

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.

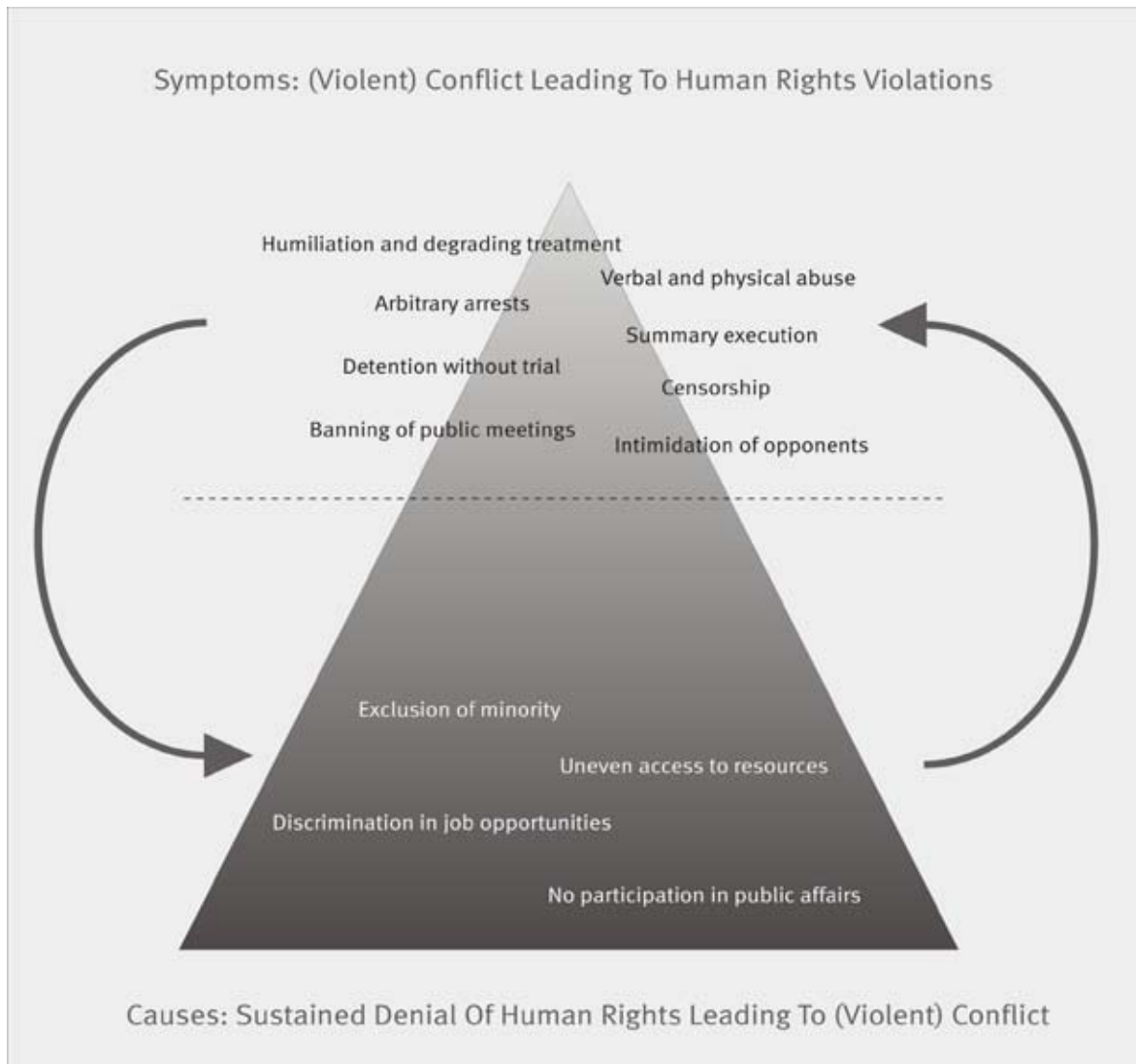
Regarding the latter, it is clear that the debate has moved from an implied focus on conflict settlement to conflict resolution, paying more attention to longer-term time frames and underlying causes of conflict. With the ‘peace and conflict field’ moving more and more to the notion of conflict transformation, 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.

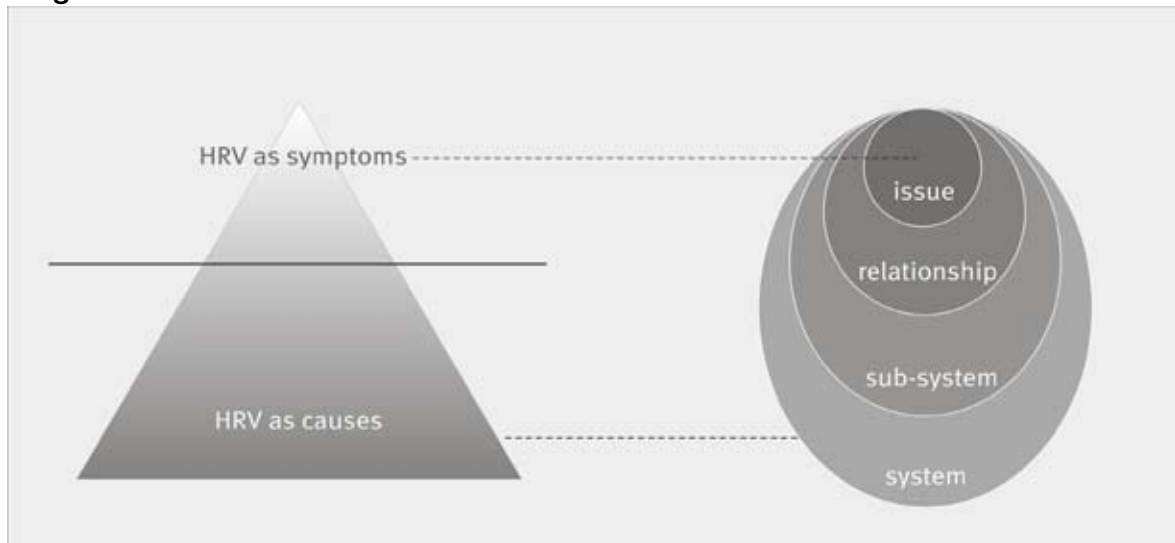
A primary challenge is to deal with symptoms while keeping in mind the larger, more structural conditions to be addressed. This is also relevant because many rights-focused activities in conflict tend to be symptom-oriented (handling complaints of human rights violations, investigation of individual 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. ICHR 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 Stoep 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 Greedy/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.

References

- Anonymous 1996. Human Rights in Peace Negotiations, in: *Human Rights Quarterly*, 18, 2 (May), 249-259.
- Arnold, Kent 1998a. Exploring the Relationship between Human Rights and Conflict Resolution, in: *FORUM (National Institute for Dispute Resolution)*, 98, 36 (December), 1-5.
- Arnold, Kent 1998b. Cast of Thousands. Managing Intervenors’ Role Integrity and Role Coordination, in: *Track Two*, 7, 1, 15-17. Available at <http://ccrweb.ccr.uct.ac.za/archive/two/1/p15.html>.
- Anderson, Mary 1999. *Do No Harm: How Aid Can Support Peace – or War*. Boulder, CO: Lynne Rienner.
- Azar, Edward E. 1990. *The Management of Protracted Social Conflict: Theory and Cases*. Aldershot, UK and Brookfield, VT: Dartmouth Publishing Company.
- Baechler, Günther 2008. “Emerging Archetypes”: A Comparison of Patterns of the Peace Processes in Sri Lanka and Nepal, in: Daniela Körppen, Beatrix Schmelzle and Oliver Wils (eds.). *A Systemic Approach to Conflict Transformation (Berghof Handbook Dialogue No 6)*. Berlin: Berghof Research Center. Available at www.berghof-handbook.net/documents/publications/dialogue6_baechler_com.pdf.
- Baechler, Günther 2004. Conflict Transformation through State Reform, in: *Berghof Handbook for Conflict Transformation*, Online version. Berlin: Berghof Research Center. Online at www.berghof-handbook.net/documents/publications/baechler_handbook.pdf.
- Baehr, Peter R. 1999. *Human Rights: Universality in Practice*. London: Palgrave Macmillan.
- Baker, Pauline 1996. Conflict Resolution versus Democratic Governance: Divergent Paths to Peace? in: Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.). *Managing Global Chaos: Sources of and Responses to International Conflict*. Washington DC: United States Institute of Peace, 37-50.
- Bell, Christine 2006. Human Rights, Peace Agreements and Conflict Resolution. Negotiating Justice in Northern Ireland, in: Julie Mertus and Jeffrey W. Helsing (eds.). *Human Rights and Conflict. Exploring the Links between Rights, Law and Peacebuilding*. Washington DC: United States Institute of Peace Press, 345-374.
- Bell, Christine 2000. *Peace Agreements and Human Rights*. Oxford: Oxford University Press.
- Bloomfield, David 2006. *On Good Terms: Clarifying Reconciliation*. Berghof Report No 14. Berlin: Berghof Research Center. Available at www.berghof-conflictresearch.org/documents/publications/br14e.pdf.
- Bloomfield, David, Martina Fischer and Beatrix Schmelzle (eds.) 2006. *Social Change and Conflict Transformation (Berghof Handbook Dialogue No 5)*. Berlin: Berghof Research Center. Available at www.berghof-handbook.net/documents/publications/dialogue5_sochange_complete.pdf.
- Boege, Volker, Anne Brown, Kevin Clements and Anna Nolan 2008. On Hybrid Political Orders and Emerging States: State Formation in the Context of ‘Fragility’, in: *Berghof Handbook for Conflict Transformation*, Online version. Berlin: Berghof Research Center. Available at www.berghof-

- handbook.net/documents/publications/boege_etal_handbook.pdf (Oct 2008 version).
- Branch, Adam 2007. Uganda's Civil War and the Politics of ICC Intervention, in: *Ethics and International Affairs*, 21, 2 (summer), 179-198.
- Burton, John 1990. *Conflict: Resolution and Provention*. London: Macmillan.
- Carnegie Council for Ethics in International Affairs 2002. Integrating Human Rights and Peace Work, *Human Rights Dialogue*, 2, 7 (winter), 2-27.
- Clements, Kevin 2004. Towards Conflict Transformation and a Just Peace, in: *Berghof Handbook for Conflict Transformation*, Online version. Berlin: Berghof Research Center. Available at www.berghof-handbook.net/documents/publications/clements_handbook.pdf.
- Coady, C. A. J. 2002. *The Ethics of Armed Humanitarian Intervention*. (Peaceworks No 45.) Washington DC: United States Institute of Peace.
- Collin Marks, Susan 2000. *Watching the Wind. Conflict Resolution During South Africa's Transition to Democracy*. Washington DC: United States Institute of Peace.
- Curle, Adam 1971. *Making Peace*. London: Tavistock.
- Douzinis, Costas 2000. *The End of Human Rights. Critical Legal Thought at the Turn of the Century*. Oxford: Hart Publishing.
- Dudouet, Véronique 2006. *Transitions from Violence to Peace. Revisiting Analysis and Intervention in Conflict Transformation*. Berghof Report No 15. Berlin: Berghof Research Centre. Available at www.berghof-conflictresearch.org/documents/publications/br15e.pdf.
- Dugan, Marie 1996. A Nested Theory of Conflict, in: *A Leadership Journal: Women in Leadership - Sharing the Vision*, 1, 1, 9-20.
- Felner, Eitan 2004. *Human Rights Leaders in Conflict Zones: A Case Study of the Politics of 'Moral Entrepreneurs'*. Cambridge, MA: Carr Centre for Human Rights Policy, Harvard University. Available at www.hks.harvard.edu/cchrp/pdf/Felner.2004.pdf.
- Francis, Diana 2004. Culture, Power Asymmetries and Gender in Conflict Transformation, in: *Berghof Handbook for Conflict Transformation*, Online version. Berlin: Berghof Research Center. Available at www.berghof-handbook.net/documents/publications/francis_handbook.pdf.
- Galant, Ghalib and Michelle Parlevliet 2005. Using Rights to Address Conflict – Valuing Synergy, in: Paul Gready and Jonathan Ensor (eds.). *Reinventing Development. Translating Rights-Based Approaches from Theory into Practice*. London, New York: Zed Books, 108-128.
- Galtung, Johan and Andreas H. Wirak 1977. Human Needs and Human Rights: A Theoretical Approach, in: *Bulletin of Peace Proposals*, 8, 251-258.
- Gastrow, Peter 1995. *Bargaining for Peace. South Africa and the National Peace Accord*. Washington DC: United States Institute of Peace.
- Gready, Paul and Jonathan Ensor 2005. Introduction, in: Paul Gready and Jonathan Ensor (eds.). *Reinventing Development? Translating Rights-Based Approaches from Theory into Practice*. London, New York: Zed Books, 1-44.
- Hannum, Hurst 2006. Human Rights in Conflict Resolution: The Role of the Office of the High Commissioner for Human Rights in UN Peacemaking and Peacebuilding, in: *Human Rights Quarterly*, 28, 1, 1-85.
- Hannum, Hurst 1996. *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights*. Philadelphia: University of Pennsylvania Press.
- Hayner, Priscilla 2001. *Unspeakable Truths. Confronting State Terror and Atrocity*. New York, London: Routledge.
- Heywood, Mark 2009. South Africa's Treatment Action Campaign: Combining Law and Social Mobilisation to Realise the Right to Health, in: *Journal of Human Rights Practice*, 1, 1, 14-36.

- Howland, Todd 2006. UN Human Rights Field Presence as Proactive Instrument of Peace and Social Change: Lessons from Angola, in: *Human Rights Quarterly*, 26, 1, 1-28.
- International Alert et al. 2004. *Conflict-Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding: Tools for Peace and Conflict Impact Assessment: A Resource Pack*. Edited by Africa Peace Forum (APFO), Center for Conflict Resolution (CECORE), Consortium of Humanitarian Agencies (CHA), Forum on Early Warning and Early Response (FEWER), International Alert and Saferworld. Available at www.conflictsensitivity.org.
- International Commission on Intervention and State Sovereignty 2001. *The Responsibility to Protect. Report from the International Commission for Intervention and State Sovereignty (ICISS)*. Ottawa: IDRC. Available at www.iciss.ca/report-en.asp.
- International Council for Human Rights Policy (ICHRP) 2006. *Negotiating Justice? Human Rights and Peace Agreements*. Versoix: ICHRP.
- International Council for Human Rights Policy (ICHRP) 2004. *Performance and Legitimacy: National Human Rights Institutions*. Versoix: ICHRP.
- Jarman, Neil 2009. From the Frying Pan to the Fire? Conflict Resolution, Human Rights and Transitional Violence in Northern Ireland, in: Eileen Babbitt and Ellen Lutz (eds.). *Human Rights and Conflict Resolution in Context*. Syracuse, NY: Syracuse University Press, 187-209.
- Jones, Andrew 2005. The Case of CARE International in Rwanda, in: Paul Gready and Jonathan Ensor (eds.). *Reinventing Development? Translating Rights-Based Approaches from Theory into Practice*. London, New York: Zed Books, 79-98.
- Jonsson, Urban 2005. A Human Rights-Based Approach to Programming, in: Paul Gready and Jonathan Ensor (eds.). *Reinventing Development? Translating Rights-Based Approaches from Theory into Practice*. London, New York: Zed Books, 47-62.
- Kaufman, Edi and Ibrahim Bisharat 1998. Human Rights and Conflict Resolution: Searching for Common Ground between Peace and Justice in the Israeli/Palestinian Conflict, in: *FORUM (National Institute for Dispute Resolution)*, 98, 36 (December), 16-23.
- Kayser-Whande, Undine and Stephanie Schell-Faucon 2009. *Transitional Justice and Civilian Conflict Transformation. Current Research, Future Questions*. Marburg: Centre for Conflict Studies (unpublished manuscript; on file with author).
- Kraybill, Ron 1992. The Illusion of Neutrality, in: *Track Two*, 1, 3 (November), 13-14.
- Lampen, John 1997. Two Strategies, Shared Aims, in: *CCTS Newsletter*, No 6 (summer), London: Committee for Conflict Transformation Support. Available at www.c-r.org/ccts/ccts6/index.htm.
- Lederach, John-Paul 2005. *The Moral Imagination. The Art and Soul of Building Peace*. Oxford, New York: Oxford University Press.
- Lederach, John-Paul 2003. *The Little Book of Conflict Transformation*. Intercourse, PA: Good Books.
- Lederach, John-Paul 1999. Justpeace – the Challenge of the 21st Century, in: *People Building Peace. 35 Inspiring Stories from Around the World*. Utrecht: European Centre for Conflict Prevention, 27-36.
- Lederach, John-Paul 1997. *Building Peace. Sustainable Reconciliation in Divided Societies*. Washington DC: United States Institute of Peace.
- Lutz, Ellen, Eileen Babbitt and Hurst Hannum 2003. Human Rights and Conflict Resolution from the Practitioners' Perspectives, in: *The Fletcher Forum of World Affairs*, 27, 1 (winter/spring), 173-193.
- Mahony, Liam 2007. Protection: A Non-Governmental Organisation Experience, Peace Brigades International, in: Michael O'Flaherty (ed.). *The Human Rights Field Operation. Law, Theory and Practice*. Aldershot: Ashgate Publishing, 243-264.

- Mahony, Liam 2003. Unarmed Monitoring and Human Rights Field Presence: Civilian Protection and Conflict Prevention, in: *Journal of Humanitarian Affairs*, without pages (online access). Available at <http://jha.ac/articles/a122.htm>.
- Martin, Ian 2000. "Justice and Reconciliation: Responsibilities and Dilemmas of Peace-Makers and Peace-Builders." Paper delivered to Aspen Institute meeting The Legacy of Abuse – Justice and Reconciliation in a New Landscape, November 2000 (on file with author).
- Meijer, Guus 1997. Advocacy and Conflict: A Time To Take Sides?, in: *CCTS Newsletter*, No 6 (summer), London: Committee for Conflict Transformation Support. Available at www.c-r.org/ccts/ccts6/index.htm.
- Miall, Hugh 2004. Conflict Transformation: A Multi-Dimensional Task, in: *Berghof Handbook for Conflict Transformation*, Online version. Berlin: Berghof Research Center. Available at www.berghof-handbook.net/documents/publications/miall_handbook.pdf.
- Mitchell, Christopher 2002. Beyond Resolution: What Does Conflict Transformation Actually Transform?, in: *Peace and Conflict Studies* 9, 1, without pages (online access). Available at www.gmu.edu/academic/pcs/CM83PCS.htm.
- Nesiah, Vasuki and Paul van Zyl 2002, Vasuki Nesiah and Paul van Zyl Respond, in: *Human Rights Dialogue* 2, 7 (winter), 17.
- Nherere, Pearson and Kumi Ansah-Koi 1990. Human Rights and Conflict Resolution, in: Pearson Nherere, Goran Lindgren, Peter Wallensteen and Kjell-Ake Nordquist (eds.). *Issues in Third World Conflict Resolution*. Uppsala: Department of Peace and Conflict Research, Uppsala University, 3-42.
- O'Flaherty, Michael (ed.) 2007. *The Human Rights Field Operation. Law, Theory and Practice*. Aldershot: Ashgate Publishing.
- O'Flaherty, Michael (ed.) 2006. Sierra Leone's Peace Process: The Role of the Human Rights Community, in: *Human Rights Quarterly*, 26, 1, 29-62.
- Office of the United Nations High Commissioner for Human Rights (OHCHR) 2006a. *Principles and Guidelines for a Human Rights Approach to Poverty Reduction Strategies*. HR/PUB/06/12. Geneva, United Nations.
- Office of the United Nations High Commissioner for Human Rights (OHCHR) 2006b. *Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation*. HR/PUB/06/08. New York, Geneva, United Nations.
- Orentlicher, Diane F. 2007. 'Settling Accounts' Revisited: Reconciling Global Norms with Local Agency, in: *The International Journal of Transitional Justice*, 1, 1 (March), 10-22.
- Organisation for Economic Co-operation and Development, Development Assistance Committee (OECD-DAC) 2008. *Concepts and Dilemmas of State Building in Fragile Situations. From Fragility to Resilience*. OECD-DAC discussion paper. Paris: OECD/DAC. Available at www.oecd.org/dataoecd/59/51/41100930.pdf.
- Organisation for Economic Co-operation and Development, Development Assistance Committee (OECD-DAC) 2007. *Principles for Good International Engagement in Fragile States & Situations*. Paris: OECD/DAC. Available at www.oecd.org/dataoecd/61/45/38368714.pdf.
- Osaghae, Eghosa E. 1996. Human Rights and Ethnic Conflict Management: the Case of Nigeria, in: *Journal of Peace Research*, 33, 2, 171-188.
- Parlevliet, Michelle 2009. Icebergs and the Impossible: Human Rights and Conflict Resolution in Post-Settlement Peacebuilding, in: Eileen Babbitt and Ellen Lutz (eds.). *Human Rights and Conflict Resolution in Context*. Syracuse, NY: Syracuse University Press, 248-288.
- Parlevliet, Michelle 2006. "National Human Rights Institutions and Peace Agreements: Establishing National Institutions in Divided Societies." Thematic paper for the project Human Rights in Peace

- Agreements, Versoix: ICHRP. Available at www.ichrp.org.
- Parlevliet, Michelle 2002. Bridging the Divide. Exploring the Relationship Between Human Rights and Conflict Management, in: *Track Two*, 11, 1 (March), 8-43.
- Parlevliet, Michelle, Guy Lamb and Victoria Maloka 2005. Introduction, in: Michelle Parlevliet, Guy Lamb and Victoria Maloka (eds.). *Defenders of Human Rights, Managers of Conflict, Builders of Peace? National Human Rights Institutions in Africa*. Cape Town: Centre for Conflict Resolution, 9-32. Available at www.ccr.uct.ac.za/fileadmin/template/ccr/pdf/DOHR_Final_Draft.pdf.
- Perera, Jehan 2002. Building Legitimacy and Trust, in: *Human Rights Dialogue*, 2, 7 (winter), 9-10.
- Pia, Emily and Thomas Diez 2007. *Conflict and Human Rights: A Theoretical Framework*. SHUR Working Paper Series 1/07. Published by the project Human Rights in Conflicts: The Role of Civil Society. Available at www.luiss.it/shur/.
- Putnam, Tonya 2002. Human Rights and Sustainable Peace, in: Stephen J. Stedman, Donald Rothchild and Elizabeth Cousens (eds.). *Ending Civil Wars. The Implementation of Peace Agreements*. London, Boulder, CO: Lynne Rienner, 237-271.
- Saunders, Harold 2001. *Bridging Human Rights and Conflict Resolution: A Dialogue Between Critical Communities*. Report on a 16-17 July 2001 Carnegie Council Workshop. New York: Carnegie Council for Ethics in International Affairs. Available at www.cceia.org/resources/articles_papers_reports/161.html.
- Schirch, Lisa 2006. Linking Human Rights and Conflict Transformation. A Peacebuilding Framework, in: Julie Mertus and Jeffrey W. Helsing (eds.). *Human Rights and Conflict. Exploring the Links between Rights, Law and Peacebuilding*. Washington DC: United States Institute of Peace Press, 63-95.
- Seils, Paul and Marieke Wierda 2005. *The International Criminal Court and Conflict Mediation*. Occasional paper. New York: International Center for Transitional Justice.
- Thiagarajah, Jeevan 2002. Jeevan Thiagarajah Responds, in: *Human Rights Dialogue*, 2, 7 (winter), 11; 25.
- Thoms, Oskar N.T. and James Ron 2007. Do Human Rights Violations Cause Internal Conflict?, in: *Human Rights Quarterly*, 29, 3, 674-705.
- Tomas, Amparo 2005. Reforms that Benefit Poor People – Practical Solutions and Dilemmas of Rights-Based Approaches to Legal and Justice Reform, in: Paul Gready and Jonathan Ensor (eds.). *Reinventing Development? Translating Rights-Based Approaches from Theory into Practice*. London, New York: Zed Books, 171-184.
- United Nations 2004a. *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies. Report of the UN Secretary-General*. UN Doc S/2004/616. New York, United Nations.
- United Nations 2004b. *Independent Study on Best Practices, Including Recommendations, to Assist States in Strengthening Their Domestic Capacity to Combat All Aspects of Impunity, by Professor Diane Orentlicher*. UN Doc E/CN.4/2004/88. New York, United Nations.
- United Nations 2001. *Prevention of Armed Conflict. Report of the Secretary-General*. UN Doc A/52/871-S/1998/318. New York, United Nations.
- United Nations 2000a. *Resolution 1325*. UN Doc S/RES/1325 (2000). New York, United Nations.
- United Nations 2000b. *Report of the Panel on United Nations Peace Operations (Brahimi Commission)*. UN Doc A/55/305 - S/2000/809. New York, United Nations. Available at www.un.org/peace/reports/peace_operations/.
- United Nations 1998. *Rome Statute of the International Criminal Court*. UN Doc A/CONF.183/9 of 17 July 1998, corrected by process-verbaux of 10 November 1998, 12 July 1999, 30 November 1999, 8 May 2000, 17 January 2001 and 16 January 2002; entered into force 1 July 2002. New York, United Nations. Available at www.icc-cpi.int.
- United Nations 1966a. *International Covenant on Civil and Political Rights*, UN General Assembly Resolution

2200A (XXI), 21 UN GAOR Supp. (No. 16) at 52, UN Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force 23 March, 1976. New York, United Nations.

United Nations 1966b. *International Covenant on Economic, Social and Cultural Rights*, UN General Assembly Resolution 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49, UN Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force 3 January, 1976. New York, United Nations.

United Nations 1948. *Universal Declaration of Human Rights*, General Assembly Res. 217A (III), 3(1) UN GAOR Res. 71, UN Doc A/810. New York, United Nations.

Van der Stoel, Max 1999. The Role of the OSCE High Commissioner, in: Chester Crocker, Fen Osler Hampson and Pamela Aall (eds.). *Herding Cats. Multiparty Mediation in a Complex World*. Washington DC: United States Institute of Peace, 67-83.

Von Kaltenborn-Stachau, Henriette 2008. *The Missing Link. Fostering Positive Citizen-State Relations in Post-Conflict Environments*. Washington DC: World Bank.

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See also...

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