Human Rights and Community Relations: Competing or Complementary Approaches in Responding to Conflict?

Papers Presented at a Conference in Belfast November 2002

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Introduction

Neil Jarman

Over recent years a debate has begun to develop between two broad schools of theory related to modes of intervention in, and appropriate responses to conflict. On the one hand are conflict resolution and community relations practitioners, broadly characterised as those who favour a more pragmatic approach to dealing with conflict, on the other hand human rights practitioners who can similarly be characterised as encouraging a principled approach that emphasises the need for justice.

This debate is engaging practitioners and researchers who have been involved in some of the most protracted contemporary conflicts. A recent issue of *Human Rights Dialogue* published by the Carnegie Council on Ethics and International Affairs (www.cceia.org/themes/hrd.html) included papers on this topic from practitioners and activists in Northern Ireland, Nigeria, South Africa and Sri Lanka.

These issues are of relevance to Northern Ireland where human rights have been a prominent feature of discussions both about dealing with the past and creating a new society, but also in relation to ongoing conflict and emergent disputes. The creation of the Human Rights Commission, the debate over the Bill of Rights and the police reform programme are examples of how human rights have taken centre ground in the peace process.

Human rights issues have also been central to the disputes over parades routes and the conflict over territorial control of in interface areas of Belfast. These examples have asked difficult questions of both human rights activists as well as of conflict resolution / community relations practitioners.

However the emergence of human rights as a central strand in the search for a more just society has not been unproblematic: the search for 'truth' and justice can sometimes clash with attempts to reconcile hostile parties. This has led to an unresolved debate over the need to give immunity to those responsible for violence and seeks to incorporate them into a peace process or whether one should seek to bring such perpetrators to justice.

A second issue is linked to the fact that the human rights agenda appears to some to have been largely appropriated by one community and is being used to further their demands. This serves to undermine support for the idea of universal rights and instead demands for human rights is perceived as one strand of a larger strategy in the ongoing conflict.

ICR received funding from the Community Foundation for Northern Ireland (www.communityfoundationni.org) under the Social Justice programme to organise a round table conference to initiate a broader debate on these themes among those most centrally and practically concerned with this subject. This enabled us to invite key speakers from outside of Northern Ireland to participate in the project.

- Michelle Parlevliet is programme manager at the Centre for Conflict Resolution in Cape Town (link to http://ccrweb.ccr.uct.ac.za) and author of a recent paper '*Bridging the Divide: Exploring the relationship between human rights and conflict management'*.
- Ellen Lutz is executive director at the Center for Human Rights and Conflict Resolution at the Fletcher School of Law and Diplomacy at Tufts University (link to http://fletcher.tufts.edu/chrcr).

Other speakers at the conference were

- Tom Hadden (Queens University and Northern Ireland Human Rights Commission www.nihrc.org);
- Mari Fitzduff (INCORE) www.incore.ulst.ac.uk
- Duncan Morrow (Community Relations Council) www.community-relations.org.uk
- Brandon Hamber (Centre for the Study of Violence and Reconciliation www.wits.ac.za/csvr and Democratic Dialogue)
- Robin Wilson (Democratic Dialogue) www.democraticdialogue.org

The conference served to:

- Develop the debate on this issue within Northern Ireland;
- Help to clarify the different perspectives of those working in the fields of human rights advocacy and conflict resolution/community relations;
- Increase an understanding of each group's approaches to responding to conflict;
- Build links between those working within the two broad areas;
- Link the debate in, and experiences of Northern Ireland, to the wider international debate.
- Explore possibilities for developing a training programme that addresses both human rights principles as well as the more pragmatic approach of conflict resolution practitioners.

The presentations given at the conference are presented here to stimulate further development of this debate within our local context.

Human Rights Advocacy and Conflict Resolution: The Pitfalls in Practice

Ellen L. Lutz

Within twenty-four hours of the devastating assault on the New York World Trade Center, leading international human rights non-governmental organizations (NGOs) broadcast statements condemning the attack and urging governments to unite to investigate the crime, prevent its recurrence, and bring the perpetrators to justice. Leading conflict resolution NGOs, while equally pained by the tragedy, were quiet. They were concerned that if they made a statement it would be misinterpreted by the media as taking sides, thereby impeding their ability to mediate among those who have differing points of view about the underlying issues this tragedy brought to the fore.

Both types of NGOs, moved by compassion for the victims and a commitment to their respective larger purposes of protecting human rights and promoting peace, responded in a manner true to their missions. Those responses were complementary. Public demands that responses to outrageous conduct must respect human rights, helps to temper the impulse for violence when peaceful responses are possible. The availability of experienced conflict resolvers who can facilitate dialogue between those with vastly divergent points of view about politically and emotionally charged issues, increases the likelihood that peaceful solutions will prevail over violent ones.

Practitioners in each field, while desiring to achieve similar ends, make different assumptions, apply different methodologies, and have different goals, values, and institutional constraints. At a recent joint meeting of leading international human rights advocates and conflict resolution professionals, participants were divided into two groups by profession and asked to reflect on what values motivate the other group. With respect to the values of conflict resolvers, the human rights advocates described them as:

- non-adversarial,
- value-neutral,
- expedient,
- preferring quiet diplomacy over confrontation,
- willing to put everything on the table,
- believing that every individual was redeemable or capable of change,
- viewing the world in shades of grey instead of in black and white, and
- placing peace above all other interests including justice.
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The conflict resolvers described the values of the human rights advocates as:

- adversarial,
- believers in the power of shame,
- outcome directed with little concern for process,

- bleeding hearts,
- absolutists (based on universal principles),
- judgmental,
- unwilling to consider non-human rights issues, and
- conversation stoppers.

Both professions recognized aspects of their values in the other group's description, though both were quick to clarify that these attitudes were not universally held, and that there were great differences among individual diplomats, activists, and NGOs in their field.[1]

These differences in values can lead practitioners in these two fields to frustrate one another by adopting contradictory or even mutually-exclusive approaches to the same problem. This, in turn, can undermine the effectiveness of both to achieve their goals. This article considers some of the common pitfalls that occur because human rights advocates and conflict resolvers approach their work from different perspectives before and during conflict involving violations of human rights; during peace negotiations; and in the post-settlement period. It also proposes means to overcome these pitfalls.

The Interplay between Human Rights Investigations and the Conduct and Settlement of Armed Conflict

While written to draw attention to ongoing violence and suffering, human rights reports sometimes contribute to escalating a conflict. In conflicts between ethnically divided groups, human rights reports directed against members of a group can inflame the anger of already emotionally charged troops and their civilian supporters, and can provoke those who were otherwise reluctant to take part in the violence to take up arms. For example, in Macedonia, human rights reports of abuses by the Macedonian security forces inflamed emotions in the Albanian community while reports of violations by Albanian fighters had the same effect on Macedonians.[2] Accounts of suffering by members of one's own group can reduce or further numb moral reflection and thus make it easier for fighters to take out their anger on or seek revenge against members of the other group, including those who bear no responsibility for the original suffering.

In addition, when sensitive conflict resolution negotiations are contemplated or ongoing, independent human rights reports may impact conflict resolvers' ability to bring the parties together or keep them at the negotiating table. They also can contribute to hardening parties' positions thereby making it more difficult for them to

[1] Joint meeting of International Human Rights Advocates and Conflict Resolution Professionals, Fletcher School of Law and Diplomacy, Tufts University, December 1, 2000.

[2] Sarah Broughton, "Macedonia," Carnegie Council on Ethnics and International Affairs, "Bridging Human Rights and Conflict Resolution: A Dialogue Between Critical Communities," Conference Papers, p. 11, (July 16-17, 2001)

explore their real interests. For example, at a critical early moment in the El Salvadoran peace negotiation process, a leading international human rights NGO released a report documenting, for the first time, abductions and killings by the FMLN rebel forces. The report stung the rebel leadership and caused them to re-examine their relationship with the international human rights community, among which they included the United Nations. This made it more difficult for the UN mediator in El Salvador to win the rebels' confidence and persuade them to negotiate. To avoid repetition of the problem, the mediator conferred with the NGO and asked it to inform him when a report would soon be released. This enabled him to avoid surprise, and provided him with useful knowledge that he converted into a mediation tool. By strategically using his advance knowledge, he was able to put discrete pressure on the party that was the target of an upcoming human rights report to adopt measures that simultaneously improved rights conditions and improved their prospects at the negotiating table.[3]

Peace Agreements and the Amnesty Problem

Virtually every time conflict resolvers intervene to assist the parties to negotiate an end to armed conflict, they encounter the problem of how to deal with those individuals who are responsible for violations of human rights or the laws of war. While it is still evolving and is sometimes ambiguous, both international human rights and humanitarian law impose a duty on states to prosecute those who have committed the most egregious human rights violations, war crimes, and crimes against humanity Bell 2000). In past decades, criminal prosecution for such violations was an academic concern for most peace process participants who had committed international crimes; they had confidence that if they could not negotiate an amnesty or other form of immunity from prosecution, another states would be afford them comfortable refuge. As international human rights advocates have placed increasing emphasis on criminal justice responses to human rights violations, criminal prosecution has increasingly become a real possibility (Lutz and Sikkink 2001). For some necessary parties to peace processes the potential for criminal prosecution has been a barrier to serious, or indeed any, participation in negotiations. Thus, for example, General Raoul Cedras was only prepared to negotiate the restoration of democracy in Haiti after he had been assured of asylum in Panama. In Mozambique, amnesty was a necessary precondition for both parties to come to the negotiating table.

Parties with clean hands also may be leery of confronting the issue of prosecution of war criminals during the peace negotiation process. While their position formally may be that war criminals must be brought to justice, interests such as creating or restoring democracy, maintaining order during the transition period, placating a restive military or other armed fighters, or staving off economic collapse, may be of much higher immediate priority. Thus it is not surprising that dealing with the past usually does not figure prominently in settlement agreements but is left for the post-agreement implementation phase, if at all (Bell 2000).

[3]Ambassador Alvaro de Soto, Presentation at The Fletcher School of Law and Diplomacy, Tufts University, April 21, 2001.

On the other hand, demands for amnesty frequently are discussed during peace negotiations. Human rights advocates and conflict resolvers are often divided about how to respond to such demands, especially when those seeking amnesty are seated at the negotiation table. Former President Jimmy Carter and his negotiating partners, General Colin Powell and Senator Sam Nunn, faced rebuke from the human rights community for including an amnesty for General Raoul Cedras and his cohorts as a condition in the settlement that led to the restoration of Haiti's democratically elected government. For their part, the negotiating team, who were given only 24 hours to mediate a solution, defended the amnesty as necessary to achieve a negotiated settlement and stave off an imminent military attack by U.S. troops (Pastor 1999).

When the parties to the Bosnian conflict met in Dayton, Ohio to negotiate an end to the violence, impunity also was on the table. From the outset of the talks, there was speculation among human rights advocates that the International Tribunal for the Former Yugoslavia (ICTY) would find itself on the Dayton chopping block. Even after it became clear that the Tribunal was not at risk, reports from Dayton suggested that both the parties and NATO were reluctant to make cooperation with the Tribunal a "show stopper" to the larger peace (Scharf 1999). Ultimately the Dayton Accords included language that required the parties' to cooperate in the prosecution of offenders before the ICTY, but did not define the limits of such cooperation. Moreover, the Dayton Accords made no mention of what role NATO troops were to play in apprehending indicted war criminals. NATO subsequently took the position that it did not have the authority to track down indictees, though it could arrest those it came across while carrying out other duties.[4]

In Sierra Leone, the parties to the Lome peace negotiations were prepared to address a broad range of human rights issues, but resisted human rights advocates' efforts to insert themselves into debate about a proposed amnesty provision. Even Special Representative to the UN Secretary General Francis Okelo's efforts to propose amendments that would narrow the broad sweep of the proposed provision, and specifically omit international crimes, were rebuffed. The Lome Agreement granted "absolute and free pardon and reprieve to all combatants and collaborators in respect of anything done by them in pursuit of their objectives, up to the signing of the present Agreement." This provoked an instruction from Secretary General Kofi Annan to Okala to disassociate the United Nations from the provision by appending to his signature to the agreement the words, "the United Nations holds the understanding that the amnesty and pardon...shall not apply to international crimes of genocide, crimes against humanity, war crimes and other serious violations of international law." (O'Flaherty, forthcoming).

[4] Human Rights Watch, Good Neighbors: NATO and Indicted War Crimes Suspects in Bosnia and Hercegovina," Press Release, Nov. 12, 1997.

Post-settlement Peace-Building and the Relative Priority of Justice and Reconciliation

In post-settlement contexts, human rights advocates and conflict resolvers share the goals of developing and strengthening civil society, and preventing backsliding that could cause the renewal of human rights abuses or violence. But their priorities for reaching these goals differ. Human rights NGOs typically emphasize achieving "justice" through the prosecution and punishment of those responsible as the highest priority. Conflict resolution NGOs focus their attention on promoting dialogue and "reconciliation" among previously warring parties.

These priorities often appear to collide, and may even be absorbed or manipulated by the parties in ways that contribute to undermining the post-settlement aims of both fields. This occurred in Rwanda where the distortion of NGO priorities increased the post-conflict polarization of the two communities. Because most of the victims of the genocide were Tusti, "justice" came to be identified as a "Tutsi issue." Hutus, on the other hand, including perpetrators of the genocide, their family members and supporters, and those who had no involvement in the violence but were subjected to blame solely as a result of their ethnicity, came to be identified with the issue of "reconciliation."[5] This sort of division has been reported elsewhere, including Nigeria and Sri Lanka. According to a senior Sri Lankan peace activist, most human rights NGOs operating in the area of ethnic conflict are comprised of Tamils, whereas most domestic conflict resolvers are Sinhalese (Perera 2002).

Human rights advocates and conflict resolvers have honed their skills and gained the most experience intervening in situations in which serious atrocities are ongoing and an end to violence is most urgently needed. Thus it is not surprising that after conflict both tend to place a high priority on the lingering issues resulting from the conflict. Moreover, the approaches and methods both groups of interveners use when tensions are at their highest, are not always well-suited to a post conflict milieu characterized by political insecurity, a dearth of institutions able to maintain order, or massive resettlement or reconstruction needs. Enforcement approaches to human rights are ill suited to the early stages of peace implementation during which enforcement mechanisms are non-existent (Putnam 2002). Facilitated dialogue is not sufficient, in and of itself, to promote coexistence, let alone reconciliation. Coexistence interventions are necessarily long-term processes that involve changing parties' perceptions and attitudes as well as perceptions. Interveners must be prepared to devote a lot of time to training, launching, and overseeing coexistence activities, and even then, in the absence of structural changes at the societal level that ensure the safety and security of citizens, they should not be over-confident that such activities will be a bulwark against future violence.[6]

[5] Interview with Hizkias Assifa, June 7, 2001.

[6] Eileen F. Babbitt, et al., "Imagine Coexistence: Findings and Recommendations for the UNHCR," July 2002

Achieving justice for past wrongs and bringing about the reconciliation of previously warring groups are needs that any post-conflict society that seeks a peaceful, rights-respecting future must address. But that future necessarily also includes the full range of post-settlement societal needs such as political stabilization, economic development, institution building, physical reconstruction, education and health care, as well as truth, justice, and reconciliation. A society in transition from war to peace must decide for itself the relative order for addressing these needs. That is not to say that human rights and conflict resolution interveners have no role to play in the nation-building process. To the contrary, human rights advocates have the potential to contribute significantly towards promoting rights respecting law enforcement, administrative, and judicial institutions; developing and monitoring processes that protect individuals against discrimination; and promoting economic and social rights. Conflict resolvers are needed to foster dialogue and cooperation among members of previously warring groups so that they can work together to prioritise and meet societal needs. When they adopt this shared forward-looking approach, both groups of professionals diminish the potential that they will be identified with an issue that gives succour to only one party to the conflict. This, in turn, reduces the possibility of interveners fuelling societal divisions that could flair into renewed violence.

Conclusion

Each of the points of contention described above raises the promise of a solution. It is not that human rights and conflict resolution professionals need to merge their fields. To the contrary, each has a critical, independent role to play in helping to bring about an end to human rights abuses and in achieving sustainable peace. But each group of professionals is most effective in realizing its goals when it is actively aware of, in communication with, and making use of the work of the other. In other words, both are most effective, when they cooperate and collaborate.

Such cooperation and collaboration is not always easy. Conflict resolvers who are on the verge of persuading parties to end massive violence are likely to be frustrated with demands from human rights advocates that some or all of those at the negotiating table be arrested and prosecuted now. Human rights advocates are likely to be equally frustrated when conflict resolvers announce that without ensuring that those at the table will enjoy safe haven, no settlement is possible. At that point in time, each is likely to be thinking only of the events of the moment, and not of the longer-term picture. Yet together both can come to understand that human rights advocate pressure can help derail party demands for even greater personal protection, and that while a party may gain safe haven for the moment, popular demands for justice are unlikely to lessen with time. Thus, a high likelihood remains that the party will be tried at some post-settlement stage.

The challenge facing professionals in both fields is to find ways to expand their practice in ways that embrace the work of the other. This requires greater reflection on their own practice than either of these crisis-driven professions ordinarily undertakes. But given the unrelenting, rights-abuse-laden violence of our times, the results will more than justify the effort.

Human Rights And Conflict Resolution
Bridging a conceptual and practical gap

Tom Hadden

A Fundamental Opposition ?

The idea that there is a conceptual and practical gap between human rights and conflict resolution is attractive, not least to established professionals in either field. Some substance to the idea can be developed by focusing on some simple oppositions:

Human rights are often portrayed as:	*Conflict resolution can be portrayed as:*
involving absolute rights	based on flexible compromises
inherent in all individuals	between communal groups
which can be vindicated in in court proceedings	the resolution of which is usually non-adjudicable
and which are essentially non-negotiable	and requires skilled negotiation

The underlying issue is whether these differences are fundamental or whether a workable relationship between them can be developed.

Some Contested Issues

The problems which these opposing approaches may give rise to may be illustrated by the rather different way in which human rights activists and conflict resolution specialists respond to some recurrent situations:

Human rights demands	*Conflict resolution requirements*
No impunity for human rights violations	Truth commissions and amnesties in pursuit of national reconciliation
Only states can be held responsible for human rights violations	State and non-state violators to be treated equally
Claims for self-determination , autonomy and secession	Avoidance of issues which may increase risks of armed conflict

All human rights are equal and interdependent	Some rights are less deliverable than others - dealing with those that are central to a conflict is a priority
No discrimination of any kind on ethnic or communal grounds	A need to ensure fair communal balance in government, public administration and employment

The Impact on the Conflict and Peace Process in Northern Ireland

Most of these have been issues of contention in the course of the conflict and the peace process in Northern Ireland:

- The claim for self-determination for the Irish and/or Northern Ireland peoples was one of the underlying justifications for the resort to armed conflict.

- Reliance on individual complaints over alleged discrimination failed to deliver effective equality in public bodies and employment and may have contributed to the prolongation of the conflict.

- Conversely the implementation of 50/50 recruitment in policing and the government's decision to seek formal exemption from European Union Equality Directive is seen by many as a breach of human rights

- The difficulty in applying equivalent international human rights standards to violations by state and non-state forces may have contributed to the perceptions in the two main communities that they have been the only or principal victims of human rights abuses: nationalists have focused mainly on state abuses, including collusion with loyalist paramilitaries, while unionists have focused mainly on republican terrorism.

- There has been continuing difficulty in achieving a mutually acceptable resolution to prisoner releases and more immediately to the treatment of 'on the runs' and those not yet charged: nationalists tend to seek release and amnesty for paramilitaries but to insist on the prosecution of state offenders, while unionists tend to reject any form of amnesty..

- The separation of the proposed Northern Ireland Bill of Rights from the rest of the Agreement and the inability of the parties to agree on compromises in respect of the content of the proposed Bill - not least in the balance between individual and communal rights, the meaning of parity of esteem and the dispute over the inclusion of social and economic rights - highlights the differing perceptions of rights as opposed to political accommodations.

Some Misconceptions on the Nature of Human Rights

Many of these difficulties stem from a number of significant misconceptions on the nature of human rights. Though the issues involved are matters of emphasis, the essential points can be highlighted by referring to them as a series of fallacies:

> The *absolutist fallacy* is that all human rights are fixed and unalterable. In reality almost all are essentially flexible in that they are hedged around by limitations. Under the ECHR most are subject to limitations, which are necessary in a democratic society in the interests of such matters as national security, public order, public morals and the rights of others. So there is often scope for negotiation on their application in particular circumstances.
>
> The *individualist fallacy* is that human rights can be deduced from the nature of the human individual and cannot therefore be granted to communities or groups as opposed to individuals. In reality they should be founded on the nature of human society in which group identity – in families, communities and nations - is as essential as individual identity. Hence the growing importance of minority rights which like the more traditional rights of association and religion cannot in practice be enjoyed by single individuals.
>
> The *equal status fallacy* is that all human rights are of equal status and that there can be no hierarchy of rights. In reality there is a well established hierarchy of rights: some like the prohibition of torture are applicable in all circumstances without any form of limitation; others like the right to life, though formally non-derogable, are limited in certain prescribed circumstances; others like the right to liberty and to fair trial are subject to both prescribed limitations and to derogations in times of emergency; others like such socio-economic rights as the right to maximum achievable standards of health or housing are stated to be programmatic or aspirational in that they are to be achieved progressively in the light of available resources.
>
> The *universal fallacy* is that all human rights are to be applied in the same way throughout the world. In reality the accepted limitations in respect of different forms of democracy, religion and morality and the availability of resources means that different standards have to be applied in countries with different demographic profiles and different levels of economic development.

Emerging Convergences

Despite these various problems there is reason to look forward to a more positive relationship between human rights and conflict resolution.

> The essential flexibility of most human rights gives ample scope for negotiation. In addition there is often a direct or indirect conflict between competing rights. Courts must therefore attempt to find a balance between

competing rights and will usually be happy to endorse any reasonable compromise, which may be worked out by negotiators.

The reference to ‘necessity in a democratic society’ as a criterion for the restriction of rights in most limitation clauses under the European Convention on Human Rights further emphasises the need for political participation in the formulation and application of specific rights

There is a similar focus in current thinking on minority rights. The OSCE High Commissioner on Minorities works from a set of general principles and seeks to encourage round table discussions between governments and minority representatives on how they may be applied in individual countries. The United Nations Working Group on Minorities is currently engaged in an attempt to develop an equivalent set of principles of best practice rather than a new Convention setting out a series of formal rights.

A further significant factor is that the line between the provisions in national bills of rights and other constitutional guarantees and protections is often difficult to draw. In many constitutions, both long-established and newly drafted, the list of entrenched rights includes not only standard individual rights but also specific provisions tailored to the particular ethnic composition of the population, notably in respect of language and regional or functional autonomy.

Some convergence of human rights and conflict resolution approaches can even be seen in respect of the controversy between the principles of ‘no impunity‘ and the need for truth and acknowledgement. In Sierra Leone a Truth Commission and a Special Court with jurisdiction only over ‘those most responsible’ for human rights violations are working in tandem. And the statute of the International Criminal Court has been deliberately limited to those involved in systematic and widespread violations. The emerging principle is that prosecution may be restricted to those most responsible and that truth commissions associated with some form of limited amnesty for those who co-operate, as in South Africa, may be an acceptable way of dealing with past violations.

All this points towards the need for continuing engagement between the human rights and conflict resolution communities. At the recent Council of Europe Round Table of National Human Rights Institutions held in Belfast and Dublin in November 2002 there was serious discussion of the idea that the membership of national human rights commissions should include those with conflict resolution skills. The final report of the Round Table includes a recommendation that a further, and more specific Council of Europe Workshop should be held on the issue.

Some Implications and Suggestions for Northern Ireland

There are obvious implications from these various developments for the two communities – those of human rights and conflict resolution - in Northern Ireland. One is that the conflict resolution community needs to engage more actively in the Bill of Rights debate so that the essential requirements for conflict resolution can be sensibly reflected in whatever Bill of Rights eventually emerges. Here are some suggestions:

> The link between the political provisions in the Northern Ireland Acts and the proposed Bill of Rights needs to be more actively debated and resolved, notably in respect of the relationship between communal protections and individual rights and the associated danger of entrenching communal divisions. There is an ongoing debate in this context on whether and how far individuals should be entitled to opt out of any communal affiliation and the implications for the current structures for communal monitoring by the Equality Commission..
>
> There is a need for some guidance on how far and in what institutions the principles of representativeness and balance should prevail over those of individual selection or election.
>
> There is a need, as indicated in the Quigley Review on the Parades Commission and the Public Processions (Northern Ireland) Act, for guidance on the most appropriate balance between mediation and formal adjudication on rights in respect of contentious parades in a divided society. What is likely to be the best combination of the two approaches? And should there be some formal provision in respect of an obligation to tolerate opposing factions and displays and/or a right to protection from sectarian or other forms of harassment ?
>
> There is a need for guidance on the most appropriate balance between truth, accountability and impunity, for example in respect of the various categories of ‘on the runs’ and those not yet charged for past violations.

A number of positions on the Northern Ireland Human Rights Commission will shortly be advertised. In pursuit of a better relationship and understanding between the human rights and the conflict resolution communities it might be appropriate to seek to ensure that those with conflict resolution skills as well as those with legal expertise on human rights are properly represented on the Commission.

Bridging Human Rights and Conflict Management

Michelle Parlevliet

Introduction

The fields of human rights and conflict management have traditionally operated separately. Actors in these two fields approach conflict from different perspectives. This creates certain tensions between the two fields, which have often received much attention, for example, in the debate on peace vs. justice in the context of resolving intra-state violent conflict. The difference in perspective also leads human rights activists and conflict resolution practitioners to emphasise different values, goals, and strategies in their approach to peace and conflict. In the relationship between actors in these two fields, perceptions about 'the other' tend to play a powerful role. 'They are pragmatic' a human rights actor might say about conflict resolution practitioners, 'whereas we are principled.' Or, a conflict resolution person might exclaim 'why are these human rights types always so sticky and rigid? Can't they take the situation at hand into account?' Such images strengthen the sense that the two fields are, and/or should be, completely separate, and that there is little scope for interaction, dialogue, and understanding.

I, on the other hand, want to argue that human rights and conflict management are not exclusive. These disciplines have a common interest in achieving sustainable peace with justice, meaning a peace that is not only characterised by an absence of violence, but also includes the conditions for social justice, political equality, and the rule of law. In my view, failure to recognise the links between human rights and conflict management complicates and undermines processes towards peace, justice, and reconciliation. Human rights should be taken into account in conflict management processes if these are to be sustainable and effective, because human rights are relevant in the generation, manifestation, resolution and prevention of violent conflict. Not only are the issues at stake in conflict often related to human rights concerns, but human rights also constitute the parameters within which conflict management and peacebuilding processes should occur. Interventions that fall outside a human rights framework have, in general, questionable legitimacy and sustainability and often lay the basis for renewed conflict on the long term.7

At the same time, I should note that conflict management approaches, processes and skills can make a substantial contribution to the protection and promotion of human rights, and can facilitate access to justice. In other words, there is much scope for co-operation between conflict management practitioners and human rights actors, and, in my view, the two fields are much closer than is generally assumed – if not in methods and approaches, then in spirit, values, and objectives. Therefore, my focus here will not on the tensions that may exist between the two fields and the question of whether and how these could be resolved. Rather, it is on highlighting the complementary

7 While this presentation was made in November 2002, it is eerie how relevant this has become in the context of the US and UK led war on Iraq.

nature of these two fields and the need for increased dialogue, understanding, and collaboration between human rights and conflict management.

A useful starting point in understanding the relationship between the two fields is to consider the link between human rights and conflict. Human rights violations can be both symptoms and causes of destructive conflict –or, put differently, violations may *result from* violent conflict yet can also *lead to* such conflict, especially if they persist over a period of time. In many actual conflict situations, both aspects of the rights/conflict relationship are simultaneously present as highlighted by the case of South Africa. A sustained denial of rights for the majority of the population lay at the core of the violent conflict between the apartheid regime and the liberation movements, yet that conflict in itself also led to many more human rights abuses. The image of an iceberg can illustrate this dual relationship between rights and conflict, with the top representing violations resulting from violent conflict – many of which are highly visible, such as intimidation of political opponents, summary executions, inhumane and degrading treatment, censorship, etc. These are the manifestations, or symptoms, of conflict. The bottom of the iceberg, on the other hand, represents human rights violations as causes of conflict. It represents situations where human rights violations are embedded in the structures of society and governance, thus causing structural fault lines – often less visible at first sight: exclusion of minorities, lack of public participation in decision-making, marginalisation of particular groups, etc. While there is, of course, a constant interaction between the two levels, the problems to be addressed at either level differ and so do the outcomes pursued. If violations resulting from conflict are the main concern, one's primary objective is to protect people from further abuses, thus seeking to establish so-called *negative peace* (in the sense of an absence of *direct*, physical violence). If, on the other hand, the focus is on *structural* violence, the objective is to address and transform the systemic conditions that give rise to violent conflict in society so that *positive peace* can be achieved – the presence of social justice and political equality, including harmonious relationships between parties.

The close relationship between rights and conflict implies that a combination of insights and approaches from both the fields of human rights and conflict management is necessary to address conflict in divided societies and communities. An example illustrates this point. In January 2001, local South Africans from two squatter communities near Cape Town forcefully evicted people of foreign descent living in their midst. Those evicted, mostly Angolans and Namibians, lost their houses and belongings through arson and other forms of destruction. They were also subjected to harassment and assault while being chased out of the informal settlements,8 and were threatened with more violence should they try to return. Yet many of them were married to South African citizens and/or had valid residence permits; some had even been naturalised. Whether or not this qualified them to live in the settlements was of no particular concern to the South African residents; their priority was to get those who they considered 'foreigners' out. Once the latter had found refuge at the police station, the local municipality requested the Centre for Conflict Resolution (CCR), to intervene and facilitate a lasting solution to the conflict, which we sought to do during the following weeks.

8 The South African term for squatter camps.

This case provides insight into some differences between a conflict management approach and a human rights approach to conflict situations. From a human rights perspective, one would probably primarily focus on the abuses committed, the duty of the state to ensure respect for human rights (thus pointing to the behaviour of police in the situation at hand), and the larger context of xenophobia in South Africa. Activities undertaken would probably include monitoring, reporting, and advocacy with a view to protecting rights, establishing accountability and bringing perpetrators to justice. Thus, human rights actors might get involved in documenting the abuses committed, highlighting any flaws in the police and judicial response to the case, monitoring the progress of the case through the court system, and calling for justice (in the form of punishment for the perpetrators and/or compensation for the victims.) In addition, they might denounce the state for its failure to protect the rights of the 'foreigners' and to prevent these abuses from happening, both in this particular case and in society at large.

From a conflict management perspective, on the other hand, the primary focus would be on the needs, interests, fears and concerns of both parties, with a view to finding a solution to the situation that would take these into account. Attention would be devoted to relationship-building between the parties through bringing them together, facilitating dialogue and fostering a mutual understanding of their respective concerns, with particular emphasis on raising awareness of any common interests. Conflict management practitioners would wish to meet with the parties separately at first, to hear their side of the story, gain insight into their positions and interests, ascertain their willingness to take part in a conflict resolution process, and win their trust. They would also seek to engage any other role-players that might be involved in the conflict, whether directly or indirectly, such as the police, local municipality, human rights organisations, etc. This preparatory phase of relationship-building, information-gathering and analysis would lead to a series of meetings between the parties facilitated by independent, outside interveners. These interveners would be impartial and would refrain from attributing blame to a particular party, so as to not to be perceived as biased by them. They would seek to assist parties to resolve their conflict themselves in such a way that their interests and needs related to substantive issues (for example, participation in community processes and decision-making, access to resources, etc.) are met. The intervention process would thus try to transform the previous pattern of destructive, negative and hostile interaction between the parties into more constructive engagement and understanding, with a view to addressing the underlying issues in a mutually beneficial way.

Both approaches are legitimate. Both seek to achieve important and valuable objectives. Yet neither of the two, if applied exclusively, would be sufficient to secure a sustainable resolution of this conflict. The human rights approach, while upholding the rule of law, protecting fundamental rights, and sending a clear signal about unacceptable behaviour and acting on prejudice, is likely to fuel resentment amongst the local South African community and increase their animosity towards anybody considered 'foreign.' Their relationship with 'foreigners' would further sour, making it near impossible for those evicted to return to the particular areas – which they consider home – and increasing the prospects for further violence. Also, this approach, apart from clearly asserting right and wrong, only establishes to a limited extent what motivated the South Africans to evict people living in their midst in the

first place. Such motivations may come up in judicial proceedings, but these do not constitute a forum where such underlying concerns could be explored and addressed. In other words, this approach may not address the real issues at stake in this conflict but rather focuses on its symptoms – the transgressions of the law and human rights violations committed.9 Finally, this rights-based approach to this conflict, while protecting the rights of the victims, does not build any understanding amongst the 'perpetrators' or their community of the law and of what human rights are. In fact, it may have an unwanted side-effect in strengthening a belief amongst the South African squatters that the law is unfair, the judiciary not to be trusted, and the police their enemy – something that has been their experience in the past during apartheid. Irrespective of their truthfulness, such perceptions will assume the value of reality for people who hold them, and will influence their further attitude and behaviour.

Yet the conflict management approach also has its flaws. It may succeed in building a more constructive and healthy relationship between the parties, breaking down enemy images, and helping them to meet their interests and needs. It may also enable the parties to come to agreement on issues such as development, housing, employment, and safety, or, at the least, on the needs of the community at large and a way forward for bringing these to the attention of decision-makers. (In that way, even if such substantive issues can ultimately only be resolved through political processes, a conflict resolution intervention will probably increase public participation in decision-making by bodies such as the police and/or local municipality.) Such a conflict management intervention thus has more potential for laying the foundation for the return of those evicted to the relevant areas. However, it does not clearly establish that certain acts are illegal nor does it establish a precedent for other squatter communities or South African society at large outlining the consequences of such anti-social, xenophobic, behaviour. In fact, it may make South African residents in other informal settlements aware that forcefully evicting foreigners living in 'their' areas can be an effective way of guaranteeing public attention for local deprivation and lack of development, thus forcing the state to allocate additional resources to uplift the community. This is a side effect one also would want to avoid. Another possible drawback of the conflict management approach can be a lack of protection for the victims, especially if there is a clear power imbalance between the parties. This can be difficult to rectify or mitigate in an intervention, as victims may not feel sufficiently safe to express their concerns in the face of the intimidation to which they've been subjected. Moreover, in one's attempt to restore the relationships between parties and get them to engage with one another in a non-violent manner, there is also a risk of glossing over injustices committed. This could fuel resentment amongst those evicted, as well as a perception of being treated unfairly. Both can increase the likelihood of renewed conflict between the parties.

In other words, a conflict resolution approach and a human rights approach are each valuable in their own right, but both have limitations that impede an effective and sustainable resolution of this conflict – because of the way in which human rights and conflict are intertwined. It thus is important to explore how these approaches can be

9 This is not to say that any motivation could justify the violence in this case, but rather, to highlight that one needs to understand parties' underlying interests and concerns prompting particular behaviour, if one seeks to resolve the actual conflict or prevent any further violence.

integrated, so that their positive aspects build on one another and their flaws are negated. This becomes all the more relevant when considering the overall goal of intervention into violent conflict, namely peace with justice. In a case like the above, this may entail, amongst other things, establishing non-violent and healthy relationships between the various individuals and groups in the relevant squatter communities, which would allow for the return of those evicted and their peaceful coexistence with others in the informal settlements; ensuring that everyone feels safe and protected, that the rule of law is upheld, and that belongings lost or destroyed are compensated for; and ensuring that power and resources are distributed equally within the communities at large and that those living in the communities have a say in their daily functioning. In other words, human rights work and conflict management activities both serve a larger objective, and this needs to be taken into account in determining the appropriate approach in a specific case. The protection and promotion of human rights and constructive conflict management are not so much goals in their own right. We pursue them because they are necessary for creating a healthy environment in which people's dignity is respected, their relationships and interactions are constructive, and their potential can be developed. Thus, the larger goal of what we're trying to achieve in a given situation often necessitates adopting an integrated approach involving both human rights and conflict management.

Insights into the Relationship between Human Rights and Conflict Management

1. Defining 'human rights' and 'justice.'

How one conceives of 'human rights' and 'justice' is highly relevant when considering the relationship between the two fields. Much human rights work is concerned with addressing abuses committed. Yet it is problematic to confine one's understanding of rights, and rights work, to this in the context of violent conflict. While it creates a clear distinction between those responsible for violations (the perpetrator) and those subjected to them (the victim), understanding rights in this way is limited in that it disregards the larger, underlying structural issues in terms of the division of power and resources, the organisation of the state and the in- or exclusion of specific groups in public processes. It is, however, these larger dynamics that lay the foundation for the outbreak of violence within a society involving human rights abuses, and they relate as much to human rights concerns such as equality, equity, identity, participation and security. To work towards the sustainable resolution of destructive conflict, one must therefore not only focus on the top of the iceberg – the manifestations of violent conflict – but also the bottom – the causes thereof. As long as those are not addressed, efforts to protect people from human rights violations will amount to plasters for wounds that continue to bleed. (This is not to undermine the significance of activities to this extent, but to highlight that we should not stop there.) Understanding human rights as relating to both direct and structural violence thus facilitates an appreciation of the relationship between human rights and conflict management.

The notion of justice can be reviewed in a similar vein. It is insufficient to view justice as solely relating to accountability, in terms of bringing perpetrators to book and meting out punishment for their crimes. The South African context underscores that 'justice' is often as much related to larger processes of transformation, redistribution, and reform. For example, those affected by forced removals in South Africa would only derive limited benefit from a possible court case against the successive National Party ministers responsible for the design and implementation of the policy during apartheid. Action taken towards land redistribution and development is likely to affect a greater sense of justice amongst them than were a conviction to be secured on their behalf. Thus, changing the systemic conditions in a society that structurally denied people at large or certain groups their rights is as meaningful and necessary for achieving justice in a specific context as judicial proceedings against individual perpetrators of rights violations can be (if not more, at times). A distinction can be made in this regard between *administrating justice over* those responsible for violations, and *doing justice to* people who have been victimised. An understanding of justice that fails to acknowledge the relevance of the latter, has serious limitations in situations where the violation of rights was embedded in structural conditions in society. Consequently, when pursuing a sustainable resolution of violent conflict – which involves 'peace with justice' or a 'just peace'– we should not refrain from conceiving of justice in a comprehensive manner that encompasses both the retrospective and prospective aspects of justice. Justice is concerned with both accountability *and* transformation.

2. Structural issues and relationships

A human rights perspective on violent conflict thus focuses attention on both the manifestations of violent conflict and its underlying causes. Considering such conflict from a conflict management perspective, however, highlights that interventions and peacebuilding processes should go even one step further. A key feature of protracted social conflicts around the world is that parties have become locked in patterns of negative interaction, characterised by strong enemy images and high levels of fear, animosity, suspicion, insecurity. The negative character of relationships between parties is not only a product of conflict –in that it may originally stem from different access to political or economic resources – but can also be a further cause thereof as it continues to fuel polarisation and resentment. Consequently, as long as relationships remain fiercely adversarial, parties will be reluctant to engage in negotiations towards a settlement involving any systemic change, yet, as structural conditions persist, the relationships between parties cannot improve. The absence of trust and presence of strong emotions thus means that careful attention needs to be devoted simultaneously to addressing root causes *and* building healthy, positive relationships between parties in order to build a just peace in divided societies.

By the way, recognising the importance of relationship- and trust-building in processes to resolve violent conflict highlights another dimension of human rights that is also relevant to the definitional discussion earlier. While codified in international instruments, human rights are not only legal standards. They essentially involve human relationships: relationships between the state and individuals and/or groups, and among individuals and groups themselves. Rights are concerned with the protection of people against abuse, or, differently put, with the question of how people

should be treated so that their integrity remains intact and they can fulfil their potential. Rights standards are thus first and foremost a means to effectuate a certain kind of relationships in the public sphere (rather than being an end in their own right). Historically, the emphasis has been on the relationship between the state and citizens in this regard, but it has become increasingly acknowledged that relationships amongst individuals or groups are as important where protection against abuse is concerned. It has become very clear that inflicting abuse on fellow citizens is not the sole prerogative of state agents only. This is not to negate the specific responsibility of the state with regard to the protection and promotion of human rights. Rather, it is to highlight that, in the context of addressing contemporary violent conflict, we should take violations by both state and non-state actors into account. To limit one's human rights attention to only those abuses committed by state agents, may paint a lop-sided picture of reality in many a case. This may challenge the legitimacy of human rights work in situations of conflict – at least in the perception of those experiencing violations of their rights by non-state actors – as it may be associated with a particular political agenda. This, in turn, can hinder efforts to resolve violent conflict if the 'just peace' pursued is not considered 'just' by all, thus limiting its potential to break a cycle of violence.

In sum, the degree to which root causes of violent conflict and destructive relationships between parties in conflict are intertwined indicates that a focus on the former should be combined with attention for the latter. Linking human rights and conflict management highlights that relationship-building between parties is a fundamental component to building peace in divided societies. Not only does this involve bringing parties together in a non-threatening environment where the polarisation between them can be broken, dialogue can take place, and trust can be built; it also involves acknowledging human rights violations committed by both state and non-state actors.

3. Process and product

A third insight when considering human rights and conflict management in conjunction, relates to the distinction between the 'process' and 'product' of efforts to address violent conflict. When so-called 'peace talks' take place between parties in conflict, there is often much attention for what the ultimate 'product' should look like, *i.e.* the outcome of those negotiations. One of the merits of a human rights perspective on resolving conflict is that it highlights the conditions an agreement must meet in order to be legitimate and sustainable: its substantive contents should be in line with human rights standards and should embrace constitutionalism and the legal protection of rights. It should, moreover, resolve issues related to the division of political power, economic resources, security, identity, and accountability. This prescriptive approach is valuable in helping to ensure that both the causes and symptoms of violent conflict are addressed.

A conflict management perspective to addressing intra-state conflict, on the other hand, emphasises that a concern with process is as important. Within the conflict management field, there is great awareness that the quality of the outcome, or the product, depends on the process used to achieve it. A process that is flawed in the eyes of involved parties contaminates the product by making its legitimacy

questionable, hence undermining its sustainability. This has, for example, been one of the main challenges to peace in Burundi and Sudan. In Burundi, intense pressure on the parties by the outside mediator (former South African President Nelson Mandela) was the primary reason for the conclusion of a peace agreement, yet reservations amongst the parties were so strong that a successful implementation thereof has seemed unlikely from the outset. In Sudan, the Machakos Protocol signed in July 2002 involved only the two main parties to the conflict, the Sudanese People's Liberation Movement from the South and the Khartoum-based Government of Sudan. It will thus be of great important to bring other parties to the conflict into the process if peace is to take root.

The point here is not that one aspect is more important than the other; rather, that process and product are so intertwined that they impact on one another, both negatively and positively, and should therefore both be given careful consideration. An agreement's sustainability depends both on the substance of the agreement and on the process by which it was agreed upon. If these are not considered in relation to one another, there is a risk that interventions fall short on one or the other aspect, which immediately impacts on the prospects for a constructive and conclusive resolution of violent conflict.

4. Communicating about human rights

The conflict management emphasis on process is also relevant for the human rights field in another respect, in that it focuses attention on how we communicate about rights. Many human rights activists tend to take a strong and adversarial attitude when encountering real or alleged human rights violations or when faced with dismissive or critical sentiments about rights. To some extent, this is related to the nature of human rights work, geared as it is towards advocacy, monitoring and lobbying – human rights activists are generally more accustomed to challenging those neglecting human rights than they are to collaborating or engaging with them. In South Africa, this tendency may be particularly strong because of its apartheid past, in which most rights were denied and confrontation seemed the only way to challenge injustice. At present, the knowledge that South Africa now has a strong constitutional framework that endorses the rights of all people, irrespective of colour and other differentiating features, may enhance such an adversarial approach.

While this communication style may be right, or legitimate, depending on the situation at hand, it is important to consider the possible ramifications thereof. In many cases, it will fuel hostility and resentment as those confronted become defensive. Relationships may deteriorate. While it may thus effectuate a gain on the short-term (in terms of establishing that the other party is wrong), this way of communicating about rights can, at the same time, also result in long-term loss. For example, attacking a landowner in the South African context for illegally evicting a farmworker living on his land may get him or her to reinstate the worker on the farm. Yet, in the fight over the validity of the eviction, relationships may have soured to such an extent that the farmworker's living situation has become untenable. In other words, one needs to be strategic in choosing how to communicate about rights. Conflict management approaches to communication, which emphasise dialogue, exploring the interests of parties, negotiation, and developing trust, may offer a useful

alternative to adversarial human rights advocacy. This is not to deny that there are places and times where the latter is highly appropriate. Rather it is to emphasise that we should explore different ways of communicating about rights, so that we can adjust our approach to the particular context.

5. Spectrum of approaches to conflict

Conflict over human rights concerns is often dealt with through rights-based approaches to conflict, such as litigation. Such approaches involve determining the outcome of a conflict through applying society's laws, norms, and values concerning who is right; these standards are used to decide on the legitimacy of parties' claims. Yet in specific contexts, there may be limitations on the use of a rights-based approach to conflict. In South Africa, for example, many people lack the resources to take a matter to court, and only a limited number of cases can be taken on by non-governmental human rights organisations. Moreover, the judicial system is generally so overloaded that it may take very long before a case reaches trial. There are also other drawbacks to rights-based approaches, such as the strain they put on relationships due to their adversarial nature. In reality, therefore, safeguarding rights through the judicial system may be seriously limited, especially for those who are marginalised in society.

Instances such as these warrant exploring alternative approaches to resolving conflict, which rely less on court decisions on who is right and wrong yet can still uphold the law. Interest-based approaches to conflict, which include mediation and negotiation, may assist in facilitating access to justice in such cases. They focus on the parties' underlying interests, which are those concerns, fears, and desires that motivate parties to make particular demands in a conflict. Their emphasis on interests, however, does not preclude the possibility that the outcome to a specific conflict upholds parties' rights. On the contrary, methods such as mediation and negotiation (in the latter, parties engage directly with one another, whereas in the former, an independent intervenor assists them in reaching a mutually beneficial agreement), can ensure that parties reach an outcome that is in line with human rights standards and relevant legislation, protect parties' rights, and meets their needs. What is required is that parties are willing to negotiate their differences and are aware of the applicable constitutional and legislative framework – or, if they are not, that they are assisted by a third-party who is.

Thus, there are different ways of resolving rights-related conflict. Actors concerned with such conflict do not have to be confined to using rights-based methods in order to protect human rights. Methods such as litigation and mediation constitute different options on one spectrum, and it should be determined on a case-by-case basis, which is most appropriate. This means that human rights activists and conflict management practitioners should assist one another in understanding when one approach may be more suitable than another, and how various methods can be applied.

6. Conflict prevention

A final insight regarding the relationship between human rights and conflict management relates to the question of conflict prevention. From the awareness that

human rights issues are so often the underlying causes of violent conflict, it follows that a primary way of preventing such conflict is through the institutionalisation of human rights. After all, as noted earlier, it is more important to focus on the structural causes of violence than on violence itself if we are to prevent violent conflict in any effective way. Institutionalising rights means that the protection and promotion of human rights becomes embedded in the structures and institutions of governance in a society, so that rights are safeguarded in a systemic manner and become a matter of state policy. This may entail, for example, a constitutional endorsement of fundamental human rights, securing the independence of the judiciary, or establishing an independent human rights commission or ombudsman's office. Such a structural protection of rights helps prevent violent conflict by limiting the power of the state, affording citizens protection against abuse of their rights, and allowing them a large measure of freedom and participation. In this way, it also develops mechanisms in society that can provide for the expression of discontent and disagreement and that can deal with conflict constructively.

Nevertheless, even if rights are institutionalised, there may still be a need for conflict management interventions for various reasons. For one, rights need to be balanced against one another and oftentimes, this cannot be sorted out through legislation but must be managed on a case-by-case basis. In other instances, rights instruments such as a Bill of Rights, may provide little practical solutions for dealing with events that have rights implications: examples are policing mass demonstrations, or facilitating parading of specific cultural (or ethnic, religious) groups in an inter-cultural (-religious, -ethnic) environment. In other words, however important that rights be institutionalised, conflict management approaches, skills and insights should not be discarded, because they can assist in facilitating the implementation of rights in concrete situations.

Conclusion

The implication of the above is that it is important to bridge the gap between the fields of human rights and conflict management. Human rights violations can be both causes and symptoms of violent conflict, which means that rights concerns must be taken into account when working towards the effective and sustainable resolution of conflict. The 'bridging' necessary between the two fields requires that actors in both engage in dialogue so as to gain understanding into one another's objectives, guiding principles and methods; and to explore where and how they can work together or assist one another in strengthening their efforts towards peace, justice, and reconciliation. Ultimately, rights are about much more than rules. They are about how we relate to one another, how society functions and how the state relates to its citizens. Only by combining insights and approaches from both the human rights and conflict management field will we be able to address conflicts involving issues of human rights in an effective, sustainable and appropriate manner.

Northern Ireland:
Human Rights *versus* Conflict Resolution?

Mari Fitzduff

As someone who has been actively involved in many of the developments within the community relations field since 1984, I would like to affirm how fundamental issues of human rights (HR) have been to the development of the community relations (CR) agenda.

In 1985 SACHR (the Standing Advisory Commission on Human Rights) tasked Hugh Frazer and myself to produce a report on the state of community relations in Northern Ireland, and whether and how support for such could be further improved and developed. Within that report we stated unequivocally that a *Bill of Rights should be introduced as soon as possible to Northern Ireland. (*Frazer and Fitzduff 1986:26*)* That report also said however that while legislation, and human rights bills were the *first steps* in protecting the rights of all, they would not be *sufficient* in ensuring tolerance (p.28) and suggested that there was an additional need for CR work to promote dialogue on the most difficult of issues, including rights, equality and political differences. It also suggested such discussions should produce a document which would place CR work in the overall context of human rights, and which could be used to outline basic principles to which the majority of people could be encouraged to subscribe. (p.43)

As a result of that report, the Government agreed, in 1989, to set up an independent body, subsequently called the Community Relations Council (CRC), dedicated to developing the field of community relations. Aware that it was vital to ensure that such work was robust enough to facilitate on contentious issues such as equality, rights, and constitutional choices in 1989 I produced a document entitled 'Approaches to Community Relations Work' (Fitzduff 1989) which was to become the base line document for the work of the CRC. The report suggested that there were eight strands to the work, including justice and rights, and political options work. This report also reiterated the need to develop an agreed Bill of Rights. Furthermore, as part of its guidelines, the CRC produced a set of working assumptions, on which it based its work. No 9 of these assumptions says:

'Tolerant relations and inter-community co-operation are important, but they are no substitute for equity, rights, and constitutional agreement. Community relations work aims specifically to work for equity, rights and political agreements by addressing them on an inter-community basis' (Internal CRC document)

The above revisiting of history shows that issues of rights, justice, equality, political choices etc. have been and continue to be essential and key to the dialogues taking place within such projects. If you look at many of the source books for intergroup work which are currently in use, for example the 'Us and Them' workbook of the Workers Education Association Interface project in which, out of ten sections, four

deal with equity and rights issues, the work of the EDI (Equity, Diversity and Interdependence) project (Eyben et al 1997), and my own source book 'Community Conflict Skills' (Fitzduff 1989) which contains fourteen workshop approaches on issues of rights, it is impossible to allege, as some within the HR field have done, that issues of human rights are ignored by the CR community.

The Tensions between Community Relations and Human Rights

Albeit the above, there is, and always has been, a tension between the fields in Northern Ireland. What was such negativity about - apart from the usual competition between competing approaches to CR work, which competition is not unusual, unfortunately, in Northern Ireland or indeed in the rest of the world? 10

Let me suggest, from my own experience, and that of many others in the field, that the problems the CR field had was not with human rights work *per se*, but with those institutions, and some individuals who were promoting human rights in Northern Ireland, and the unfortunate perception of many in the field about the selective and limited nature of their promotion of human rights. The HR field was generally seen to have only two major foci for its work, the first being to provide a challenge to state abuses of human rights, and the second to promote a Bill of Rights for Northern Ireland.

a) Challenge to State abuses of Human Rights.

The difficulty about HR organizations focusing solely on state abuses, and excluding paramilitary abuses, was that the human rights agenda came, unfortunately, to be seen as supporting a Nationalist agenda. 11 While state forces were responsible for 10% of the killings in Northern Ireland, it was the paramilitaries (mainly the Republicans) who were responsible for the majority (85%) of the killings (Fay et.al. 1998) 12 In addition, many people perceived there to be no Unionist members involved in the running of the major local human rights organisation, the Committee on the Administration of Justice (CAJ). Therefore while many CR activists admired the necessary, and often effective work that was undertaken by organisations such as the CAJ, British-Irish Rights Watch, Liberty and Amnesty on state abuses, the fact that they would not address the killings by the paramilitaries, who were responsible for the majority of the 3,700 killed and the 30,000 injured in Northern Ireland made the work of such organisations appear to be primarily against state killings, and neutral on killings by paramilitaries.

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10 Eileen Babbitt and Hurst Hannum from the Fletcher Institute at Tufts University in the USA have set up a Human Rights and Conflict Resolution institute to address many of the tensions between the fields. For a further comprehensive reflection on these tensions in Northern Ireland see Bloomfield (1997) as well as Chapter 11 in Fitzduff (2002). For an international perspective, see Ross (1993).

11 Nationalist as opposed to Catholic. Although almost all Catholics are Nationalist, there is a very small percentage of Protestants (2%) who are also nationalists.

12 Approximately 58% of paramilitary killings were by Republicans, and 27% were by Loyalists. Republican is the term generally used to denote Nationalists who support violence for political ends, and Loyalist to denote Unionists who support political violence.

Additionally, such organisations also refused to address human rights abuses such as the 'instant justice' punishment beatings and shooting by the paramilitaries against their own communities, which were often used to try and enforce social order, or in some cases for personal vendetta purposes (Knox and Monaghan 2000). This was a problem as this refusal unfortunately enhanced what appeared to be a very selective perspective on human rights, and was not understood by many in the community, particularly since this logic did necessarily prevail elsewhere in other countries in conflict. In Sri Lanka, Columbia, Sierra Leone and elsewhere HR organizations routinely and regularly document and condemn human rights abuses by both state and non-state forces. Unlike our HR organisations here, they name and shame all sides that carry out human rights violations.

Under pressure from a few of its members, who were concerned about the perception of human rights work in Northern Ireland, CAJ did officially note on its literature, in the early 1990's, that it was opposed to the use of 'political' violence. And eventually, in the late 1990's, Amnesty International was persuaded that they should publicly condemn at least punishment shootings and beatings. However, much of the damage had been done in ghettoising perspectives on human rights, and this was to affect the setting up of the Northern Ireland Human Rights Commission (NIHRC) in 1999, which was initially seen by many as mainly a nationalist organization. It is good to note however that the NIHRC has taken steps to address the damage done by previous HR approaches. An analysis of its minutes since its inception (http://www.nihrc.org) show that it has now begun to discuss ways of addressing non-state violence from a HR basis, and its recent report on victims addressed the needs of all victims, and not just victims of state violence. Recent appointments are readdressing an initial board imbalance to make sure the NIHRC more accurately reflects the Unionist community. There is hope that such steps will gradually help to reverse the perception of HR as an agenda that is mainly for Nationalists, and convince people in NI that it is indeed a necessary agenda for all.

b) A *Bill of Rights as **the** Solution*

The second major problem that frustrated the CR field was the continuous and to them, apparently simplistic, suggestions by the HR field that a human rights approach for Northern Ireland or indeed anywhere else, was *the* main way to solve the problems of the conflict. What was also particularly damaging in terms of relationships was the inference by many in the HR field that if you did not agree with their particular way of pursuing human rights issues, you were against human rights. This meant that unfortunately many people in Northern Ireland saw the HR field (with some notable exceptions) as precious, righteous, obsessed with political correctness, simplistically judgmental, and lacking experience in the complex and muddy fields where CR workers often found themselves.

The stark reality was that although cross-community dialogues on developing a bill of rights provided for many thousands of constructive (if difficult) hours with many groups from both communities, in many of the situations in which CR workers often involved themselves, citing a bill of rights, or the need for one, was not particularly useful. When dealing with a riot, or trying to stop maiming and murder, or merely trying to get groups who hated each other to meet for the first time, you needed a very

wide and sensitive repertoire of approaches, and frankly, referring to people's rights in such situations was often about as useful as referring to the Ten Commandments. Also, even where enough calm prevailed for such discussions to take place, agreeing on such 'rights' gave few solutions to many of the on-going problems. It was very obvious that even on that most fundamental of rights, the right to life, enshrined in both the commandments and the bill of rights, both preachers and many human rights activists disagreed on what weight to give to what killings.

Indeed, the pessimism of many CR people that the Bill of Rights can provide solutions to many of the conflict problems of Northern Ireland - as opposed to necessary ideals, which can occasionally be legislated for and implemented through the courts - has been proven to be true in subsequent developments. When, with great hopes by many HR activists and others, the long awaited Northern Ireland Human Rights Commission was set up as part of the Belfast/Good Friday Agreement, most of the remaining controversial issues such as contentious parading and interface conflicts have not proved themselves to be amenable to a human rights approach. What also became apparent in many of the consultations that were held around the development of a Bill of Rights was that the growing use of a 'rights' approach means that increasingly communities are appropriating such an approach for their own particular needs, and that, as one recent report has suggested, we now have two communities who see themselves as victims, and who see their rights as pre-eminent to the rights of the other community (Shirlow 2001). None of this is new to CR activists who, with many years of experience in the field, know that rights, and responsibilities merely become weapons for division unless they are undertaken within the context of (preferably) long term and sustained dialogue between the communities.

A final problem that has faced the HR field in Northern Ireland has been the fact that the Belfast/Good Friday Agreement, as well as agreeing on a Human Rights Commission, also agreed on impunity for all prisoners, including those who had been responsible for many of the killings in Northern Ireland. Agreeing pragmatically on such impunity, in order to save further lives being lost, is often part and parcel of the necessity of a conflict resolution approach internationally, notwithstanding the fact that it often poses very complex moral dilemmas to many such workers, particularly as they have to deal with the aftermath of the feelings of victims rightly outraged that their need for justice has been apparently subsumed into the greater need for a future of peace. Many in Northern Ireland watched to see what the HR organisations had to say to such an abrogation of justice i.e. should they not have questioned it, given their continued commitment to justice, and given the desire in conflicts elsewhere by HR activists to pursue justice for perpetrators of violence?13 In fact, in Northern Ireland, HR organizations have mainly stayed silent on the issue, except, once again, on the issue of state abuses where they believe justice should continue to be pursued.

Let me end with an experience of my own about the contradictions between a HR approach and a CR approach. Last year I was invited by a national, governmental HR organisation in another part of the world to work with them on a CR approach, as

13 For an interesting paper which tries to address some of these dilemmas see 'Human Rights and Conflict Resolution, complementary or Contradictory?' by Baroness Helena Kennedy, available on INCORE 's web site at www.incore.ulst.ac.uk.

opposed to a HR approach, to a particular conflict. Intrigued, I first held discussions with them about why they wanted to learn about CR. They explained that they had been invited to mediate in a dispute between opponents, which involved both state and non-state actors, both of whom had been involved in substantial human rights abuses but who appeared ready to agree a solution between them that would save the lives of many thousands of people in the future. What was their problem, I inquired? The problem was that both the opponents wanted assurances of impunity for the all the previous abuses that both sides had committed - and they were not sure, as a HR organisation, they could agree to this. They thought, using a conflict resolution approach, however, that they could.

Horrified at this suggestion on the part of a human rights organisation, I suggested that they leave the mediation, and bring in some CR folk to do the negotiation in a pragmatic way. They would probably not feel too good about it, but most of them are used to dealing in muddy waters after all, although some are muddier than others as those who watched the signing of e.g. the Lome agreement on Sierra Leone will well know. I suggested to the HR organisation that their task, and the task of other human rights organisations was meanwhile to ensure that agreement on rights became a part of what eventually emerged as an agreement for the future. And that their continuing task is to uphold the vision of human rights, and the achievement of justice, for all of us, to hold it universally, not selectively, to hold it in a principled, and not in a expedient/pragmatic sense, to challenge loudly and vociferously those who abrogate such rights, and never, ever, use it, or be perceived to be using it for political ends. And suggested too that that the experience of Northern Ireland showed that *how* you nourished and developed agreement on human rights - our modern and necessary equivalent of the ten commandments - was just as important, if not more important, than any end document, any bill of rights, or any legislation, that eventually ensued from that pursuit.

The Need For Peace *And* Justice When Dealing With The Past

Brandon Hamber

The relationship between conflict management and human rights work is complementary rather than mutually exclusive as Michelle Parlevliet argues in this volume. I share her view (Parlevliet, 2003) that efforts to protect and implement human rights are essential to the constructive management of conflict, and that the institutionalised respect for human rights is a primary form of conflict prevention. This is particularly relevant if one considers strategies for dealing with the past in countries coming out of conflict.

There is little doubt—if one is to be general—that the human rights practitioners focus on principle and outcome, and the conflict management practitioners focus on pragmatism and process, are both needed when trying to come to terms with a legacy of violence and injustice. Of course, the real question is how can such approaches complement each other in practice.

This is embodied - as Parlevliet (2002) notes - in the assertion of Laurie Nathan, Director of the Centre for Conflict Resolution in Cape Town, that "peace *with* justice" should be the goal of countries coming out of conflict. This is preferable to seemingly mutually exclusive perspectives that feel there should be justice then peace (human rights approach), or peace then justice (conflict management approach). Although stated polemically here, these are very real questions in the international debate about how to deal with a legacy of extensive human rights violations.

In Sierra Leone, for example, recent debates concerning the establishment of the truth commission for hearing testimony of victims and "lesser" perpetrators, and a Special Court aimed at prosecuting the "most responsible" have revolved around the peace and justice debate. Some practitioners favoured a sequencing approach to the two institutions. They argued that a truth commission aimed at reconciliation (amnesty has already been granted for so-called "lesser" crimes not considered genocide or extensive war crimes) should occur first to start the process of dealing with the past. Then, once peace and reconciliation has been entrenched, prosecutions of those responsible for genocide or extensive war crimes through the Special Court should follow. In the final instance, it was decided, however, that both processes should occur simultaneously. In essence—to be general—a process of peacebuilding is taking place *with* a limited process of formal justice. It remains to be seen if this will work.

Having said this, presenting peace and justice dilemmas as divergent paradigms can create the impression that debates in countries coming out of conflict always take place along these lines, and that essentially they concern a rational and calculating weighing up of factors such as peace, truth and justice. There is little doubt that pragmatic power-balance calculations do take place, and these factors are important. However, dealing with the past in countries coming out of conflict is rarely that linear or rational.

Developments in South Africa post the 1994 elections has helped perpetuate the myth of fundamentally rational policy-making in this area. Specifically, it is the issue of amnesty in South Africa that received the most attention. It has been argued in South Africa that amnesty was necessary to ensure peace. Amnesty was granted (and justice forfeited) to perpetrators who told the truth to the Truth and Reconciliation Commission. The amnesty decision is routinely presented as a rational choice aimed at preventing the country going up in flames, and an essential precursor to peace. Justice was the price of peace, or so the argument goes. Peace became before justice. Truth was traded for justice.

Although this is true to some extent, it has also become part of the peace process narrative of South Africa. The disputes, negotiation, ambivalence and confusion around the decision to grant amnesty have been lost to the power of the story. So too has the fact that amnesty could only be granted if an application was received between specific dates; that prosecutions could occur of those who did not apply for amnesty during and after the commission; that amnesty was granted on a case-by-case basis meaning that an individual had to apply for each and every crime and was liable for prosecution for any crimes they did not apply for amnesty for or if they were refused amnesty (14) and if the crime was judged not political or full-disclosure did not take place the amnesty could be refused. In the end, of some 7700 applications for amnesty, about 1500 were granted.

The South African debate has also helped create the international impression that truth commissions are primarily about amnesty and nothing else. This has further perpetuated the idea that justice and peacebuilding are processes that can be juxtaposed and potentially traded.

However, amnesty being linked so clearly to the truth commission process has only occurred in the South African case. The other twenty truth commissions that have taken place around the world have primarily been focused on eliciting the stories of victims and investigating the broad truths about the past. Amnesties had often already been granted, or were granted after the process. But, in some, prosecution could also technically follow the investigations of a truth commission. Peace and justice were not always presented as polemics.

Peace *with* justice is being more and more accepted as an approach internationally, as was noted in the Sierra Leone example above. This is increasingly becoming a method of narrowing the gaps between those at an international level who seem to favour justice above all else (often typified by an insistence on using mechanisms such as the International Criminal Court), and those who seek alternative methods to retributive justice through processes such as truth commissions and traditional conflict resolution practices. To narrow this gap it appears as if the international community is seeking a way of having both processes.

14 If amnesty was refused for a crime, say it was found not to be political or full disclosure had not taken place, an applicant could technically still be prosecuted for the crime although the information disclosed to the commission could not be used against them.

Peace *with* justice is more and more being understood at the international level as meaning there is a need for parallel process running simultaneously that address the two issues at the same time. However, as with the Sierra Leone example above, because the debate has been framed in a polemic way in the first place, and there has been little genuine debate on how to reconcile the different viewpoints, the running of parallel processes has come to define what is now understood by complementarity.

The reality, however, is that if different approaches to dealing with a legacy of conflict take places simultaneously, they inevitably begin to feed off each other, amalgamate, compete and overlap. They can never be, or should never be considered to be simply parallel and cumulative in their impact. Theoreticians can attempt to define processes as separate and unpick the subtle differences between them, however, at the public level, the process of dealing with the past is experienced more holistically. For the majority who do not go before bodies such as truth commissions and tribunals, the way the media reports on such mechanisms and the words of political representatives become the vehicle for hearing about how the past is being reckoned with and "interacting" with this process. At this level, dealing with the past often becomes a jumbled (or even coherently jumbled!) process with many different public narratives competing and intersecting.

In the South African Truth and Reconciliation Commission, broadly speaking, two competing approaches existed throughout. Human rights practitioners (often in the investigation unit) favoured subpoena and tough questioning of amnesty applicants and ultimately prosecution of those who did not apply for amnesty. Those with a more 'reconciliatory' attitude—often coming from a religious perspective, or perhaps conflict resolution perspective—favoured voluntary participation of so-called perpetrators and hoped for spontaneous repentance leading to reconciliation and forgiveness. This caused tensions internal to the commission (Bell, 2001; Pigou, 2002). This process also mirrors how the international debate of justice versus peace (and truth) seems to be portrayed.

That said, perhaps at a broad level, this ambivalence was realistic and helpful, as it presented the realities of the dilemmas of trying to deal with violations of the past. However, at the same time, we need to appreciate that the result was that ultimately a watered-down version of both approaches emerged. Perhaps this is what international practitioners who seem so dogged on their approach, say for the ICC or an inevitably compromised transitional justice mechanism as a truth commission, fear the most.

In South Africa, at a human rights level, the language of human rights, normally concerned with principle, became associated with amnesty, concession and compromise. The result, as Wilson (2001) argues, is that the association of the language of principle and accountability with the language of pragmatic political compromise, remains one of the obstacles to the popular acceptance of human rights as a new ideology in South Africa. Human rights are understood by much of the public as a *soft* concept, a *compromised* concept. In their minds human rights is now seen as being synonymous with being lenient on criminals or perpetrators. This has been generalised and human rights are now understood, at a popular level, as being part of the problem, rather than part of the solution to ongoing (largely criminal) violence in South Africa.

The concept of reconciliation has equally become distorted and confused in South Africa. Many see it as separate and unrelated process to peacebuilding. It has become outcome driven and synonymous with a cathartic process of truth-telling under the threat of prosecution or with the offer of amnesty. The idea of reconciliation being understood as a steady, long-term and gradual process of (re)building damaged relationships and building peace over time (although the point the TRC Final Report finally reached) was lost to the public specifics of TRC process, the promise and expectation of instantaneous reconciliation, and confused by the issue of amnesty.

In addition, certain rights-based concerns were simply swamped in the bigger debates about peace, truth and justice. The question of victim rights is a case in point. Policy-makers often understand the needs of victims as being dealt with when certain events take place, e.g. a conviction of the perpetrator, sufficient counselling, or the granting of compensation or reparation. The highly ambivalent process at the core of helping victims is seldom appreciated. That is that addressing the needs of victims is long-term, and concerns undertaking ongoing processes (e.g. reparations, prosecutions, support, acknowledgement, etc.) over a long period of time to try and address the seeming impossibility of 'repairing' what cannot ever be repaired such as losing a loved one. This is a thankless, but necessary task and it is not for those who want quick fixes, or who want to use victims to claim easy political victories.

Currently, it appears that the broader debates of making peace and "doing" transitional justice has resulted in the issue of the rights of victims being seen only through the prism of the political context. Victim rights have become a bartering tool. The rights of victims to justice, for example, are routinely sacrificed to the pragmatic considerations of countries in transition. At the same time, the need for victims to try to come to terms with the complex and ambivalent place they find themselves in often curtailed by the social desire to move on to fast and entrench what is thought to be immediate "peace" and "reconciliation".

A perverse situation often develops in the transitional context. That is, that victims of 'ordinary' crime are often afforded more rights than victims of extensive human rights violations. In most societies in remains unthinkable that a victim of a crime such as a random murder or a hit and run accident would not be afforded the right to an investigation or justice through the courts. However, if extensive political violations have occurred such as widespread assassination, murder and torture, it appears the question of justice and investigation can be negotiable if the political context necessitates it.

Surely what is needed is a principled approach to conflict management and dealing with the past in societies in transition. What is needed is peace *and* justice. This may sound impossible to the so-called political realist whose world revolves around the short-term. But peacemaking and peacebuilding needs to be reframed as a more long-term process.

This is not as straightforward as it sounds. Justice needs to be sought to the degree possible given the context. Justice and peace needed to be debated in the context of principle, not only in the context of pragmatics. If rights are overridden this needs to be acknowledged and sensitively discussed. Victims should not be expected to accept

this because politicians think it is what is needed. Victims' anger is justified if their rights are denied. The onus is on the society to find ways to deal with it, not just on the victims to learn to cope with it.

Pauls Seils (2002) proposes the concept of "intelligent justice". He argues the central axis of "intelligent justice" is reconciliation as reconstruction. To achieve this, however, three principles need to be adhered to, namely: the process needs to be victim-centered and the legal and moral right of victim's asserted; the process needs to be historically faithful and attempts to meet the victim's desire for justice needs to reflect the historical truth of the conflict; and, any justice process should be primarily used to build the future rule of law and state over time, not simply to be used to embarrass the state (*and other human rights offenders*) [author's addition].

In addition, perhaps it needs to be recognised that what may be possible at one moment may be different at different times as the political process unfolds. Context is obviously important. Simply because justice may not seem possible at one moment in the formal sense of the word, should not mean it should slip from the agenda forever. Justice needs to always remain on the agenda, and as Seils (2002) argues a victim-centered, historically truthful, and reconstructive process sought. Clearly, if rights and principles are violated this needs to be openly acknowledged and methods developed to deal with this in a constructive manner. Trying to sweep away the past in wave of rhetoric about peace and stability is counter-productive in the long-term.

Using this paradigm the greatest injustice of the South African process does not simply reside in the decisions to grant amnesty in the heat of negotiation, but the failure to prosecute those who did not apply for amnesty after the offer was extended to them. This has created the impression that even when reasonable and possible, justice will not be sought in South Africa. No wonder the language of principle continues to be eroded, and peace and justice remain tenuous and conflicted concepts across the society. Peace *and* justice should remain the ultimate goal in all societies coming out of conflict.

Summary Of Key Issues and Themes

Robin Wilson

Before trying to distil some themes from the stimulating presentations and discussion, I want to step back to ask *what* conflicts and *what* abuses of human rights we are talking about. And I want to go on to argue that the values which inform the work of both human-rights and conflict-resolution advocates, in addressing such crises, may offer a way beyond this tension between them.

On a wider canvas, we have witnessed in recent years a rise of ethnic particularism and fundamentalism, which not only lead to violence but even legitimate it. Amidst what Fred Halliday has called this 'retreat from reason' (*Observer* 10.3.02) demands for recognition of 'difference'—represented in essentialist fashion as natural and taken-for-granted—have all too readily spilled over into an incapacity to share the same polity, and so into ethno-nationalist demands for secession or the 'ethnic cleansing' by those exercising power of those whose identities are spurned.

These are the 'new wars' of which Mary Kaldor (1999) has written and to which Mari Fitzduff referred. They can be schematically defined thus:

- they are mainly intra- rather than inter-state;
- they are clashes primarily of identity rather than interest;
- the perpetrators are mainly paramilitary rather than military forces; and
- the victims are mostly civilian, rather than soldiers.

The ethno-political entrepreneurs who drive these conflicts seek to diffuse responsibility by collectivising or displacing it. Hence the emergence in the 90s of the international tribunals on war crimes in Rwanda and ex-Yugoslavia and the progress towards an International Criminal Court - as attempts, however partial, to render these powerful individuals accountable.

In that light, the dichotomy between 'conflict-resolution' and 'human-rights' approaches is, as Michele Parlevliet and Brandon Hamber suggested, a false one. (Only half jokingly, it might be claimed that the disproportionate friction between exponents is itself an example of the 'narcissism of minor differences' which, following Freud, a number of authors (Akenson 1991; Ignatieff 1998; Volkan 1997) have detected at work in ethnic conflicts.) For example, 'conflict-resolution' advocates are not simply sponsors of *Realpolitik* but operate with clear values, as Derrick Wilson pointed out in the discussion.

Indeed, 'values' provide a notion, between 'principle' and 'pragmatism', which may steer us beyond that dichotomy. The values of those who would seek to end ethnic conflicts and substitute rights *régimes* are universal norms - albeit requiring specification and further deliberation in any context - which can transcend the particularistic assertions of the protagonists and provide the basis for just settlements.

These values are essential if an atmosphere of moral hazard is not to thrive, in which antagonism continues through 'war by other means'.

The danger, in the absence of such clearly articulated values, is that ethnic protagonists can even *exploit* the activities of human-rights activists, by 'capturing' them for 'their' side, as Ellen Lutz warned. The obverse of this is the positive potential of human rights as a basis for conflict-resolution.

It is unfortunate that the discourse of human rights in Northern Ireland has become separated from the political process. The original idea of a bill of rights for the region was, after all, not that it be a wish-list of discrete demands but that in the round it provide a floor of political protection for all - most immediately the Catholic population - thus offering an alternative route out of ethnic insecurity to that offered by a conventional secessionist campaign.

What values are we talking about? In a post-cold-war context, there is (almost) universal normative acceptance of liberal democracy - albeit often honoured more in the breach than in the observance - buttressed by human rights and the rule of law and premised on the idea of free and equal citizenship. Nor can either freedom or equality be secured without the other: one can't meaningfully separate conflict-resolution, as above all about the *freedom* to live, from the *equality* on which successful dialogue depends.

Why does the rule of law matter so much? Because the alternative is so much worse. That alternative is an ethnic monopoly of power, as in Northern Ireland until 1968, or localised ethnic monopolies, as now - rather than all individuals enjoying equal rights. (Hence I baulk at the idea of 'restorative justice' conceived of as outside due process: in practice, it means less equal law for working-class citizens, at the mercy of local ethnic monopolies.)

And rights are important *because* they are universal. They derive from the idea of the equality of our common humanity and cannot be premised on difference. Otherwise, as Mari Fitzduff indicated, they simply lead to competitive and mutually uncomprehending rights claims. Halliday (2001:139-157) has forcefully made the argument for a 'radical universalism'.

Rights are also related to responsibilities, and *vice versa*, in a normal civil society, as Michele Parlevliet and Duncan Morrow stressed. Addressing antagonism through dialogue means taking responsibility, rather than claiming that I have rights but responsibilities are always somebody else's.

Dialogue must lead, in some sense, to a new truth - and so to a 'new Northern Ireland' to which all can give thin civic allegiance as a shared public space, set in a 'variable geometry' of constitutional contexts and embodying the common good. The alternative is sustained antagonism around conflicting narratives until someone prevails - when history can be written, as one of our ethnic protagonists has coldly averred, by the winning side.

The victims of Northern Ireland's 'troubled' history do deserve justice. Brandon Hamber pointed to the irony that human-rights activists in Northern Ireland can be said to have taken the 'unprincipled' view that justice for victims should not be pursued. Yet in the absence of assumption of responsibility, and some reparation, victims - whether of police, army or paramilitaries - can be doubly victimised. And only in the presence of these commodities can they reasonably be asked to forgive, and move on.

Against the spirit of antagonism that surrounds the victims issue, there is a need to insist not only on our common humanity but also, as Dorte Kulle would argue (Hamber, Kulle and Wilson 2001), on our common capacity for inhumanity: 'there but for fortune go you or I'. (It is a sad reflection on our sustained mutual bitterness that the notion of a memorial carrying the names of all of our dead - civilian, paramilitary or 'security-force' member - in alphabetically organised equality is so utterly utopian.) There is no royal road from truth to reconciliation, as Duncan Morrow recognised. Perhaps it is better to think, the other way around, of our becoming reconciled to the truth.

Monica McWilliams raised the question: how can activists (however defined) achieve change? The answer may be by contributing by contributing to the emergence of a civil society, infused by democratic norms, which can provide the antidote to ethnic antagonism.

The 'old wars' are now obsolete where two democratic states are concerned. The 'new wars' should also become impossible within civil societies where all enjoy human rights while being 'members one of another'.

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