The steps included: a 1989 agreement by top leadership, Nelson Mandela and P.W. Botha, that an interim constitution would be put in place while a final document was negotiated; a 1990 agreement to negotiate about how constitutional negotiations would be structured; an agreement on procedure negotiated from 1991-1993; the 1993 agreement on the content of an interim constitution, including principles to be

included in a final document; and in 1994, an election for the parliament, which then convened as the Constitutional Assembly.

Until the elections, all of these initial steps took place at the elite level. But the public participated in huge numbers to elect this first parliament, and after its election in 1994, the Constitutional Assembly itself reached out to the electorate. According to Hart, this included a broad education campaign using all types of media as well as public meetings throughout the country. These reached an estimated 73% of the population, and the Assembly got over 2 million submissions from individuals and groups. The Assembly, taking these submissions into account, worked through several drafts, which were reviewed in turn by the Constitutional Court and finally approved. In December 1996, President Mandela signed the document into law.

In extracting the learning from this process, Hart comments:

> The South African process took time. It was phased. It benefitted from an interim constitution that allowed the dialogue of transition to continue. Participation was invited at a chosen moment rather than throughout and then creativity and resources were committed to facilitating a serious dialogue. Trust that the outcome would be consistent with the 1994 democratic principles was created by the continuation of the conversation between judicial certification and parliamentary confirmation… (G)roups including women and traditional authorities found voice and access and made sure that their interests were taken into account (Hart 2003, 8).

The result has been a constitution universally hailed as a model of rights protection, and an implementation relatively free of violence, several successful national elections and transitions of power, and a protection of civil and political rights along with a strong rule of law. The country is not without its problems, of course – but it is an example nonetheless of how participation in constitution-making can forge a working partnership between former adversaries that is based on trust in government and trust in each other.

2.2 Iraq – A Different Story

The Iraqi constitutional process likewise had an interim constitution and an elected assembly to negotiate the final agreement. However, these superficial similarities belie the significant differences in the way these steps were taken – one expert says that "it is difficult to envision a process more antithetical to the new constitutionalism" (Brown 2006).

The initial constitution drafted after the fall of Saddam Hussein was called the Transitional Administrative Law (TAL), negotiated in March 2004 by a group of three Americans and two Iraqi-Americans, a subcommittee of the Interim Governing Council set up by the Coalition Provisional Authority. According to several analysts, no public discussion of the law ever took place (Arato 2005), and the Sunni perspective was marginalised because of their weak representation on the Council (Brown 2006).

The TAL laid out a procedure for writing the permanent constitution, including plans for public debates in the Assembly as it was being drafted, and a final draft being published and circulated before a final vote was taken. However, none of this occurred. First, the very short time line required by the TAL to complete the draft made it almost impossible for public participation in the process. The drafting committee did not meet until late May 2005, and the TAL deadline for completion was August 15 – giving the group only 2½ months for its task. In the end, the disagreements were still so large as the deadline neared (even after a short extension), that a final draft was only completed through ad hoc negotiations between a very small number of political leaders. The entire Assembly never did take a vote on the document.

Secondly, the Sunni voice (along with other minorities and secular Iraqis) was marginalised throughout the process, reflected even in the procedures for ratification by referendum. Because Sunnis had largely boycotted the 2005 parliamentary elections, they were underrepresented in the Assembly and also on the drafting committee. With significant international pressure, Assembly leaders chose a few additional Sunni participants for the drafting committee (through political deals, not election) but even they did not get seated for negotiations until July 2005, after much of the constitution was already drafted. The TAL stipulated that the constitution would be accepted if (1) a majority of voters nationwide approved it; and (2) two-thirds of the voters in three or more of the 18 governorates did not reject it (Otterman 2005). These provisions were a result of pressure by the Kurdish parties when negotiating the TAL, to give them leverage to use their three governorates as a potential block on passage. Thus it *looked* like consensus was required, but the process actually benefitted some groups more than others.

Finally, the content of the document, like the process, leaves ambiguity about how individual and group rights will be protected. In the final version, an article previously included was deleted, which had provided for individual human rights to be protected in accordance with international treaties.[2] Some experts maintain that this waters down human rights protections and makes it more difficult for individuals to claim these rights in Iraqi courts (Brown 2005).

In conversations with Iraqis in the summer of 2009, I was struck by the polarised views on the constitution and its rights provisions. As a consultant to UNAMI – the United Nations Assistance Mission for Iraq – on reconciliation efforts between Arabs and Kurds, I spoke with political leaders from all factions and parties. Kurdish leaders felt strongly that the constitution must stand in its current form – because of their commitment to its Article 140 and the requirements it stipulates for a future referendum on the status of Kirkuk. Their claim to Kirkuk, while tied in part to oil interests, is more about justice and restitution for the gross human rights violations committed against the Kurds by Saddam Hussein. The Kurds likely believe that any revision of the constitution could weaken Article 140 and jeopardize their claims to Kirkuk and other disputed territories in Iraq. However, many Arabs want to amend the constitution in several ways, as they feel it leaves questions about the structure of the state too ambiguous and gives too much veto power to the Kurds, thereby paralysing the central government. A parliamentary committee has been given the task of constitutional reform, but so far they have been unable to come to any agreements on steps forward.

3. Implications for Conflict Transformation and Human Rights

This very brief and preliminary case comparison shows how important relationships and process are to securing human rights through the writing of a constitution. However, these cases are different in significant ways other than their constitutional process. In Iraq, there was a total collapse of the state and occupation by outside forces, causing both a time pressure to create a working government and a violent reaction to the imposition of Western control; while in South Africa, there was a strong pre-existing and functioning civil society that made public participation not only necessary but viable, and an internal process for negotiation strongly framed by international norms but without international oversight. This raises another set of questions about the new constitutionalism and the establishing of human rights in these instances: how strong can they be when there is no functioning state and no history of civilian participation in governance?

2 In an older draft, Article 44 read: "All individuals shall have the right to enjoy all the rights mentioned in the international treaties and agreements concerned with human rights that Iraq has ratified and that do not contradict with the principles and provisions of this constitution." (Quoted in Brown 2005, 1.)

In these circumstances, the role of building relationships and creating strong participatory processes are even more important. By combining strategies, conflict transformation can contribute significantly to the rule-making and institutional focus traditionally adopted by human rights. Unfortunately, the international political community is not yet convinced of the importance of relationships and process in assisting transitional states. A recent example will illustrate this: in 2008, a colleague of mine who is a lawyer and an expert in international law was asked by the US government to advise on the drafting of a constitution for a country emerging from violence. He suggested to them that the advisory team should include an expert on conflict resolution processes, because the country was still quite fractured and political reconciliation needed to begin with public participation as the constitution was written. The US government sponsors rejected his suggestion, and instead brought in two additional lawyers to complete the team and work only on content. Obviously the lessons from Michelle Parlevliet's analysis, reflected in places like South Africa and Iraq, are still far from being learned.

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Berghof Conflict Research

Reflections on Rights and Conflict from Uganda

Albert Gomes-Mugumya

www.berghof-handbook.net

I have read Michelle Parlevliet's insightful paper entitled *Rethinking Conflict Transformation from a Human Rights Perspective* with great interest and appreciation. What struck me as particularly helpful about Parlevliet's piece was her argument that denial of human rights as a cause of conflict gives rise to symptomatic human rights violations; yet a pattern of specific violations may, if left unchecked, gradually become a structural condition in itself that fuels further conflict, as is the case with systematic torture, indiscriminate killing and widespread impunity. I was impressed by her use of the iceberg metaphor to illustrate the notion that human rights violations can be both causes and consequences of violent conflict, which I had not thought about before. Finally, I agree with her when she states that the transformation of violent conflict to sustainable peace requires insights and strategies from both the human rights and conflict resolution/transformation fields. This also has been my experience in Uganda.

There have been heated debates on the interface between peace and justice between conflict resolvers and human rights activists for many years. In the Ugandan context, the issue has been intensely emotive at times, as the two have viewed each other with suspicion and sometimes even animosity. This has tended to confound their efforts towards the realization of either peace or justice in the post-conflict areas in Uganda, especially in northern Uganda.

Although I come from a conflict resolution background, my points of view stem from both a conflict resolution and human rights perspective since I have had the opportunity of interacting with the two fields, having worked for a human rights organisation (Amnesty International, UK) as well as two conflict resolution organisations (the Centre for Conflict Resolution, Uganda and the Centre for the Study of Violence and Reconciliation, South Africa). I have also visited the Apartheid Museum in South Africa, the Genocide Museum in Rwanda and the Cheung Ek Killing Fields in Cambodia in my personal quest for peace and justice. These visits have helped further shape my thinking.

I believe that protecting human rights is generally essential for making peace, and making peace is crucial for protecting human rights – that is the basis of my comment. In the following, I will look at some of the tensions, especially arising from different approaches and perceptions, and at integrative aspects through which human rights and conflict resolution/transformation can work hand in hand. I am reflecting specifically on issues of dealing with the past. Last, I will look at using "rights as rules" and "rights as institutions" in practice.

1. Complementarity and Tensions

In my view, the connection between pursuing human rights and resolving conflict is complementary and could be harmonious, as one normally advances the other. Human rights activists and peacebuilders are all involved in peacebuilding. The point of contention, however, seems to stem from the different interests and approach of the two groups or "camps".

A) Areas of Tension

Conflict resolvers and human rights activists contribute to conflict resolution using different approaches: there is the interest-based approach on the one hand, which seeks to reconcile needs, desires and concerns, for example through reconciling dialogues, mediation or making recommendations for law reform. The rights-based approach on the other hand is based on the societies' or organisations' laws or norms and values in a given context, using, for example, prosecution, litigation, constitutional interpretation, disciplinary actions or penalty.

Peace activists often argue that peace should be secured at all costs; on the other hand, human rights activists insist that there cannot be sustainable peace without justice. Human rights activists typically advocate for justice to address human rights abuses that have been committed and argue that justice is the strongest foundation for sustainable peace. Conversely, peace practitioners consider justice from the angle of reconciliation, thereby placing urgency on the relationship between parties to the conflict, in order to end violence and eliminate reasons for conflict.

In general, several common perceptions among human rights activists and conflict resolvers stand out (see *Table 1)*.

Table 1 – Perceptions among the "Camps"

Human Rights Activists	Conflict Resolvers
Their goal is to ensure justice.	They tend to see peace as the only solution for all the issues/problems (their goal is peace).
They use the human rights-based approach.	Their solutions are interest-based rather than human rights-based.
They tend to stress redress or remedy for human rights violations and abuses.	They focus on restoring, maintaining or building relations and trust.
They tend to be biased towards the victim.	They tend to be neutral.
They tend to sequence rights first.	They tend to sequence peace first.

Human Rights Activists	Conflict Resolvers
They tend to be universalistic rather than contextual.	The approach they use takes into account the context and stage of the conflict.
They tend to use rules as a point of reference (are legalistic).	They tend to want peace at all costs; even at the cost of breaking rules or norms i.e. encouraging impunity.
They tend to view conflict resolvers as 'idealistic' (as they always say, what we want is possible in an ideal world, but not in a realistic one).	They tend to view human rights activists as spoilers.

B) Dealing with the Past

Human rights and conflict resolution are especially in tension when issues of responsibility for past violations are raised. The question they confront is the following: after a number of years of war, suffering and pain, like in the case of northern Uganda, should communities forget their years of torment to achieve healing – as many conflict resolvers would want – or should they seek accountability, punish the guilty, establish the truth and circumvent impunity in order to achieve sustainable peace – as largely human rights activists have argued?

Post-conflict societies like those in northern Uganda, southern Sudan and in the Democratic Republic of Congo (DRC) are all faced with the conundrum of sustainable peace and justice. While some seek for justice at all costs to avoid encouraging impunity, other segments of society would rather forget about the horrific and traumatic past and move on with hope and confidence, in fear that the continued quest for justice could slide society back to conflict. It can be very difficult to balance the two.

In northern Uganda, a region marked by eighteen years of insurgency[1] by the Lord's Resistance Army (LRA), amnesty laws were created in order to promote national reconciliation and to ensure stable and sustained peace. In fact, President Yoweri Museveni has offered amnesty to the LRA leaders and other rebel groups if they secure peace. Under the amnesty act, rebels must genuinely abandon and renounce their crimes (Uganda Amnesty Act 2000). Over 17,000 have already done so and are being reintegrated into their communities.

By contrast, others in the region argue that justice should prevail in regard to the atrocities committed by the LRA, and strongly support the indictments issued by the International Criminal Court (ICC) against five of its leaders.[2] The ICC was founded on the basis that there can be no durable peace without justice which to some extent satisfies victims that wrongs have been addressed. However, a good number of the people of northern Uganda I have spoken to are against the indictment of the LRA leaders because they believe that this might thwart the peace process. One of the victims, Ochan Opira, said "though the LRA inflicted suffering on our people and region,

1 According to International Crisis Group, the conflict, which produced great suffering in northern Uganda, including some 1.5 million internally displaced persons (IDPs), had four main characteristics. "First, it was a struggle between the government and the LRA. Secondly, it was a conflict between the predominantly Acholi LRA and the wider Acholi population, who bore the brunt of violence that included indiscriminate killings and the abduction of children to become fighters, auxiliaries and sex slaves. This violence is aimed at cowing the Acholi into submission and discrediting the government. Thirdly, it is fuelled by animosity between Uganda and Sudan, who support rebellions on each other's territory. Finally, it continues the North-South conflict that has marked Ugandan politics and society since independence" (ICG 2004, Executive Summary).

2 They are Joseph Kony, Dominic Ogwen, Okot Odhiambo, Vincent Otti and Raska Lukwiya; the last two have died since the indictment was issued. See "Ugandan top rebel leader indicted", BBC World Service News, 7 October 2005; http://news.bbc.co.uk/2/hi/4320124.stm (accessed 16 Feb 2010).

they did so because of grave government marginalisation, and my family's blood was not shed in vain. It's now time to put this nightmare behind us and move on, and this can only be done through reconciliation and not retribution...".[3]

Many Ugandans in fact oppose both amnesty and indictment, and favour instead traditional justice mechanisms like *Mato oput*, which promotes community reconciliation and reasserts lost dignity. The Acholi believe that killing causes deep social rifts and that the aftermath requires elaborate reconciliation mechanisms to restore fractured relations. *Mato oput*,[4] which literally means "drinking the bitter root", is a detailed ceremony meant to *reconcile* conflicting parties. It is an authoritative nonviolent measure to repair damaged relations. Physical presence is required so as to be part of the healing process.

As these examples have shown, sustainable peace can only be built by coming to terms with the violent past. However, coming to terms could include memorialisation, reconciliation and a form of amnesty without necessarily resorting to the course of law/justice and at the same time without condoning impunity either. Ultimately, there are always options at one's disposal, and each case requires finding a careful balance.

C) Integrative Aspects

Although human rights are at times perceived in a negative way, i.e. as being more engrossed in justice *at the expense of* peace, I want to echo Parlevliet in stating that they can be effective for resolving conflict as reaching justice can be assumed to lead to long-term stability of a conflict settlement, and hence to sustainable peace.

Suffice it to say,

- when people are aware of human rights issues it makes their work easier in conflict resolution and peacebuilding;
- the work of human rights defenders and activists can contribute to cooperation among adversaries in times of conflict;
- human rights can offer an impartial perspective that can mitigate conflict (as set obligations) since neither party views them as the other's standards in a conflict;
- because many international stakeholders are obliged and have the mandate to protect human rights, the cause for human rights can speed up reconciliation initiatives especially in political situations.

Human rights frameworks hence do have dimensions that can help to integrate human rights into peacebuilding interventions. Parlevliet has developed these dimensions throughout her work (in this volume, 22ff; and, in very practical terms, in Galant/Parlevliet 2005, 114-117):

Rights as rules imply those standards to be upheld which outlaw certain forms of behaviour and encourage others. These rules are contained in international instruments, constitutions, statutes, policies or contracts. They also include customary practices and traditions. The violation of these rules could heighten the potential for violent conflict. *Rights as structures and institutions* recognize that the exercise and enjoyment of one's rights are dependent upon the structures set up by society to facilitate the exercise and enjoyment of those rights in a cooperative manner. It should be noted that these structures also include mechanisms that are put in place to respond to conflicts in a more constructive and cooperative way. *Rights as relationships* are located in a social context. They may be expressed in the relationships between the state and its citizens, as well as among citizens

3 Ochan Opira's father and older brother were killed at Barlonyo by the LRA. From an interview with the author at Kwon Kic trading centre in Pader district during a peacebuilding workshop in February 2007.

4 See www.justiceandreconciliation.com/mato-oput/4516339175. See also "The Mato Oput Project" on Collaborative Transitions Africa at www.ctafrica.org/default.asp?contentID=581 and Afako 2002.

themselves, as a vertical and horizontal application of rights. As much as rights govern relationships, they also carry responsibilities with them. *Rights as processes* are expressed in the range of processes available to deal with conflict, both adversarial and cooperative. This dimension of rights advocates conflict resolution processes that are participatory, inclusive and people-centred. The processes must be geared toward the promotion of human rights.

Conflict resolution practitioners tend to focus more on the relationship and process levels, whereas human rights actors focus their attention more on rules and institutions. It is important for the conflict resolvers and human rights activists to permit the application of the four dimensions and to acknowledge their mutually reinforcing nature in a more integrated, multi-dimensional and holistic approach to conflict intervention.

Box 1 – One Mediator's Intervention For Peace: Stella Mystica Sabiiti

The government of Uganda had been fighting with a rebel group called the Uganda National Rescue Front (UNRF II) for some time in the West Nile region of Uganda. The reason for the rebels' fighting was that they wanted to bring an end to their continued marginalisation, breaching of earlier agreements and political persecution, among others.

After five years of fighting, the two parties decided to go into negotiations. The negotiations took a long time and at times there seemed to be no hope as there was a lot of mistrust and betrayal among the players.

As negotiations stalled, the government deployed its forces and more weaponry in the West Nile region. At the same time, the rebels threatened to wipe out the entire region. That's when I was brought in, in 2002. I helped facilitate understanding and eventual participation in training and preparations for final negotiations.

I trained both camps in conflict analysis (general conflict analysis to learn to separate conflict from the people). Then we addressed their own real life conflict – again trying to separate themselves from the conflict so that they could resolve it without finger-pointing. Next their own real life conflict was mapped out – its genesis, escalation, players and impact. The different initiatives that had been made to try to resolve the conflict were analysed, including success and reasons for failure (mainly poor communication, mistrust and betrayal). There was also a session on human rights, as violations of human rights had been one of the causes of the rebellion. Eventually the rebels asked for their own separate training as they thought that the government was getting stronger. Ultimately, though, trust was established between them.

I was fully aware of the substantive rights of both parties and I had developed a set of rules (acceptable to both parties) to guide the interactions between them.

On 24 December 2002, the UNRF II signed a formal ceasefire agreement[5] with the government in the town of Yumbe in north-western Uganda. Terms included a battalion of UNRF II soldiers being incorporated into the Ugandan army, and 4.2 billion Ugandan shillings being distributed to the group. Though no direct human rights provisions were included in the agreement, indirectly the government agreed to expeditiously develop the region. The deal ended more than five years of negotiations between the two sides.

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Source: CECORE's internal documents; *My Intervention for Peace*, Stella Sabiiti 2002

5 See www.beyondjuba.org/peace_agreements/Peace_Agreement_btwn_GOU_and_UNRF_II.pdf (accessed 2 April 2010).

2. "Rights as Rules" and "Rights as Institutions" in Practice

Rights as rules can be classified at different levels; at an individual and group level, national level and at the regional or international level. At the individual and group level, for instance, the law of contract or succession is very instructive in ensuring the distribution of rights and obligations among individuals, e.g. the rights and obligations of a buyer. It is important to note that these laws help to forestall or resolve conflict if it emerges between transacting individuals.

Rights as rules hence provide "a framework within which interactions between people take place. Rules must also frame the interventions that practitioners undertake" (Galant/Parlevliet 2005, 114). Breaches of this rules framework, as Galant and Parlevliet state, may lead to further conflict.

The invasion of the Ugandan High Court by a state paramilitary group called the Black Mamba in 2005 and 2007 illustrates this point. In 2005, the Black Mamba raided the court and arrested rebel suspects who had just been offered bail. Two years later, this same paramilitary group raided the court again and re-arrested five suspects belonging to the People's Redemption Army who had just been released on bail after being charged with treason and terrorism. The suspects were then being charged with murder the next day, before a military court.[6] Following this incident, Ugandan judges, magistrates and others from the legal fraternity went on strike.[7] The Principal Judge Justice Ogoola referred to these court raids as the most naked and grotesque violation of the twin doctrines of the rule of law and the independence of the judiciary summing it up as "raping of the temple of justice".[8]

Apart from the case of northern Uganda, which has put human rights activists at loggerheads with conflict resolution practitioners, there also has been the issue of the right to peaceful assembly. This also has brought up the issue of establishing rights and resolving conflict through the use of rules and institutions. Human rights activists in Uganda have stressed the fact that the freedom of people to peacefully assemble and speak their minds is one of the exquisite rights, as enshrined by the 1995 Uganda Constitution (Chapter V on human rights and freedoms). Without it, democratic society would suffer a terrible loss.

However, this right has also bred conflict as police clash with political parties, civil society organisations, market traders and others – especially where the need to assemble and exercise this right and freedom of assembly and speech may have resulted in a perceived or real threat to public order. In such a case it is possible that conflicts will erupt because those who want to assemble do so in the busy centres of town – especially in the city of Kampala – inconveniencing those who are going about their own daily business. In the process, as police clash with those who want to assemble, further disruption occurs: it leads to businesses closing down and at times to looting and innocent people being tear-gassed. Some concrete incidents include the following:[9]

- In January 2007, Ugandan security forces fired gunshots and teargas to break up an opposition demonstration that had paralysed the city.
- In March 2007, Ugandan police fired tear gas and water cannons at demonstrators supporting a strike by judges over government security forces' seizure of six bailed opposition supporters in a Kampala courtroom.

6 See Commonwealth Human Rights Initiative Newsletter, 14(1), spring 2007, New Delhi; available at www.humanrightsinitiative.org/publications/nl/newsletter_spring_2007/article1.htm (accessed 24 March 2010).

7 http://news.bbc.co.uk/2/hi/africa/6422435.stm (accessed 7 April 2010).

8 http://allafrica.com/stories/200907060937.html (accessed 7 April 2010).

9 See www.newvision.co.ug and www.monitor.co.ug (accessed 7 April 2010).

- A few months later police chased Forum for Democratic Change (FDC) members from the city square after they had gathered to launch new identity cards for the party.
- In August 2009, police fired tear gas at demonstrators protesting President Yoweri Museveni's decision to re-appoint the country's election body, which had been accused of rigging previous elections. Police said that the demonstration was illegal and the protestors were disorderly.

I highlight these examples to show that although it is a right of the people of Uganda to peacefully assemble in a public space, to demonstrate, protest, and march for whatever the cause as a fundamental part of Uganda's democratic process, the exercise of this right is also inevitably a source of conflict. Hence the need arises for rules and working institutions.

Nowadays, one has to acquire permission to assemble. This requires the request and approval of a permit from the police long in advance of any event. If the permit is given, it results in less disruption and the police are available to maintain law and order. However, failure to get a permit (which happens in some cases and normally due to failure to agree on the location of assembly by both parties, and also due to the disruption it might cause) could be an unacceptable imposition on people's freedom to peacefully assemble for a cause and would allow the government, through the police, to limit speech that it does not like or does not agree with, in a capricious and arbitrary manner. Although a permit might not be officially denied, the police might give a permit on a day not requested, i.e. three days after the day requested, or when permitted, the condition could be that it should be in another area of town which might not be conducive for demonstrating. In another incident, the police denied having received the permit application. Even though I do not have concrete data, I suspect that currently six out of ten permit applications are denied, especially if they are of a political nature.

There is no single or correct way to deal with this predicament of balancing rights and responsibilities. Finding a solution does require willingness from all parties involved to compromise and to negotiate. Establishing structures and institutions that would be respected by all parties concerned would be vital in striking a balance between rights and responsibilities.

CECORE and other civil society organisations are trying to facilitate this process through engaging government/police in dialogue, to be flexible in issuing permits and to provide the required security at such functions. We also engage with political parties and interest groups who wish to assemble on the importance of peaceful assembly, and the right locations for demonstrating/assembling. This is done, for example, through public radio messages and at workshops on engagement.

CECORE is also currently advocating for a people's space, similar to Speakers' Corner in London, on designated days of the week, where anybody can assemble and air their views on whatever issue without being harassed by the state, but also without inconveniencing other members of the public who are going about their own business and without being a threat to public order. The city authorities are now looking into this possibility.

Good practice on balancing the two cannot be imposed. It evolves over a period of time at the crossing point of power relations between different stakeholders, those who wish to protest and those who have responsibility for the control of public order. This evolution might not necessarily be entirely harmonious or peaceful, but with time and bearing in mind the principle of responsibility as well as avoiding a one-sided emphasis on rights, balancing the two can be achieved and will prevent violent conflict.

3. Conclusion

Michelle Parlevliet asks whether and to what extent the protection and promotion of human rights is necessary for efforts to address conflict and build peace – I would say "absolutely", as protection of human rights is generally crucial for peacemaking and peacebuilding and in turn peacemaking and peacebuilding are vital for protecting human rights. In a way it is like a cycle, as they complement and advance each other. Kofi Annan once put it this way: "there can be no healing without peace, there can be no peace without justice and there can be no justice without respect for human rights and the rule of law."[10]

Hence protecting human rights is generally essential for making peace, and making peace is crucial for protecting human rights. Yes, there is "tension". I believe it is inevitable. But it can be reduced through understanding the potential tensions which will help those seeking to resolve conflict to better address them in a way that promotes both peace and human rights. There is an urgent need to galvanise the complementary efforts of both groups for the overall benefit of realizing the twin goal of peace and justice through harmonising the "contradictory" perspectives and different priorities, as we can both reinforce each other's work.

In Uganda, we have in fact discovered that we share a lot in common. For example, the Human Rights Network (Hurinet), the Uganda Human Rights Commission and the Foundation for Human Rights Initiative have been trying to systematise their seminars so as to harmonise the tension between the two groups of actors. Another promising approach is evident in the Peace, Recovery and Development Plan for Northern Uganda (PDRP),[11] which is in essence a conflict transformation plan. In it, measures taken to bridge the gap between human rights and conflict resolution are to have joint interventions, apply a needs-based approach to conflict resolution and work to address structural causes of conflict while promoting restorative justice.

10 Kofi Annan, 7th Secretary-General of the United Nations (1997-2006), in a statement on 2 September 1998 after the International Criminal Tribunal for Rwanda announced the first-ever judgment on the crime of genocide by an international court. See www.ictr.org/ENGLISH/handbook/index.htm (accessed 7 April 2010).

11 The Peace, Recovery and Development Plan for Northern Uganda (PRDP) lays out a three-year strategy addressing the greater northern Uganda. It will plan and provide emergency relief, revitalize healthcare and education services, strengthen judicial and police forces, and other initiatives to assist the return and resettlement of the displaced population. The plan will serve as a foundation for the re-establishment of an environment that will enable people in the northern Uganda sub-region to re-ignite development after a 20 year war. See www.ugandaclusters.ug/dwnlds/0502Programs/PRDP/AboutPRDP.pdf (accessed 7 April 2010).

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Berghof Conflict Research

Human Rights and the Imbalance of Power: The Palestinian-Israeli Conflict

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www.berghof-handbook.net

Michelle Parlevliet's article *Rethinking Conflict Transformation from a Human Rights Perspective* offers a refreshing and new approach, linking the direct, structural and cultural types of violence and human rights violations and highlighting the implications for conflict transformation practitioners. This response and commentary will engage with the article by focusing on the relevance of some of its aspects for the Palestinian-Israeli conflict.

In 2008, the Israeli-Palestinian conflict entered its 60th year, as the state of Israel celebrated its 60th anniversary while Palestinians marked 60 years of displacement and dispossession. Systemic structural inequalities are at the roots of this conflict and are the causes of injustice and oppression. These structural conditions were partly inherited from the colonial era and partly modified or created by Israel over the years.[1] They have been used to maintain the control and power in the hand of one ethnic group: the Jewish majority in Israel. It is important to analyse the roots of current power inequalities and their manifestations in the daily life of the Palestinians (the symptoms), but also to explain how structures, systems, sub-systems, laws and regulations have been put in place that organise and determine how rights have been manipulated and violated to ensure privileges to the Jewish group in control. Parlevliet argues that such policies will result in "exclusion and marginalisation" and "provide fertile ground for the outbreak of violence" (in this volume, 19) which can explain some aspects of the high level of inter-party violence.

In the following, I will examine the situation of the Palestinians in the West Bank and Gaza Strip, and Palestinians inside Israel, analysing the functioning of the Israeli state and society in order to understand the logic of inequalities that have been institutionalised through the different systems

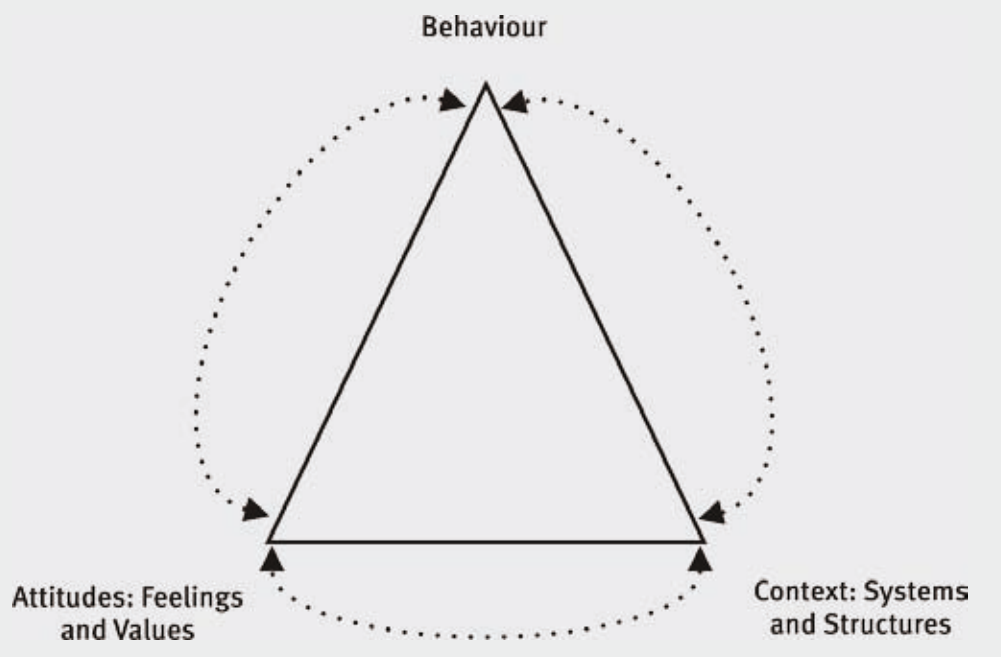
1 For instance, the Emergency Military Law Regulations (1945), which were inherited from the British Mandate period and upgraded by Israel, are part of the state system and structure that has been used for many years in Israel and the occupied Palestinian territories in order to place restrictions on the liberties of the civil population and political activists.

and sub-systems. In a second step, I will highlight some lessons learned in human rights and conflict transformation work in the region, reflecting specifically on the roles of the state and civil society.

1. Structures of Power and Control

Although the iceberg model introduced by Parlevliet provides a good analytical tool to describe the relations between human rights violations as symptoms or causes of violent conflict, I believe that the ABC triangle, also known as the violence triangle and originally designed by Johan Galtung (1990), is more apt to illustrate the important circular influences and dynamics between the three main dimensions of rights-based conflicts (see also Fisher et al. 2000): Attitudes (A) are the feelings and values that serve as a source of discrimination and justification of oppression; they represent the values and views about the other side which lie in our minds and hearts. The Behaviour (B) or symptoms are the manifestation of human rights violations, such as visible direct violence, oppression and intimidation. The Context (C) is represented by the structures and systems in the state and society that institutionalise inequality and control through law, regulations and policies which are used to practice discrimination, exclusion and oppression in regards to both civic and national collective rights. These might be laws maintaining inequality in terms of education, employment, health care, economic investments, allocation of resources, denial of national and civil rights and liberties, or laws promoting segregation and separation (Fisher et al. 2000, 9-10). The three aspects of the triangle (see *Figure 1*) are interconnected; they support and reinforce each other. The top of the triangle, as in the iceberg image, is the visible behaviour and symptom of violence, whereas the context and attitudes are the less visible causes of violence. While it is necessary to address visible violence by reducing or stopping it, it is equally critical to acknowledge and address the context and attitudes as root causes of the conflict.

Figure 1 – Beyond Causes and Symptoms: Circularity and Dynamism



Source: Building on Fisher et al. 2000, 9-10; Galtung 1990.

I will illustrate the interconnection between these different elements with examples from the Palestinian-Israeli conflict, based on the work I have been doing for the past few years as director of the Middle East programme at the UK-based NGO Responding to Conflict (RTC). My analysis is mainly based on the perspectives of the Palestinian participants and occasionally the views of the Israeli participants in our programme.

Box 1 — Responding to Conflict's Work in Palestine and Israel

Responding to Conflict ran a programme called "Transforming the Discourse of Violence and Despair" in Palestine and Israel from 2003 to 2009. Its main objective was to strengthen the capacity of Palestinian and Israeli civil society organisations to prevent violence and to transform conflict peacefully and constructively. About 20 leading Palestinian NGOs from the West Bank and Gaza Strip took part in this programme. They represented a spectrum of organisations from the fields of development, conflict transformation, education, women's empowerment, youth and human rights. In Israel, the participating NGOs were a mix of Palestinian, Jewish, and Jewish-Palestinian organisations representing a similar range of fields, in addition to NGOs focusing on Arab-Jewish relations inside Israel.

Members of these NGOs, which later became known as the Strategy Group (SG), met regularly but separately and conducted training in conflict transformation. The SG conducted some analysis of the political, social and economic aspects of the conflict, looking both internally and at the relationship with the other side. On the basis of this conflict analysis, a strategy plan for intervention has been developed to enable the members of the group in Israel and Palestine to address conflict peacefully and constructively in their communities.

For more information, see www.respond.org/pages/israel-palestine.html

1.1 The West Bank and Gaza Strip

The ABC model will first be applied to the situation of the Palestinians in the occupied territories. I will retrace the point of view expressed by Palestinian NGOs in terms of the behaviour (symptoms), attitudes and context they identified in relation to the conflict with Israel, and support these views with other sources.

The *attitudes* of Israeli society towards the Palestinians and vice versa are based on a set of values and perceptions, such as feelings of fear, lack of respect, mistrust, dehumanisation and stereotypes against each other. Such values help to legitimise the violent behaviour or restrictions by the state and trigger calls for laws and regulations to legalise such actions against the Palestinian population, while from the Palestinian perspective they justify the recourse to violence against Israel. Parlevliet argues that such cultural factors may lead state agents to "not be highly concerned about the use of violence against individuals or groups deemed inferior, whether committed by [their] own forces or by non-state groups" (in this volume, 21).

With regards to *behaviour and symptoms*, the analysis conducted by the project participants highlighted the different levels of violation of individual and collective rights of the Palestinians in the occupied territories. Members of the Palestinian SG, especially the members from Gaza, presented examples of the daily direct violence against civilians and members of the political and military wings of Palestinian groups.[2] Since the outbreak of the second intifada in 2000 up

2 This analysis took place before the war on Gaza at the end of 2008 and beginning of 2009, which caused further death and injury to civilians and destruction to the infrastructure of the Gaza Strip on a much bigger scale.

until the end of 2008, it has been reported that 5,900 Palestinians were killed in the West Bank and Gaza, including 400 children, and many more were injured.[3] The 600 checkpoints and many more temporary roadblocks ('flying checkpoints') in the West Bank, and the border crossings in Gaza and the West Bank, have been highlighted as the main obstacles that cause restriction to the movement of Palestinian residents, effectively cutting off villages from the main towns. Palestinians are unable to go to hospitals for medical treatment, and face difficulties reaching their workplaces or undertaking the normal activity of shopping in the main towns and cities. Farmers cannot transport agricultural goods into the cities, causing severe economic impact. The "separation wall" constructed by Israel has resulted in the confiscation and destruction of Palestinian land, and prevented thousands of families from working on their land.

Many times, workshop participants were unable to attend or arrived hours late due to the long queues and delays caused by the Israeli army at the checkpoints, leading to feelings of frustration, anger and humiliation. Sometimes we organised meetings in Jordan or Egypt so that the West Bank and Gaza Strip groups could meet, but occasionally participants were unable to travel there either because they had been refused a permit to leave the West Bank by the Israeli authorities or as a result of the closure of the border crossing between the Gaza Strip and Egypt.

Members of the SG from Gaza also expressed their frustration and despair because of the blockade imposed by Israel on Gaza since 2006, which is directly felt in the daily life of residents, who lack food, petrol, medicine and medical equipment, and many other basic necessities. As a result of these sanctions, development and construction have been stopped, causing more unemployment, poverty and misery for the ordinary people (B'Tselem 2008).

As to the underlying *context* that gives rise to the violation of the civil and national rights of the Palestinians in the occupied territories, this subjugation is maintained by very sophisticated, complex systems and structures of law and policies. Israel institutes a dual legal system in the West Bank based on ethnicity; one for the Jewish settlers and another for the Palestinians who are subject to the military regime. Jewish settlers are considered part of the state of Israel, and as such, enjoy the same rights as the state's Jewish citizens, such as freedom of movement in the West Bank, political participation, housing and infrastructure, planning and building authority, livelihood and access to water and land. They are protected by the Israeli army. On the other hand, a different system has been imposed on the Palestinians to deny their civil and human rights. A prolonged system and structure of discrimination has led to severe economic deprivation, exhaustion, despair and denial of the national rights of the Palestinians. Leila Hajjar, writing about the dual legal structure in the occupied territories as a way of illustrating the violation of human rights for the Palestinian citizens, explains that: "while the conceptualization of the conflict as a problem of 'two peoples, one land' has some irrefutable merit, this conflict is more appropriately conceived as a *struggle over rights*, of which the right to land is but a part" (Hajjar 2005, 25).

Members of the SG also pointed to the violations of human rights under the Palestinian authority and policies of the Ministry of Interior. Palestinian and Israeli human rights organisations have documented the mistreatment of Hamas members and sympathisers by the Preventive Security Organisation, among others.[4] The group had a particular interest in analysing the internal Palestinian social and judicial structures that maintain and sometimes encourage violence against women.

3 Palestinian Central Bureau of Statistics (PCBS) at www.pcbs.gov.ps (accessed 25 October 2009).

4 "CIA Working with Palestinian Security Agents", The Guardian, 17 December 2009; www.guardian.co.uk/world/2009/dec/17/cia-palestinian-security-agents/print (accessed 4 February 2010).

1.2 The Semi-Citizens of Israel

The ABC model can also be applied to the situation of the Palestinian citizens of Israel and the relationship between the Jewish majority and the Palestinian minority. The establishment of the state of Israel as a Jewish homeland in 1948 had a significant impact on the Palestinian people, and consequently a majority of 90% of the Palestinians became refugees and fled to the West Bank, Gaza Strip and the neighbouring Arab countries. About 120,000 Palestinians remained in their homes as a minority under Israeli state control, cut off from their own people and the rest of the Arab world. For about two decades after the formation of the state of Israel, the Palestinian minority was under Israeli military rule, facing severe restrictions and violations of their human rights. This increased their dependency on the state, and reinforced its control over them. The Palestinians in Israel witnessed the destruction of their economic infrastructure and the expulsion of their political and social elite (Darweish/Rigby 1995, 22). They have been described by Sami Mari as "emotionally wounded, socially rural, politically lost, economically poverty stricken and nationally hurt. They suddenly became a minority ruled by a powerful, sophisticated majority against whom they fought to retain their country and land" (Mari 1978, 18). Today there are over 1.5 million Palestinian citizens of the state of Israel; they comprise about 20% of its total population.

In terms of Israeli *attitudes* towards the Palestinian citizens, negative feelings exist both on official state level and among the general public. The belief that Israel should be a country that prioritises Jews over others is a view often heard in Israel. One example is the language used by right-wing members of the Israeli government such as Avigdor Liberman, who served as the Minister for Strategic Affairs under Prime Minister Ehud Olmert and is currently Foreign Minister in Binyamin Netanyahu's government. According to the Christian Science Monitor, one week after being appointed to the Israeli cabinet, he called for "Israel to become 'as much as possible' an all-Jewish country without an Arab minority".[5]

Support for politicians like Liberman, and the ethnocentric politics they advocate, can be explained partly by the level of racism found in Israeli society. The Centre Against Racism in Israel compiles an annual index of racism in Israeli society. Findings from the March 2007 index (reporting figures relating to 2006) highlighted that 49,9% of the Jewish population feels fear when hearing Arabic spoken in the street, 31,3% feels revulsion, 43,6% senses discomfort and 30,7% feels hatred. There has been a marked increase in the negative feelings expressed by the Jewish population towards Arabs if we compare the March 2007 index with a previous survey from December 2005: the feeling of hatred toward Arabs had grown (30.7% as opposed to 17.5%); 75.3% of those questioned said that they would not agree to live in the same building as Arabs (as opposed to 67.6% in 2005); and 61.4% were not willing to have Arab friends visit their homes, compared to 45.5% in 2005 (Awawda/Heider 2007; see also ACRI 2007, 14).

These widely held attitudes within Israeli society translate into support for specific anti-democratic policies and vision. A survey conducted by the Israel Democracy Institute (IDI) in 2008 shows strong support for the discriminatory attitudes towards the Arab citizens; only 52% of Israeli Jews agree "that full equality of rights should be awarded to all citizens". The survey also reveals that 85% of all Israelis think that "relationships between Arabs and Jews are not good or not at all good". This leads the IDI to conclude that the rift between Arabs and Jews within Israel is "the most severe internal problem in Israeli society" (Israel Democracy Institute 2008, 46-57).

The *behavioural* manifestations of such attitudes (as well as the consequences of Israel's deliberate policies and structures of discrimination described below) can be plainly seen in the streets of Arab towns and villages. The Arab localities suffer from poor infrastructure, poverty, unemployment and poor services. Political activists face harassment, imprisonment and sometimes

5 "Israeli Cabinet Minister Calls for Arab-Free Israel. "Christian Science Monitor, 6 November 2006.

violence from the Israeli security forces. The killing of nine and injuring of hundreds of Arab citizens of Israel by Israeli forces during demonstrations at the beginning of the second intifada in October 2000, to name but one example, was one of the most violent clashes in recent decades.

Regarding the *context* of institutional violations, an examination of Israel's legal system and state structures reveals systemic discrimination and violation of the human rights of its Palestinian citizens. Israel defines itself as the state of the Jewish people, and the term "Jewish state" defines the collective through which Israel seeks to serve the Jews in Israel and throughout the world. This gives the right to every Jew to potentially become a full citizen merely by immigrating to Israel. The Law of Return (1950) and Citizenship Law (1952) combined offer Israeli citizenship to any Jewish person in the world, while effectively taking away the possibility that a Palestinian could become a full citizen (Darweish/Rigby 1995; Kretzmer 1990; Zureik 1979). Israel has no constitution and therefore there is no legal document or bill to arrange the relationship between the Palestinian minority and the state. Nor is there a statute in Israel similar to the Civil Rights Act in the USA or the Race Relations Act in Britain which protects citizens from private or public discrimination.

Control over the land is one of the main features of the conflict between the Palestinians and Israel. The Israeli government instituted a series of mandatory laws and regulations to "legalise" the acquisition of Palestinian refugees' land and property after 1948, while preventing them from returning to their land. Palestinian land was deemed "absentee property" through the Absentee Property Law (1950) and control of this land was passed to the state or quasi-state entities such as the Jewish National Fund (JNF) and the Israel Land Administration (ILA), which administered the land for the benefit of Jewish Israelis only. Under this law, Palestinian refugees were considered "absentees" and internally displaced Palestinians were regarded as "present absentees", designations that allowed the state to confiscate their land. In addition to this there are a further sixteen laws and acts that have been used to expropriate Arab land (Kretzmer 1990, 49-76).

In addition, the education system for the Palestinian citizens in Israel is profoundly discriminatory, as is evident in the State Education Law of 1953. The law describes the aim of elementary education in Israel as emphasising the value of Jewish culture and loyalty to the Jewish people. Arab students are required to learn more about Jewish history, culture and religion than their own, and their curriculum lacks sensitivity to their own national identity and history as Palestinians. There is gross discrimination in the fields of education facilities, allocation of budgets and nominal representation of Arabs in the decision-making and policy shaping of the Ministry of Education structures.

Furthermore, the law in Israel imposes the duty to serve in the Israeli army on every resident; however, it exempts the Arab citizens. Anyone who has served in the army will be eligible for a wide range of state benefits in grants for housing, higher education, training and preferential treatment in employment. Arabs are denied such rewards, and according to Avigdor Feldman, an Israeli lawyer in the field of human rights, such positive discrimination in favour of the 'army veteran' provides legal sanction for what are, in fact, racist ends (Darweish/Rigby 1995, 19).

The issue of institutional racism and discrimination, as discussed by Véronique Dudouet (2009, 18) for South Africa and Sri Lanka, is manifest in Israel. The state structure gives legal support to different government ministries for adopting policies and regulations that give privileges through the allocation of resources and budgets to Jewish areas. A Jewish council will qualify for social and economic projects where Arab councils will not. This will include tax breaks given to Jewish residents, businesses and investors.

Oren Yiftachel, an Israeli social scientist, has explained the control structure on the basis of "ethnocracy" as a regime built on two principles: "First, ethnicity, and not citizenship, is the main logic around which state resources are allocated; and second, the interests of a dominant ethnic

group shape most public policies. The combination of these two principles typically creates an ethno-class type of stratification and segregation" (Yiftachel 1997, 507).

2. Horizontal Peacebuilding and Conflict Intensification: Engaging National and International Civil Society

As stressed by Parlevliet, it is critical to engage constructively with state structures, systems and society in order to build a positive relationship, both vertically and horizontally (in this volume, 23), and to highlight the responsibility and accountability of the state, general public and civil society. However, in my opinion the lead article over-emphasises the role of the state and underplays the role of civil society, nationally and internationally, as a potential force for change. The state of Israel relies on the legitimacy and the support of the Jewish public, both at home and internationally, to sustain its discourse. Therefore, any positive change in their attitudes and perception of "the other", i.e. the Palestinians, might potentially impact on the policy makers and shapers. The challenge is to communicate with and influence Israeli public opinion, to present a different discourse to the state's dominant discourse and to raise their awareness of the violation of human rights experienced by their fellow Palestinian citizens and the Palestinians in the West Bank and Gaza Strip. Israel's power depends on the obedience and cooperation of both Palestinians and Israelis, on various issues. Therefore, a social change movement that can mobilise for a shared peaceful vision of society in Israel and Palestine can lead the process of transformation.

Based on my experience of working with Palestinian and Israeli human rights organisations, my observation is that most of the financial and human resources have been utilised to address symptoms or consequences of the structural and direct violence of the conflict. Human rights organisations operating in the Palestinian areas and inside Israel provide a very comprehensive and detailed analysis and documentation of the violation of human rights, often focusing on litigation. This, in most situations, addresses the symptoms that have resulted from the systems and structures of oppression put in place by the occupying power. One human rights activist explained that "we have the most comprehensive reports, but all of them are sitting on the shelves" (RTC 2007). Recently, some human rights organisations have begun to direct more attention to international advocacy and lobbying by establishing offices in the USA and Europe.[6]

Palestinian and Israeli civil society organisations and Palestinian policy makers need to be creative and find alternative ways to address the Israeli society at the different levels, and include them in a peacebuilding process. In order to do that, it is fundamental to understand their attitudes, fears and concerns and their context to enable them to develop strategies to address such issues (Lederach 1999). Israeli society is part of the problem and therefore needs to be part of the solution. For example, in 2004 the International Court of Justice asserted that the construction of the "separation wall" is in violation of international law, while the majority of the Israeli public supported the construction of the wall. This illustrates the necessity to address concerns of the Israeli society, in order to transform their attitudes and perception towards the Palestinians. It is important to move beyond the legal and litigation approach towards an open and critical dialogue, without appeasing and maintaining the power status quo, but based on mutual recognition and respect. This will be a slow, holistic and multi-faceted process of engaging with the "enemy", i.e. the holders of power. The aim is to work towards a shared vision of a peaceful society, based on justice and sustainable peace that both parties want to promote. Although there is no assumption that attitudes

6 See, for example, B'Tselem: www.btselem.org/english/About_BTselem/Index.asp (accessed 28 April 2010).

between the Palestinians and Israelis are symmetrical, it is still possible to identify similar attitudes towards each other based on fear, lack of trust, hatred, dehumanisation, anger and the justification of using measures that will cause human rights violations.

Cooperating with Israeli Jewish civil society organisations is a very controversial issue that has divided Palestinian civil society in the occupied territories, where the dominant voice at this point does not support such a "dialogue". Only a limited number of Palestinians are prepared to accept this as a way forward. However, the situation is different amongst Palestinian NGOs in Israel, despite the division that already exists; there has been a shift in thinking amongst some of the leading Palestinian NGOs in Israel about the need to develop a strategy and approach for engaging with both Israeli society and state structures. Parlevliet endorses the idea raised by Clements that there is an opportunity for conflict transformation practitioners to play a facilitative role between society and state (Parlevliet in this volume, 29; Clements 2004). The number of conflict transformation organisations and practitioners in Israel/Palestine is acutely small, and therefore further capacity-building in conflict transformation, while providing space for civil society organisations to meet, analyse, reflect on their work and develop joint strategies for intervention, has powerful potential and should be given priority.

A multi-dimensional understanding of human rights, and also of development and conflict issues, will enable human rights, conflict transformation and development organisations who are engaged in the struggle for peace and justice to develop a multi-faceted strategy for intervention to transform the conditions that have given rise to discrimination and oppression. This will further require coordination and networking amongst organisations to develop a joint strategy. The SG brought together members from a variety of organisations. One participant commented on the conflict transformation training he had acquired as follows: "Windows have been opened in the mind; we are beginning to think in different ways about how to deal with issues. If you lived inside a room, all your thinking would be confined to that room. Without a window you would think the room was the world" (RTC 2007). In my experience of working with Palestinian and Israeli NGOs to integrate the principles and values of conflict transformation into their development and community work, this has laid the foundation for a society which respects and promotes a culture of human rights, including social, economic and political rights.

Finally, designing strategies for conflict transformation ultimately raises questions about our theory of change and change processes. How do we believe change happens? And what are our assumptions about change? However implicit or explicit our theory of change is, it will inform our strategy for intervention and action planning. For example, the lead article raises the issue of state power and "structural division of power and resources in society" (Parlevliet in this volume, 22). However, the conflict in Israel/Palestine is asymmetrical in its division of power and in its nature, as Israel holds most of the power both in the region and internationally which manifests itself in power over the Palestinians. Consequently, many conflict transformation and social change activists face an acute challenge, namely, how to transform such imbalanced power structures and policies constructively and without violence? I highlighted previously the need for an internal focus, but want to also underline here the need for external actors to play a role in this process. It is important to have a regular conflict analysis of the situation both at the national and international level, to identify new alliances and entry points. It might also be necessary to lobby and mobilise support and solidarity campaigns to intensify the conflict and bring it out into the open, in order to expose the violation of human rights and the need for a just and peaceful solution (Curle 1971; Francis 2002). As the lead article argues, "there is much scope for empowerment, mobilisation and advocacy in social change processes" (Parlevliet in this volume, 27), even if this will mean boycott, divestment and sanctions, as the Palestinian network of NGOs[7] is advocating.

7 The Palestinian Network of NGOs is online at www.pngo.net/default.asp?i=190 (last accessed 25 October 2009).

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Berghof Conflict Research

Interaction between Conflict Transformation and Human Rights in the Face of Ongoing Armed Conflict in Colombia

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www.berghof-handbook.net

1. Introduction

Michelle Parlevliet has developed a really meaningful article, which helps to move forward the debate on how to constructively connect the fields of human rights and conflict transformation. She is right in advocating for a more complementary vision between both fields, as a condition for fruitfully building a more just and sustainable peace. As Parlevliet shows in her literature review, this has been the path followed in the academic and practical discussion in the past few years.

Given that the purpose of the different comments in this Dialogue is to enrich the debate on one topic, I would like to add to the discussion raised by Parlevliet with some comments which emerge from my own experience of working on peace and human rights issues in the last 20 years. In this sense, I speak from a Latin American and, particularly, a Colombian perspective, where we have been deeply confronted with some of the issues analysed in the lead article. The following discussion is shaped by two main contextual dynamics.

On the one hand, having in mind the Colombian context, it is necessary to pay attention to the challenges that emerge at the level of both human rights and conflict transformation issues from a protracted and ongoing armed conflict, something that Parlevliet does not give enough consideration. This is clear in the evolution of the current Colombian conflict: "as the military strength of non-state parties has grown, so has their propensity to infringe the laws of armed conflict. Indeed, they now commit serious crimes on a scale not seen before" (Guembe/Olea 2008, 124). It is not necessary to say how deeply this evolution has influenced the large number of peace initiatives orientated towards transforming the conflict in the country, affected by some dilemmas in the field of human rights, i.e. between the need for a certain level of impunity for reaching a peace agreement and the victims' crucial need for accountability for human rights atrocities.

On the other hand, it is indisputable that the international context has changed considerably in some aspects related with our topic, generating new situations which have had a big impact on the way conflict transformation and human rights issues are addressed today. Among others, it is necessary to mention the increasing number of local and international human rights and peace NGOs; the increase of international monitoring, reporting and oversight of human rights in conflictive situations; the professionalisation of human rights activists and peace practitioners; the positive evolution of international law, more particularly the International Criminal Court, and the consolidation of peace processes confronting transitional justice issues (see Carrillo 2009, 148-151). In many of these cases, there have been interesting social experiences from below that have shown how it is possible to face and resolve some of the dilemmas people and communities are confronted with in conflictive contexts, in order to promote/defend human rights and build just and sustainable peace.

Having in mind these two contextual dynamics, I am going to develop my comment in two main parts. Firstly, I will develop a more conceptual annotation which tries to complement the conceptual framework presented by Parlevliet: I think the approach to human rights and conflict transformation issues would gain if we consider how they both connect with the chronology of an armed conflict. Secondly, I will present some remarks on power, conflict transformation and human rights, which will highlight some aspects mentioned by the lead author but not developed in enough depth, at least not considered in all the complexity they demand.

2. Conflict Transformation and Human Rights Challenges in the Perspective of the Conflict Cycle

One aspect that can complement the comprehensive analysis developed by Parlevliet is to connect her reflections on human rights and conflict transformation with the temporal cycle of conflict (see *Figure 1* overleaf), by looking at the connection between the different phases or moments of a specific conflict (latent conflict, violent escalation, de-escalation, end of the armed conflict, and post-conflict phase) and the way in which human rights defenders and peace/conflict transformation activists intervene in each of these phases. In doing so, it is possible to grasp better how both types of practices converge and diverge, considering the complementarities and dilemmas between them.

A first stage in the conflict cycle is the situation of latent conflict, in which there are exclusions and tensions, but physical violence has not exploded. In such a situation there are usually some controversies and divisions regarding who is responsible for the specific type of exclusion, injustice or abuse which is affecting that society/country. In this context, human rights activists work on documenting and denouncing the existing human rights abuses (mainly civil and political rights), developing at the same time early alerts either to prevent the outbreak of violence and human rights violations, or to prepare an adequate humanitarian intervention to help those affected by them.

On the other hand, conflict transformation practitioners tend to develop analyses of current exclusion(s), advocating the subsequent social strategies and policies for generating inclusion, as a way of transforming the existing conflict. To reach sustainable results, it is necessary that these policies would address the specific root causes of the conflict in one way or another.

Secondly, different events can trigger the outbreak of violence, which may be only episodic. But it can also consolidate as a social phenomenon, with a growing escalation of an armed conflict, in many cases lasting for years or decades. When this is the case, there is a correlated escalation of human rights abuses by both sides in the conflict, worst of all when different paramilitary groups enter the armed dynamic (as in the cases of Colombia and Northern Ireland). In many cases, there

are more fatalities among the civilian population than among combatants, a consequence of both sides' need for territorial control, despite the fact that this can lead to infringements of International Humanitarian Law (IHL). In this phase of the conflict, human rights activists normally have a hard job given the growing number of abuses, leading in many cases to a humanitarian crisis; their activities include documenting and denouncing human rights violations (mainly related to civic and political rights); advocating in favour of human rights with national and international institutions and politicians; promoting juridical processes at the national and international levels; supporting human rights and social organisations. On the other side, peace and conflict transformation practitioners split their efforts between advocating in favour of a negotiated solution to the conflict (in many cases with very limited results) and supporting peace organisations and acts of civil resistance to the armed conflict, like territories of peace or peace communities (García-Durán 2009; Mitchell/ Ramírez 2009). There are also several experiences of civilian peacekeeping,[1] such as the cases of civilians monitoring cease-fire agreements and nonviolent interventions across borders to offer protective accompaniment, for example by Peace Brigades International, Witness for Peace, Christian Peacemaker Teams, Nonviolent Peaceforce and International Service for Peace (see Clark 2009; Moser-Puangsuwan/Weber 2000).

Thirdly, different factors could permit a de-escalation of the armed conflict, which does not necessarily mean that it will end. Only when this de-escalation is accompanied with a real peace process is it feasible to move towards a peace agreement. In this case it is possible to find several elements of a peacemaking strategy (third-party assistance, mediation, initial contacts, pre-negotiation, negotiation, inputs to the negotiation table, partial peace accords, etc.). All of these are the type of actions peace and conflict transformation activists would promote, aiming to find a negotiated solution to the armed conflict. By their side, human rights defenders will keep an eye on the abuses and violations of IHL by all armed actors; monitoring and advocacy remain important tasks for them. In addition, they normally have a concern for how human rights are addressed in the peace accords, given the risks attached to allowing a high level of impunity for the abuses committed by combatants during the war.

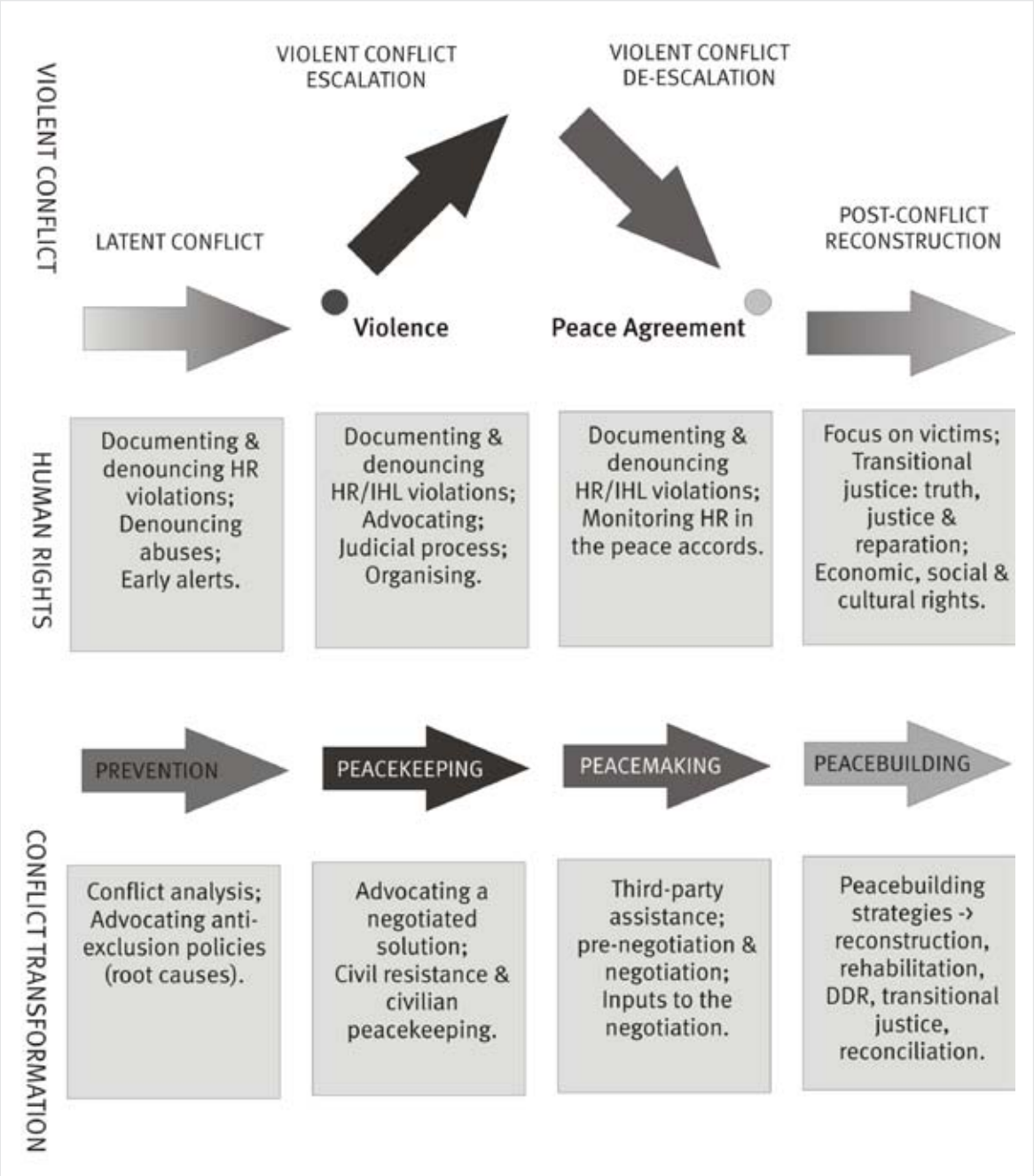
The final point in conflict de-escalation is the end of the armed conflict. This can be reached either by a peace agreement or by military victory for one side. In the first case, a critical point for human rights activists is the way human rights measures have been negotiated in the agreement; in the second case, the focus is on the likely abuses produced by the winning party. Conflict transformation practitioners, for their part, pay more attention to the necessary conditions for implementing the agreement. The political conditions for realizing all the commitments considered in the agreement are not always in place, as has been the case with human rights accords in some peace processes.

Fourthly, the last phase in the conflict cycle is the post-conflict (and post-agreement) period. This is the moment of implementation of the peace accord and agreed socio-political reforms. It also implies the subsequent process of disarmament, demobilisation and reintegration (DDR) and the reconstruction and rehabilitation of a wounded society at the economic, political, social and cultural levels. A sustainable peace depends on coming to terms with the effects of the armed conflict on people and society. A transitional justice mechanism is required, orientated towards finding a balance between the claims of victims and perpetrators, in a way that opens the door for healing and reconciliation. During this phase, human rights defenders focus their attention on the victims,

1 "Most people think of peacekeeping as a military activity, involving troops sent into a conflict area by the United Nations or some other official body to stop the fighting and restore order. In its broader sense, however, peacekeeping can include any activity that seeks to reduce violence and create a safe environment for other peacebuilding activities to take place. Many peacekeeping activities can be carried out just as effectively by unarmed civilians" (Wallis/Samayoa 2005, 363).

looking for the highest levels of truth, justice and reparations and, also, for the implementation of human rights instruments targeting critical situations of discrimination or exclusion (i.e. protection of women and minority rights). They also pay attention to the promotion of economic, social and cultural rights as conditions for a lasting peace. Peace and conflict transformation practitioners focus their attention on the development of peacebuilding strategies orientated towards guaranteeing adequate social healing and rehabilitation of individuals and social groups, in a way that makes a process of reconciliation possible.

FIGURE 1 – Human Rights and Conflict Transformation in Different Conflict Phases



Source: elaborated by the author with the team of Peace Initiatives at CINEP.

To summarise, each phase of the conflict cycle demands specific practices both from human rights defenders and conflict transformation practitioners. In some cases, those practices tend to converge; in others they diverge, depending on how the actors are focusing their practice to face the specific contextual challenges of the conflict. Many of the existing reflections and analyses in the field centre their attention on one of the stages of the conflict and the strategies and actions that human rights and peace workers have to develop in order to face the challenges at that stage (e.g. the escalation of armed confrontation or the negotiation of a peace agreement). In addition, there is a sequential vision of the phases (latent conflict, escalation, de-escalation and post-conflict).

But there is an additional challenge in contexts like Colombia, where there is an ongoing armed conflict and where, given the different peace initiatives already developed in the country, it is possible to find that the different phases of the conflict cycle *coexist*. At the same moment in time, it is possible to find regions with a latent conflict, others with an escalated conflict, some others with negotiation initiatives, and, finally, still others with post-conflict dynamics. There have been several peace agreements, with the subsequent DDR processes and post-conflict initiatives. So, people working in conflict transformation and human rights face the great challenge of developing strategies for all the stages of the conflict, and at the same time articulating them in a harmonious intervention. But it is not always possible to find in the field a connecting reflection between the different stages of the conflict and the challenges in conflict transformation and human rights.

3. Some Remarks on Power, Conflict Transformation and Human Rights

Michelle Parlevliet is aware of the need to pay more attention to power issues in the processes of addressing and transforming conflicts: "conflict transformation, both as a theoretical discipline and a field of practice, should become far more concerned with the nature, organisation and functioning of the state than it has been so far" (in this volume, 26). Going further, it is important to have in mind that behind the different frameworks for human rights and peace, there are several power dynamics that it is necessary to reveal if we want to understand what is really at play in both fields, how distant both discourses are from each other, and how different the purposes and strategies behind each one are. Each specific framework is used to explain and resolve a particular type of exclusion, injustice or violence – according to one or another political perspective. This is the reason why the interaction between the fields of conflict transformation and human rights requires an analysis of their political use, in order to understand what is the real content of each, and to what extent one practice complements the other. Let us exemplify this with two concrete situations in the Colombian context.

3.1 Human Rights, Peace and the State

There is no ahistorical connection between the peace and human rights fields. Their interaction is conditioned by the context in which their conceptual and practical instruments are used, a use which always has a political content – e.g. it relates to a particular vision of the state. The way in which human rights have been politically framed has established the conceptual and practical conditions for how human rights activists relate themselves with peace and conflict transformation frameworks. Let us have a look at this in the Colombian context, where we find in the last 40 years, with the risk of simplifying, at least three different perspectives in the use of human rights.

Firstly, since 1970 some social activists have used human rights frameworks "to explain and resolve a specific kind of Colombian violence: violence perpetrated by the state against the left" (Tate 2007, 73) and against social organisations. This led to a vision of the state as an enemy, considered as a repressive apparatus, which developed a strategy called 'state terrorism'. Strengthening the state in a democratic perspective was not given much consideration. Connected to that situation was the widespread vision among many state agents, and later within paramilitary groups, that "human rights activism was simply a façade for the guerrilla supporters" (ibid., 155). As a consequence, this vision of the state as an enemy made it difficult to adopt theoretical approaches, like many of the conflict transformation proposals, which put the state at the centre of any institutional solution. In addition, "many human rights defenders viewed the peace activists' slogans, such as blanket rejections of violence and generic statements in support of peace, as a competing discourse that undermined efforts to ensure justice and accountability" (ibid., 132).

Secondly, there was also another type of human rights activists, engaged in constructing a modern nation-state in which the realization of human rights would be one of social life's cornerstones. These activists played a critical role in relation to the state, monitoring and denouncing in a professional way the abuses of state agents and of all illegal armed groups, including the guerrillas, according to international standards. They certainly had a more positive vision of the political dynamic, attempting to "co-construct a state that fulfils its obligations to its citizens" (Tate 2007, 145). In this case, there are better conditions for using and interacting fruitfully with conflict transformation and peace frameworks. Peace, conflict transformation and human rights come together and are part of a common contribution towards building a just and peaceful society. The corollary of that is the tension that emerges among human rights activists, particularly with those who do not accept any constructive interaction with the state (as the enemy) and even consider that there is a right to (armed) rebellion against it.

A third perspective on the use of human rights frameworks is that of Colombian governmental institutions, which include the different state human rights agencies, even those of the military. "Colombian governmental human rights offices portray themselves as being a part of weak institutions and offer a diffuse notion of rights as 'everyone's responsibility'" (Tate 2007, 3), even positioning themselves (including the military) as victims of human rights violations by the guerrillas. In addition, their bureaucratic dynamics "contributed to the production of impunity" by channelling human rights activism "into the endless circulation and exchange of information" (ibid., 230). State agencies' openness to conflict transformation and peace contributions has been related to the perspective that each of the last six governments has assumed in relation to the armed conflict, and the possibility of a negotiated solution. Governments open to a peace negotiation tend to accept and integrate many elements from the conflict transformation framework. In contrast, the emphasis on a military solution, as in the Uribe administration (2002-2010), tends to close the doors for conflict transformation proposals which are orientated towards a comprehensive negotiation with all illegal armed actors and are favourable to mechanisms supportive of the victims' rights. They are only open to conflict transformation discourses that support their official policies.

To sum up, the way in which human rights and conflict transformation frameworks interact is dependent on the political perspective in which they are used. It is therefore important to analyse how these frameworks are used politically and which of their elements are given emphasis, as a precondition for promoting any larger complementarity between them.

3.2 Peace vs. Human Rights: The Challenge of Achieving Some Degree of Peace with Justice

Despite the convenient and mutual enrichment between human rights and conflict transformation frameworks advocated by Parlevliet, the tensions and dilemmas between both do not disappear. An additional consideration could be offered by addressing, in the Colombian case, the tensions between conflict transformation and human rights issues and instruments. One paradigmatic case concerns the challenge of achieving some degree of peace with justice.

The Barco government (1986-1990) developed a peacemaking paradigm for negotiating with the guerrilla groups in the early nineties: DDR of the guerrilla groups in exchange for amnesty and political participation. But nowadays, "peace agreements with illegal armed groups as a general matter can no longer be viably pursued based on paradigms that promote unconditional amnesty over accountability, sacrifice truth for political expediency, or utterly subordinate the rights of the victims to the ideals of national peace and reconciliation" (Carrillo 2009, 153). A better balance between human rights and peace/conflict transformation components is required.

After those peace negotiations in the 1990s, there have been two different attempts at developing peace processes with illegal armed groups in Colombia, which have managed human rights issues in different ways: the Pastrana administration (1998-2002) in its attempt to negotiate with FARC, the *Fuerzas Armadas Revolucionarias de Colombia*; and the Uribe administration (2002-2010) in its negotiations with the paramilitary groups.

"During the Pastrana administration, the focus on peace translated into neglect for state human rights programs; Pastrana's message stressed that human rights abuses [from all sides] could be dealt with only after that war was ended. This view of human rights was widely shared by groups involved in the burgeoning field of conflict resolution, which commonly view efforts to ensure human rights accountability as an impediment to peace agreements between warring factions" (Tate 2007, 71). Not surprisingly, the tensions between human rights NGOs and peace organisations advocating in favour of the peace process grew during those years (see García-Durán 2006; Rojas 2004), as a result of the dilemma of how to address these various sources of human rights abuses (state agents, paramilitary groups and guerrillas).

The first Uribe administration (2002-2006) promoted an alternative system of criminal justice (the Justice and Peace Law) in order to negotiate with the paramilitary groups (see Guembe/Olea 2008, 127). The government considered it necessary to apply to the paramilitary groups a similar 'medicine' to the one previously applied to the guerrillas in the early nineties. So, in this case the model used was DDR plus giving up drug trafficking, in exchange for an alternative criminal justice procedure. This contested peace process model[2] led to the demobilisation of more than 32,000 paramilitaries.

Two main problems remain in the political arena regarding the balance between conflict transformation and human rights:

- On the one hand, "government supported demobilization of paramilitary fighters, without a corresponding dismantling of paramilitaries' power structures, is remapping the landscape of violence and power" (Tate 2007, 305). In other words, there was a DDR process without ending the paramilitary phenomenon, which today again is growing and connected with drug trafficking. In addition, the level of impunity remains quite high, given the difficulties of using

2 It has been contested due to the lack of transparency in the negotiation process. No final agreement was ever publicly made known, but it is unthinkable that such a demobilisation would happen without any governmental commitments. That is the reason why some academics consider that what was really at play was a "conservative revolution" aiming to legalise the regional power structures which link political leaders, big landowners, drug traffickers and paramilitary groups (see Orozco 2005, 198-204).

the Justice and Peace Law to effectively judge the demobilised paramilitaries. In consequence, the victims' rights have been widely neglected.

- On the other hand, "FARC leaders have stated […] that they will never subject themselves to the conditions announced in the Justice and Peace Law, especially prison terms of any kind. […] In this respect, it is likely that the new paradigm under construction with the AUC [paramilitary groups] may actually make it more difficult to engage in peace negotiations with the country's oldest and strongest insurgency" (Carrillo 2009, 156).

At the end of the day, the challenge that both human rights activists and conflict transformation practitioners have in Colombia is achieving some degree of peace with justice. For that, it is necessary for both fields to have at their core the perspective of the victims. The society's goal of peace and reconciliation will be unattainable without properly considering the victims' rights to truth, justice and reparations. But this is a problem of politics: "the international bill of rights, covering civil-political and socio-economic rights for all people without discrimination, provides a recipe for the pursuit of domestic as well as international peace. But rights do not implement themselves. Politics drives law. A series of political decisions is required to adapt legal rights to particular circumstances" (Forsythe 1993, 167). As Daniel García-Peña has affirmed (2004), what is necessary is a new model of conflict resolution. This model, at least in the Colombian case, will have to resolve the above-mentioned dilemmas and show a more integrated and complementary perspective between the conflict transformation and human rights fields.

Concluding this comment, I would insist that Michelle Parlevliet's insightful article would benefit if the recommended complementarities between the human rights and conflict transformation fields are seen in a chronological perspective according to the different phases of the armed conflict, and are analysed with the political use that the conflict actors have of them in mind. In other words, it is necessary to have a historical approach in order to find how each field complements the other, and how they might, in a cooperative way, contribute to building a sustainable peace.

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Holding Concurrent Realities. Reflection on the Responses

Michelle Parlevliet

Coming from a range of perspectives and drawing on various cases, the responses to my article on human rights and conflict transformation are useful, encouraging and thought-provoking. I am grateful to my colleagues for their critical comments and ideas for further development, and appreciate the opportunity created by the Berghof team to engage in this conversation. The feedback gathered here and in other comments received, highlight that the issues discussed in the lead article are alive in many contexts around the globe. Their topical nature is also illustrated by the fact that a leading human rights organisation, a prominent mediation organisation, and a mediation project linked to a national Department of Foreign Affairs all published reports focusing on questions of peace and justice around the same time as the initial article was published (HRW 2009; Hayner 2009a; FDFA/MSP 2009). The limited space available for this concluding reflection will not allow me to do justice to the wide-ranging feedback and variety of case material presented. I will therefore concentrate on some themes that have emerged from the responses.

Starting with some definitional concerns, it is clear that opinions differ on the meaning of conflict transformation. While following my terminology, Babbitt doubts whether the term means anything different from conflict resolution. Her allusion to conflict mitigation or settlement as alternative reference points suggests a fairly narrow understanding of the notion: one that focuses predominantly on alleviating symptoms and achieving agreement between conflicting parties. In contrast, Nderitu employs the term in a broad and rather unconventional way, by relating it to integrated missions and including the activities of military actors in her application of the term. However, a suggestion of conflict transformation being a civilian undertaking emerges from García-Durán's contribution. These different understandings illustrate the lack of agreement that continues to permeate the peace and conflict field. They also raise critical questions about the added value of conflict transformation in theory and practice (in comparison to, for example, conflict resolution),

and about the nature of conflict transformation and the extent to which it comprises military actors and activities. Of course, it can be questioned whether such definitional debates matter. It seems to me that they do, at least to some extent; the terminological minefield does not facilitate understanding when engaging with practitioners or scholars working from another perspective. It also highlights the importance of consistently clarifying what one means when using certain terms in interacting with others.

On human rights, Nderitu points out a contradiction between the legal definition put forth and my emphasis on the need for a multi-dimensional understanding of human rights; a less legal-positivist definition would indeed have been appropriate. However, contrary to how Nderitu seems to have read me, I do not classify human rights in terms of positive and negative rights nor in terms of first and second category rights.[1] For me, economic and social rights are fundamental to any human rights and conflict transformation work – i.e. they are anything but 'not real' – and I have long been concerned that many discussions on peace and justice appear to overlook them in their understanding of justice (see further below). I fully agree with Nderitu on the indivisibility of human rights and welcome the opportunity to clarify this.

Referring to the dimensions of human rights that I have proposed, Diez and Pia advise against adopting too broad a definition of human rights. They argue that this may lead to paying insufficient attention to the consequences of invoking human rights as legal norms and the impact of different kinds of human rights articulations. Given the frequency with which human rights are referred to as legal standards in conflict contexts, this is an important caution. Yet it may be a matter of emphasis rather than of substantive oversight – a function of prioritising what points to make in an article of this nature. My advocacy of a holistic understanding of human rights seeks to counteract what has been called "the legal reflex within human rights discourse" (Gready/Ensor 2005, 9), precisely *because* it is so prevalent. In my view, rights can have a transformative potential in organising a society, but more so when they are rooted in everyday life, in the realm of moral, political and social processes. In that sense, the dimensions are an effort to operationalise human rights, not to define them. Reflecting how the presence or absence of human rights may take shape in people's lived experience, they seek to provide guidance on integrating rights meaningfully into conflict transformation thinking and practice. Whether this is the best way for doing so, can of course be disputed – and probably will, since there is no uniform conception of human rights either (e.g. Diez/Pia in this volume, 51; Dembour 2010, 2).

By and large, the discussants endorse the idea that there is value in considering human rights and conflict transformation in conjunction. My thesis that these are complementary is generally well received, with colleagues adding valuable nuances. As Babbitt points out, my article focuses primarily on one side of the equation: how a human rights perspective can enrich conflict transformation. She rightly argues that the reverse also holds true and that human rights efforts can benefit from taking conflict transformation considerations into account, illustrating this by drawing on constitution-writing in Iraq and South Africa. Having discussed this aspect of complementarity elsewhere (e.g. Parlevliet 2002, 2009), I left it out to prevent duplication and excessive length. Some of my thinking on the matter however is featured in the lead article, for example in the application

1 I do not use the terms 'positive/negative' and see no difference between my statement that "some [rights] instruct states to refrain from certain actions while others impose obligations on the state to act in certain ways", and Nderitu's point that "civil and political rights are based on the concept of non-interference – whereas social, economic and cultural rights require the state to take positive action" (in this volume, 57). On 'first/second', it seems to me that Nderitu is thinking of first or second *generation* human rights in her critique of my supposed categorization of rights; but my use of "first domain" and "second category" when elaborating on "some rights" is merely a stylistic device, not an ideological position on human rights or an assessment on the relative value of different rights.

of the Dugan/Lederach nested paradigm to human rights violations as causes and symptoms. Moreover, two of the dimensions of rights – rights as relationships and as process – originally 'owe their existence' to an earlier consideration of what conflict transformation can bring to human rights, although I have since managed to ground them in human rights literature. Of course, the human rights field's recognition of the interdependence between process and outcome does not negate Babbitt's point that conflict transformation has much to offer when it comes to process (and relationships).

Darweish and García-Durán highlight the importance of recognizing the dynamic nature of the conflicts at stake, in terms of the interaction between different elements of rights-related conflict (Darweish) and the evolution of armed conflict over time, since a deepening human rights crisis poses ever-greater challenges for human rights protection and conflict transformation (García-Durán). A warning not to assume too rosy a picture of the human rights/conflict transformation relationship also emerges from several responses – though none of the discussants says so explicitly. According to Diez and Pia, human rights are no panacea for conquering conflict, given the "highly ambiguous role of human rights articulations in conflict" (in this volume, 53). Gomes-Mugumya and García-Durán point to tensions that arise in relation to the pursuit of both peace and justice when violent conflict is ongoing, referring to Uganda and Colombia respectively. Nderitu asserts that human rights and conflict transformation "are naturally suited on paper" but that this is rarely borne out in practice (in this volume, 55). Nevertheless, the Mount Elgon example she describes reflects a practical coming together of ideas and strategies from both fields, incorporating analysis, rights education, joint problem-solving and visioning, dialogue between diverse groups, and relationship-building between rights holders and duty bearers.

These suggestions and exhortations are welcome as they highlight the complexity of the human rights/conflict transformation relationship. As such, they point to a question I've grown increasingly interested in: what factors influence the unfolding of this relationship in practice, in terms of potential for complementarity? García-Durán's article provides a few clues in this regard. His allusion to "interesting social experiences from below" (in this volume, 96) points to the possible relevance of the level at which interventions take place. The idea that there may be more scope for synergy at Track III than at Track I has some resonance in the literature. The contributions by Nderitu and Gomes-Mugumya also offer some evidence for this thesis, which corresponds to my own impressions and interactions with colleagues as well. García-Durán further suggests that convergence and divergence are partly determined by the specific strategies for rights protection and conflict transformation that are required at different times in the conflict cycle. In some phases these may go better together than in others.

This requires further elaboration indeed, and his identification of relevant *practices* at different stages provides food for thought. (It is however more descriptive than analytical; he draws no conclusion and makes no pronouncement on which practices may be more or less easily reconciled, or the feasibility of doing so in different phases.) Even so, I suspect that the aspect of practices is – or should be – but one part of such a temporal analysis. The specific *issues* that arise in different phases and the relative weight or priority that activists in either field attach to them will probably be just as important for determining convergence/divergence. (And this priority assessment, in turn, may well be influenced by the theories of change they adhere to, something commented on by both Babbitt and Darweish; and identified as an area for further research in the lead article.)

Finally, García-Durán calls attention to the need to examine the political context in which the concepts and tools of human rights and conflict transformation are used. Who uses these and to what end? What political interests are at stake behind either agenda, and what vision of the state do

they espouse? His explanation of three ways in which human rights have been framed in Colombia illustrates how a particular understanding and use of human rights discourse may open up or close space for connecting human rights and conflict transformation. Diez and Pia underline this emphasis on the political, reminding us of the interrelatedness of politics and human rights. Their comments on the limitations of an apolitical human rights discourse touch on a long-standing debate in the human rights field – what many highlight as objective (i.e. apolitical) global norms, are perceived by others as cultural models framed in specific historical conditions and/or criticised as modern-day imperialism.

Diez and Pia identify an additional variable impacting on complementarity: human rights articulations themselves. They explain that the way in which human rights are invoked in conflict contexts matters greatly, more so than the fact of them being invoked: articulations that reinforce group identities and are exclusive are likely to intensify conflict dynamics. My own experience confirms the significance of how human rights claims are framed, though I have so far approached this mostly through the prism of positions and interests (e.g. in this volume, 30; Parlevliet 2002, 36). It has also struck me how the beliefs/assumptions about the nature of human rights held by those invoking them may affect the formulation of rights claims. For example, claims put forth in the parading context in Northern Ireland appear to have been informed by perceptions of human rights as 'either/or' and 'zero sum' matters: the notion that one's rights are either completely respected or not at all, or that one's rights can be exercised only at the expense of someone else's claim (Parlevliet 2009, 283-284). Such absolutist conceptions of human rights lead to human rights being invoked merely on behalf of the members of one group (i.e. exclusive articulations).

The conceptual framework of securitisation put forth by Diez and Pia is hence an exciting new source of contemplation. However, these authors may be too cautious when suggesting that rights invocations are "highly unlikely" to have a de-securitising effect "as long as there is a conflict situation" with "contemporary foes" (in this volume, 49/52). Consider ceasefire agreements and peace accords: research has highlighted that discussion on human rights can have a facilitative function in such settings. A case in point is the civilian protection accord concluded between the Philippine Government and the Moro Islamic Liberation Front (MILF) in October 2009, following an outburst of violence.[2] I suspect that this can be explained in the securitisation framework by considering such agreements as constitutions (following Bell, see Babbitt in this volume, 69), and the references to human rights in such agreements as references to the past. This suggests that "temporal securitisation" is not only possible in relation to events that are long past (as Diez and Pia seem to suggest, in this volume, 49). It could also apply to recent violence between opponents who have not conclusively resolved the issues between them as yet.

The responses show that there are different ways of considering the relationship between human rights and (violent) conflict, besides the framework I have outlined in the lead article. According to Nderitu, many scholars and practitioners focus more on international humanitarian law (IHL) when considering human rights in conflict transformation rather than on human rights law; in her view, the human rights perspective, while more comprehensive, is "usually seen as theoretical rather than practical" (in this volume, 56). For me, the chief limitation of international humanitarian

2 The parties signed this civilian protection agreement following an escalation of violence after the country's Supreme Court had issued a temporary restraining order preventing the Government and the MILF from signing the Memorandum of Agreement on Ancestral Domain, which would have concluded all disputes and lead to the signing of a Final Comprehensive Compact. Comments from a key figure suggest that a primary reason for the protection agreement was to rebuild trust both between the parties and within the parties' respective constituencies; the talk teams would only be able to re-engage in negotiations with each other after assuring their constituencies that a key concern (i.e. regarding violence and safety) had been addressed (conversation with member of Philippine talk team, 28 January 2010, Berlin).

law in relation to conflict transformation is that it applies to situations of outright violence amounting to armed conflict in terms of the Geneva Conventions.[3] This is problematic because many conflicts do not necessarily qualify as such. Moreover, conflict transformation is also relevant in situations of latent conflict, where societal tensions have not led to violence (yet) – or where violence has come to an end. Finally, most of IHL relates to international armed conflicts; the rules applying to 'non-international' armed conflict are far less well-developed. Yet contemporary conflicts tend to take place within states, not between states, even if they are becoming increasingly regionalised (Griffiths/Whitfield 2010, 6). Still, Nderitu's article throws down the gauntlet: when considering human rights in conflict transformation, it is imperative to do so in a way that is practically relevant and not just theoretically interesting.

Darweish considers conflict related to human rights in terms of Galtung's ABC triangle, discussing the attitudes, behaviour and conflict context in relation to the Palestinian/Israeli conflict, with particular reference to the situation of the Palestinians in the occupied territories and in Israel. His analysis suggests that the Israeli state is unlikely to embark on any genuine reform without a shift in (Israeli) public opinion and solidarity amongst Palestinian and Israeli civil society organisations. He thus criticises my strong emphasis on the state and argues that I pay too little attention to the role of civil society nationally and internationally as a force for change. It seems to me, however, that his description of an intricate and sophisticated system of legislation, policies and practices that institutionalises discrimination and accords preferential treatment on the basis of ethnicity, only confirms a key point of my argument: the pivotal role of the state and systems of governance in generating, escalating and maintaining violent conflict. In that sense, for structural transformation to occur, *there is no way around the state* – those concerned with ensuring long-term change have to deal with the state and those in government at some point and in some way. I share Darweish's view that civil society can play an important role in addressing conflict and violence in divided societies. Nevertheless, it faces certain constraints in doing so, as I have discussed elsewhere (Parlevliet 2001); one is the possibility of divisions within civil society, noted also by Darweish. Hence, this discussion attests that conflict transformation must involve both the state *and* civil society. Babbitt's point on the need for both continuity and change strikes me as quite relevant in this regard, as a possible entry point for working with resistance, rather than against it.

A concern with steering away from dichotomies is also central in my thinking on the question of peace and justice. As noted by García-Durán, Gomes-Mugumya and other colleagues, my lead article contained little discussion of this beyond some comments in the literature review. When working on the article, so much had already been written on peace and justice that I questioned whether I could add anything meaningful to this debate. It also seemed to me that discussions on this issue get so easily stuck that little attention remains available to explore the wider implications of considering human rights and conflict transformation in conjunction. For me, it was important to get at the latter – because my experience is that (a) there is, or can be, a constructive interface between human rights and conflict transformation at both a conceptual and a practical level and that (b) some fundamental questions arise about conflict transformation when reflecting on it from a human rights perspective, notably about issues of roles and power, and the extent to which we are able and/or willing to challenge the status quo. My main interest was in sharing my thoughts on these two topics. I therefore also refrained from discussing human rights and conflict transformation in terms

3 In contrast, human rights law applies to both peace- and war-time, although it allows for the suspension of certain rights at specific times (e.g. times of emergency); this is called derogation of rights. Some rights are however non-derogable, which means that they cannot legally be suspended at any time.

of "peace and justice", even though the latter is at times used as a catchy label to refer to the former. In my view, too much goes missing when doing so.

At the core of the peace and justice debate and the tensions observed by Gomes-Mugumya and others is a very specific dilemma: the pursuit of accountability for serious violations of human rights and international humanitarian law in situations of conflict where an end to violence is badly needed. It is thus concerned with the imperative to establish negative peace and the risk that those responsible for violence may demand immunity in exchange for agreeing to lay down arms. As such, it focuses on one aspect of justice: criminal or retributive justice. Other aspects of justice such as institutional reform and redistributive justice, feature too seldom in this debate. Yet they are just as important to establishing the rule of law, rehabilitating victims, survivors and their relatives, and legitimising state institutions in a post-settlement society. While I am convinced of the need to fight impunity,[4] an exclusive focus on investigations, prosecutions and punishment for doing so disregards that this strategy primarily targets the consequences of conflict, not its causes. It also only deals with violations of civil and political rights. This is problematic given the impact of violent conflict on people's economic and social rights, and the extent to which violations of these may have been at the root of what caused the conflict. Lastly, the emphasis on retributive justice is based on the assumption that it acts as deterrence and is as such key to prevention of future crimes. Empirical evidence for this is still lacking, however. Thus, one of my concerns in relation to the debate on peace and justice regards the narrow conception of justice that drives many contributions and also informs Gomes-Mugumya's and García-Durán's comments on this issue. The UN-endorsed Joinet/Orentlicher principles to combat impunity identify four areas to address: the right to know, the right to justice, the right to reparation and the guarantee of non-recurrence. In my view, more attention should be paid to all four rather than focusing mostly on one.

In addition, it is important to note that even when it comes to criminal justice, the situation is less straightforward than may seem at first sight. As noted in the literature review, sequencing is now recognized as critical; international law does not prescribe that investigations and prosecutions must take place within a specific time frame. Without suggesting that waiting for 30 years for trials to be conducted is desirable, recent developments in Argentina and Chile show that justice delayed is not necessarily justice denied. Also, the suggestion that peace requires granting amnesty and is therefore by definition irreconcilable with justice is too simplistic, as is the notion that granting amnesty means maintaining impunity. International law recognizes that it may be legitimate and advisable for a state to offer amnesty to individuals who have taken up arms against it. What is prohibited is blanket amnesty and amnesty for the most serious crimes – genocide, crimes against humanity and war crimes; these must be investigated and, if warranted, prosecuted. (The United Nations has, for example, issued guidelines that its representatives cannot support an amnesty for these crimes, nor for the wider category of "gross human rights violations".) It is thus the *kind* of amnesty that must be discussed, not amnesty as such. A person's position in the chain of command also needs to be taken into account; investigation and prosecution are to focus on those who bear the greatest responsibility for the serious crimes committed. The Rome Statute of the International Criminal Court (ICC) recognizes further that the first responsibility for addressing serious crimes lies with the national state and the parties to the conflict. Only when they are unwilling or incapable of doing so, should

4 In Nepal I have seen how impunity for past and present human rights violations fits into a much wider pattern of failure to hold individuals accountable for their actions, be they police officers torturing suspects; members of the youth branches of political parties assaulting journalists and human rights defenders; local government officials appropriating public funds; judges accepting bribes; elites owning land far beyond the legal ceiling; or political leaders pursuing their own narrow interests rather than those of their larger constituencies. This general lack of accountability has negatively affected the peace process, both before and since the signing of the peace agreement, and is a major obstacle to the further democratisation of Nepal.

investigation and prosecution of such acts be pursued at the international level.

This is not to downplay the challenging nature of the political, ethical and legal issues that arise in relation to the pursuit of individual criminal accountability in conflict situations. Those who are formally least eligible for amnesty (i.e. the leadership of parties in conflict), stand to benefit most from it. At the same time, those same leaders are the most likely to take part in peace negotiations, or at least have the ability to influence those who do. A complicating factor is the involvement of external actors and the tension that may arise between global norms and local agency highlighted in the conclusion of the lead article. It seems to me that the latter may be a more fundamental question in relation to human rights and conflict transformation than the issue of criminal justice as such. In part this is because transnational advocacy networks have become so influential in human rights activism (Keck/Sikkink 1998); at the same time, global power relations are shifting and the world is an increasingly less Western-dominated place. The global/local question is a theme that runs through all articles in this Dialogue, my own included. Diez and Pia's comments on the political nature of human rights and the unresolved debate about universality touch on it. Darweish raises the role of external actors in challenging unjust power structures and policies. García-Durán notes the growing number of local and international NGOs working on human rights and peace; an increase in international monitoring, reporting and oversight of human rights in conflict situations; and rapid development of international law. Babbitt mentions facilitating change from within a society or relying on rules and structures imposed from outside as a key difference in conflict transformation and human rights theories of change. Nderitu highlights the need to identify change agents within the post-settlement context itself, and emphasises that the implementation of international human rights standards must be context-specific. Gomes-Mugumya joins her in stressing the relevance of traditional practices for dispute resolution and addressing past crimes.

While agreeing with the last two discussants that traditional justice mechanisms can have merits that must be taken into account, I question any uncritical endorsement. The fact that certain practices are traditional does not make them legitimate *per se*, nor necessarily preferred by local populations. Careful examination is needed to assess who advocates them, to what end, and what interests such mechanisms serve; it also needs to be explored what they mean in practice, for example in relation to gender relations and due process. Still, it is important to acknowledge the existence of traditional or customary mechanisms and to appreciate that they can resonate strongly amongst local communities. As such, they have the potential to assist with finding a middle ground between blanket amnesty and extensive criminal prosecutions and can help with localising justice when they are incorporated into a holistic approach to dealing with past crimes. Thus, blanket dismissal of traditional justice mechanisms has limitations, as does romanticizing or idealising them.

Overall, the above discussion suggests the importance of nuance and openness to a range of options for dealing with the accountability dilemma. It also speaks to the need to refrain from absolutism and dichotomising in debates on peace and justice. Taking general, absolute positions on the need for 'justice' or 'peace' to prevail in a specific situation is not very helpful. The same applies to claims that developments in the one area will definitely preclude progress in the other. (Such positions and claims were, for example, made in relation to the Juba peace talks for the conflict in northern Uganda and the ICC arrest warrants for the leadership of the Lord's Resistance Army.) I am therefore grateful for García-Durán's speaking of "a certain level of impunity" and "achieving some degree of peace with justice" (in this volume, 95/101). This corresponds to the notion of "sufficient justice" that some colleagues at the Centre for Conflict Resolution in South Africa used in the late 1990s when discussing the country's efforts to address the serious crimes committed during apartheid. These formulations reflect that the question of seeking criminal accountability in

conflict situations can be excruciatingly difficult and that imperfection may be embedded in any modus decided upon. It is probably inherent to the issue at hand and the complex context in which it arises. Of course, acknowledging this does not resolve the issue. Questions arise immediately when entertaining the notion of sufficient justice – for example, what is sufficient? Who is to decide? On what basis? And sufficient for *whom?*

Following publication of the initial article, several persons (not contributing to this Dialogue) informed me that they were much relieved at my observation that the debate has shifted from an emphasis on peace *versus* justice to peace *and* justice. Yet I soon became aware that another commentator had just come to the reverse conclusion: in her view, the debate on peace and justice has only intensified in recent years (Hayner 2009b). This raised the question of how this was possible. Which observation was correct? I came to realize that both assessments are valid, in that they reflect realities that exist concurrently. The former relates to peace and justice in a broader sense, as referring to the intersection of human rights and conflict transformation. The latter relates to peace and justice narrowly defined; peacemaking and seeking accountability for serious abuses has become more complicated as the ICC gets engaged in ongoing conflict situations – and the debate on the universality of human rights plays itself out, for the first time, in the context of shifting global power relations. Since then, I have also found the notion of concurrent realities useful in thinking about the relationship between human rights and conflict transformation in general. Recognizing the complementary nature of the fields of human rights and conflict transformation does not preclude the possibility that in certain respects real tensions or contradictions arise. Once more, the convergence and divergence of human rights and conflict transformation is in and of itself not a matter of *either/or*, but of *both/and*. Controversy arises when we insist that the fields interact in just one way or the other – much like challenges arise when one analytical or policy perspective seems to leave no room for the other, when approaches from one field are presented as superior without recognition of their limitations, or when one imperative, be it peace or justice, is construed as necessarily trumping the other. Perhaps, at the core, this Dialogue issue on human rights and conflict transformation constitutes a call for nuance and for further engagement between people from different backgrounds concerned with peace, conflict, human rights and justice. This requires a willingness to engage with approaches, concepts and terminology that are not one's own; to explore the experience, values and methods of 'the other field' in order to appreciate what they bring to one's own understanding and practice; and to recognize the limitations of one's own perspective. Above all, it requires flexibility; a readiness to get confused, challenged and/or frustrated; and an ability to hold the (seeming) paradox of these concurrent realities.

NB. *If you would like to share feedback and comments with the author directly, please feel free to contact her at michelle.parlevliet@gmail.com.*

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* All further references mentioned in the text can be found in the lead article of this volume.

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Further Reading

Both Amnesty International and Human Rights Watch have just published noteworthy reports to feed into the ICC review conference, to be held in Kampala in June 2010 (which has peace and justice as one of its themes).

Human Rights Watch 2010. *Making Kampala Count. Advancing the Global Fight against Impunity at the ICC Review Conference.* New York: HRW. 10 May 2010. *www.hrw.org/en/reports/2010/05/10/making-kampala-count-0.*

This 102-page report assesses progress and recommends steps to strengthen international justice. The report addresses the four themes identified as part of the conference's "stock-taking exercise": peace and justice, strengthening national courts, the ICC's impact on affected communities, and state cooperation.

Amnesty International 2010. *Commissioning Justice: Truth Commissions and Criminal Justice*. New York: AI. 26 April 2010. *www.amnesty.org/en/library/info/POL30/004/2010/en.*

This paper is based on Amnesty International's experience and assessment of the work of truth commissions in many countries around the world over the past decades, and is being published in order to contribute to the debate about truth and reconciliation processes as a complement to criminal justice at the Review Conference of the Rome Statute of the International Criminal Court. Part One offers an overview of the 40 truth commissions established between 1974 and 2010. Part Two analyses their practice with respect to amnesty and prosecutions.

About the Authors

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Dr Thomas Diez is Professor of Political Science and International Relations at the University of Tübingen, Germany. He previously taught at the University of Birmingham and was a research fellow at the Copenhagen Peace Research Institute. Among his most recent publications are co-edited volumes on *The European Union and Border Conflicts* (Cambridge UP, 2008), *Cyprus: A Conflict at the Crossroads* (Manchester UP, 2009) and *European Integration Theory* (second edition, Oxford UP, 2009). He received the 2009 Anna Lindh Award for his contribution to the study of European foreign policy.

Dr Emily Pia is a lecturer at the University of St Andrews, where she teaches Peace and Conflict Studies. She has worked as a researcher on the EU-funded project: Human Rights in Conflicts – The Role of Civil Society. Her academic interests include IR theory, deconstruction, human rights and conflict theory. Currently she is working on Narrative Therapy and Conflict Transformation.

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Dr Véronique Dudouet works as a researcher for Berghof Conflict Research, Berlin, concentrating on the areas of conflict transformation theory, civil society organisations and resistance/liberation movements in transition from war to politics. She holds an MA (2001) and PhD (2005) in Conflict Resolution from the Department of Peace Studies, Bradford University, UK. Her doctoral thesis looked at the limits of mainstream conflict resolution techniques in asymmetric conflicts and their potential complementarity with nonviolent action strategies, based on fieldwork in Israel/Palestine. She has been involved in peace and nonviolent movements since her childhood (which she spent in the Communautés de l'Arche in France), and most recently with the International Solidarity Movement (ISM). Her recent publications include *From War to Politics: Resistance/Liberation Movements in Transition* (Berghof Report 17, 2009), *Nonviolent Civic Action for Human Rights and Democracy* (Directorate-General for External Policies of the European Union, 2009; with Howard Clark), and chapters in *People Power: Unarmed Resistance and Global Solidarity* (Pluto Press, 2009) and the *International Encyclopedia of Peace* (Oxford University Press, 2010).

Beatrix Schmelzle is the coordinator and co-editor of the *Berghof Handbook for Conflict Transformation* at Berghof Conflict Research. Her research and practice focus on conflict transformation and reconciliation in the Western Balkans and the Middle East, on inter-ethnic and cross-cultural dialogue, and on processes of organisational learning. She has previously worked with various NGOs in the field of conflict resolution in research, facilitation and organisational development capacities, including: Search for Common Ground, Washington DC, USA; Seeds of Peace, Connecticut, USA; Public Conversations Project, Watertown, USA; International Alert, London, UK and, most recently, Vienna Conflict Management Partners, Austria, of which she is a founding member. She has an MPA (Master of Public Administration) from the Kennedy School of Government at Harvard University, Cambridge, USA. She also has an MA degree in Political Science/International Relations from the Free University Berlin, Germany.

For more information, see

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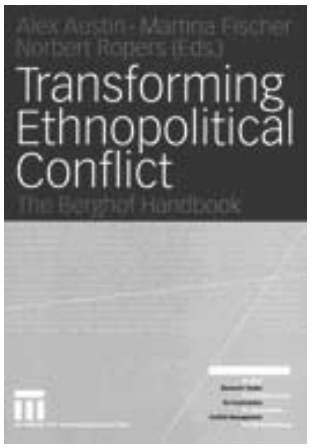

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