Table of Contents

Session I: Panel A
Applying Theoretical Concepts

“Elements of Nonviolence in Communication Inventory (ENVCI): A New Measure”
Lissa Young, University of Massachusetts Boston

“Using Systems Thinking to Reinterpret US Foreign Policy”
Jeffrey Range, University of Massachusetts Boston

“Negotiation and Nonviolent Action: Interacting in the World of Conflict”
Amy Finnegan, Boston College

Session I: Panel B
Refugees and Minority Populations

“Revitalizing Our Dances: Land & Dignity in Paraguay”
Cheryl Duckworth, George Mason University

“Loss and Politics: Seeking a Solution to Vietnamese Central Highlander Discontent”
Joanna Hurlburt, American University

“The Role of Refugees in Separatist Conflict”
Kate Zimmerly, University of Denver

“Conflict in the Camps: Dispute Resolution in the Refugee Camps of Dadaab Kenya”
John Moore, University of Massachusetts Boston

Session I: Panel C
Social Dynamics of Conflict

“Nature and Nurture: Elements that Contribute to Basic Human Needs As They Relate to Interpersonal Behavioral Responses in a Negotiation”
Maria Garcia, Nova Southeastern University

“Social Intelligence: What Social Neuroscience Tells Us about Emotions: Yours, Mine, and Ours”
Juliana Hoyt, Woodbury College

“Why Do In-groups Split?”
Mohammed Cherkaoui, George Mason University

“Toward an Integrated Theory of the Sources and Dynamics of Social Conflict”
Ethan Finley, George Mason University
Session I: Panel D
Alternate Approaches to Conflict, Peacemaking, & Capacity Building

“Community Based Development of an Islamic Approach to Conflict Resolution”
Christopher Mendez, Nova Southeastern University

“Lasting Impacts of Leadership Training: The Case of Burundi”
Elizabeth McClintock, Tufts University

“The Use of the Internet as a Coalition Building Mechanism”
James Coughlin, University of Massachusetts Boston

“Women Taking Agency During Violent Conflict: Case Studies of Women PeaceMakers at the Joan B. Kroc Institute for Peace & Justice”
Emiko Noma, Portland State University

“Copts Possibilities to Move into a Social Non-Violent Group”
Samy Gerges, American University

Session II: Panel A
Conflict Consulting Workshop

“The Ups and Downs of a Consultative Experience: A Workshop on Designing Conflict Management Systems in Organizations”
Christine Chung, Molly Clark, Katharina Kugler; Columbia University

Session II: Panel B
Reconciliation and Conflict Transformation

“Restorative Justice and Culture: A Case Study of the Nickel Mines Amish”
Teresa Ralicki, University of Massachusetts Boston

“Justruth: Conceptual and Practical Approach to Reconciliation”
Laura Taylor, University of Notre Dame

Peter Stockburger, University of San Diego

**********“National Conference for Conflict Transformation and Peacemaking”
Jacques Koko, Nova Southeastern University

“Truth-Telling: A Double Edged Sword”
Lauren Sauer, Eastern Mennonite University

Session II: Panel C
Identity and Conflict
“Relative Functional Insecurity: Re-examining Ethnicity, Identity, and Nationalism”
Alison Hall, Nova Southeastern University

“State Terror and Perceptions of National Belonging: Violence against the ‘Enemy’ Within”
Robin Cooper, Nova Southeastern University

“Getting to the Roots of Islamophobia”
Reem Alzaim, University of Massachusetts Boston

“Identity as Position: Core Concepts in Conflict Analysis”
Rhian McCoy, George Mason University

“Identity’s Dichotomous Roles: The Case of Northern Ireland”
Jonathan Winegar-Mendez, University of Massachusetts Boston

Session II: Panel D
International Standards, Organizations, & Law

“The Enforcement of Mediation Settlement Agreements in P.R. China”
Jiaqi Liang, University of Missouri Columbia

“A Comparative Look at Hybrid Courts and Tribunals”
Alexander Starr, Yale University

“Fences and Good Neighbors: A Comparative Analysis of Human Rights Standards Applicable to the Mexican Border Wall Using the Framework from the ICJ West Bank Advisory Opinion”
Sandra Jones, Arcadia University

“The Applicability of anti-SLAPP Statutes to Arbitration”
Nicholas Raichart, Pepperdine University

Session III: Panel A
Democracy, Decentralization and Divided Societies

“The Long-Short Way: A Conflict Analysis of the Cyprus Question”
Scott Spiegler, University of Massachusetts Boston

“Understanding the Political Dimension of the Lebanese Ethnic Strife as Framework for Conflict Resolution”
Benedetta Berti, Tufts University

“Somalia Redux: New Visions for a Renewed Nation”
Chloe Berwind-Dart, University of Massachusetts Boston

“The Quest for ZOPA and Third-Party Role in the Decentralization Process within Fragile Societies”
Noel Twagiramungu, Tufts University

“Uganda Peace Talks: The Negotiation Under-Commitment Problem”
Kim Hyesung, Tufts University
Session III: Panel B
Leadership Development

“Self-Knowledge - The New Secret Weapon”
Andrew Malionek, University of Aberdeen

“Preparing Students for Leadership in a Diverse Democracy”
Terry Morrow, Nova Southeastern University

“Photography & Visual Literacy in Reconciliation & Peacebuilding”
Kyle Dietrich, Harvard University

Session III: Panel C
Mediation Practice

“An Examination of Active and Passive Mediation Strategies “
John Giles, University of Massachusetts Boston

“Yes We Can (Mediate This Dispute): Towards an Account of Constructive Cultural Resources”
Zeke Reich, Harvard University

“Rerframing Stuck: Embracing the Mystical in Mediation”
Brian Christopher, Boston College

“From One Novice to Another: Advice for New Mediators”
Jessica Landry, University of Massachusetts Boston

Session III: Panel D
Human Rights, Intervention, & Violent Conflict

“Rape: Is it a new weapon of war?”
Phedra Remarais, Nova Southeastern University

“The Price of Oil: How the U.S.-Saudi Partnership Sacrifices Human Rights”
Brandon Boylan, University of Pittsburgh

“Morality of Humanitarian Intervention”
Mutsuko Sugita, George Mason University:

“Bosnia-Herzegovina: An Intervention without Justice”
Patricia Morris, Wellesley College

Session IV: Panel A
Zones of Peace

“An Exploratory Research Project: The Creation of a Dominican-Haitian Zone of Peace In Dajabon, Dominican Republic”
Yves-Renee Jennings, George Mason University

“Peaceable Borderlands”
Adriana Salcedo, George Mason University

“The Association of Parents of Servicemen Missing in Action”
Maneshika Eliatamby-de Silva, George Mason University

Session IV: Panel B
Restorative Practice of Law

“A Alley and Atticus: In Search of the Restorative Lawyer”
Brenda Waugh, Marshall Yoder, Eastern Mennonite University

Session IV: Panel C
Organizational Conflict

“Conflict and Culture: The Pre- Electronic Medical Records Climate in Nursing Homes”
Kelly Pike, Cornell University

“Assessing the Need for an Ombuds Office at a Scientific Institute”
Lisa Witzler, University of Massachusetts Boston

“The Value of Neutrality in Employment Conflicts”
Mimi McGrath, University of Massachusetts Boston

“Conflicts and Group Decision Rule in Mock Juries”
Eunro Lee, Chungbuk National University
Session I: Panel A
Applying Theoretical Concepts

“Elements of Nonviolence in Communication Inventory (ENVCI): A New Measure”
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“Negotiation and Nonviolent Action: Interacting in the World of Conflict”
Amy Finnegnan, Boston College
Elements of Nonviolence in Communication Inventory (ENVCI): A New Measure

Given the rise of violence within the United States and global community, as well as the violence that saturates the mass media, including pop culture, and everyday communication in social and intimate relationships, many prominent U.S. and global organizations have begun to place an emphasis on promoting nonviolence. A number of researchers in psychology, conflict studies, and a broad range of disciplines within the social sciences have called for the inclusion of examining nonviolence in communication as an essential component of nonviolence (Asthana, 1990; Brown, 1990). However, currently, there is no reliable measure of nonviolence in communication within the academic literature.

Dominant communication styles in the United States utilize dualistic, static notions such as: making moralistic judgments and evaluations which imply right and wrong, good and bad; blaming others for one’s actions, thoughts, or feelings; and expressing needs and desires in the form of a demand instead of a request. It has been argued by at least one scholar that, in the United States, this mode of communication dominates interpersonal exchanges within families and communities as well as within professional and educational settings (MacNair, 2003). Such communication contributes to structures of violence within individuals’ relationships to themselves as well as interpersonal, group, and larger conflicts and leads to a variety of negative consequences for individuals and societies.

In fact, Harvey (1961) correlates language that categorizes and judges people using dualistic notions with levels of violence. He found that in cultures that use language to classify
people as “good” or “bad,” levels of violence were greater than in cultures where language focuses on needs and actions (Harvey, 1961).

The primary purpose of the present study was to begin to develop and validate a measure of nonviolence in interpersonal communication by collecting preliminary psychometric data on the Elements of Nonviolence in Communication Inventory (ENVCI), a self-report, scenario-based measure of nonviolence in interpersonal verbal communication designed by the author for this study. A secondary aim was to explore the relationship between nonviolent versus conventional communication in conflict situations as well as nonviolent predisposition, physical and mental health.

Originally, the ENVCI consisted of twenty scenarios with ten answer choices each that the author generated. After numerous iterations and edits by the author and her research team as well as the input of three experts in nonviolent communication, the wording of response choices for fifteen of the scenarios was modified to most accurately represent the components of nonviolent communication.

A focus group comprised of a diverse gathering of undergraduate students offered reactions to and input on the content of the scenarios and the language used (in both the scenarios and the answer choices) with an emphasis on issues of race, culture, gender, and class. As a result of the feedback from the focus group, 9 scenarios with 10 answer choices each were selected from the pool. Because there were no gender, race/ethnicity, or socioeconomic effects in this study, the focus group was an invaluable and necessary step in the construction of the ENVCI before piloting the measure.

The purpose of using paragraph-length scenarios intended to capture typical, everyday interpersonal interactions was to increase face and external validity, and to provide the opportunity for the investigation of nonviolence in communication over situations that varied in
the power of the individuals portrayed relative to each other, their degree of intimacy, and the emotional intensity of (potential) conflict situations. Participants were asked to give responses on a 6-point Likert scale to ten separate items for each scenario, five measuring components of Nonviolent Communication (NVC) and five measuring analogous components of Conventional Communication (CC), as well as an open-ended response to the scenario.

From this study, the ENVCI seems to be a consistent, reliable measure of comfort level with using verbal means to confront a conflict situation as opposed to not dealing with a conflict. However, the instrument lacks overall sensitivity for discerning between Nonviolent versus Conventional communication specifically. One possible explanation for this is that the language used in the response item choices that were to capture CC and NVC may not have been strong or "violent" and colloquial enough, respectively. For example, a comparison of sample response items with open-ended responses for scenario 1 revealed significantly stronger and more colloquial language in participants’ open-ended responses:

Selected ENVCI Response Items on Scenario 1

This is the 3rd time we set a date and you came later than we planned.

1 not at all comfortable 2 somewhat comfortable 3 very comfortable

You know, I’m pretty annoyed right now.

1 not at all comfortable 2 somewhat comfortable 3 very comfortable

It seems like you are always late.

1 not at all comfortable 2 somewhat comfortable 3 very comfortable

You are making a habit of it.

1 not at all comfortable 2 somewhat comfortable 3 very comfortable

Selected Open-Ended Participant Responses on Scenario 1

"This is the third time we've met up and you've been late. What's with you lately?"

“Where the hell were you? Next time im going to tell you were meeting 45 min in advance and then have you show up early.”
“Dude, thats bullshit.....what the fuck took you this time?”

“What the hell why are you constantly late all the time dont tell me that your going to be here at a certain time and fucking dont come on time I could have been doing something else. You know that I am a punctual person and I hate starting things late. Damn I so fucking mad. Im not even hungry anymore. So do what u want!!!!!”

There was a significant, moderate sized difference between the Conventional group and the Nonviolent group on Nonviolent Orientation, with the Conventional group endorsing a greater overall orientation toward violence. What’s more, the Nonviolent group was significantly more predisposed or oriented to nonviolence than was the Communicative group. Higher scores of nonviolent predisposition in the Nonviolent group than in the Communicative group suggest that individuals who primarily use a nonviolent style of communication not only speak up in conflict situations but moreover utilize a qualitatively distinct style of communication that promotes (or at least holds out the hope for) conflict resolution and greater understanding (e.g. assessing needs versus going directly to strategies; making requests versus demands; listening with empathy versus sympathizing or offering solutions to problems). This reasoning is consistent with the extant literature that defines nonviolence and those with a nonviolent style as not only taking actions but also having an orientation of working towards peace and justice and contributing to society through caring and promoting health and well-being (Asthana, 1990; Baumgardner, 1990; Herman, 1990; Kool, 1993).

The differences between the Noncommunicative and Nonviolent groups as well as the Nonviolent and Conventional groups on positive and negative affect suggest that Nonviolent Communication is consistent with this author’s hypothesis based on the theoretical literature that nonviolent participation (e.g. activism, communication) is associated with increases in positive affect and decreases in negative affect (Elliott, 1980; MacNair, 2003).

These findings across groups on positive and negative affect point to an overall conclusion of this study that whether or not as well as how one communicates in a conflict is
linked to affect. While the actual differences between the means across the four groups are quite small, these results need to be considered within the context of measurement insensitivity.

It is likely that given a more fine-tuned measure, grosser differences between the Noncommunicative group and the Communicative and Nonviolent groups as well as between the Conventional and Nonviolent groups would emerge, signaling that beyond general communicativeness or lack thereof, the type of communication (Conventional versus Nonviolent) predicts aspects of mental health. In conclusion, the results of this study provide a strong foundation for further investigation and refinement of the ENVCI.
Jeffrey Range

Using Systems Thinking to Reinterpret US Foreign Policy

This paper argues that the U.S., as the world’s superpower, can greatly exacerbate or minimize conflict around the world through its foreign policy. Due to the influential political paradigm of realism (and more importantly, the interpretation of realist-based rationality) the U.S. has initiated foreign policies that neither maximized U.S. interests, nor minimized conflict. However, through an interpretation of policy using systems thinking the U.S. can both maximize its interests and more positively contribute to a cooperative world environment.

Introduction

Several countries have made impressive strides, recently, in technological, political, and economic developments, yet the U.S. remains the world’s most powerful country. Since the dissolution of the USSR the world system has been defined by unipolarity without hegemony, led by the U.S. (Wilkerson 142). As such, the impact of U.S. foreign policy has global reach, directly affecting the world’s population. Especially in today’s globalized world, the actions of the world leader can bring stability, cooperation and peace to the world system. Or, policies can produce instability and conflict. I intend, then, to analyze U.S. foreign policy as a tool to affect conflict or cooperation in the global system.

State Motivations

While scholars may debate the defining features of choice and rationality (Heckathorn), and politicians may use altruistic rhetoric, I will define a state’s primary motivation to be based on the maximization of its interests. This stems from realist theory, which is expressed in the
U.S. Foreign Policy mission statement. The statement begins, “Diplomacy is an instrument of power (U.S. Department of State),” and continues conveying national interest-based purposes.

Considering U.S. foreign policy as an instrument of power makes sense given that realism has lied at the heart of the U.S. paradigm. The world is characterized by an anarchic system, whose natural state is war and conflict. Therefore the main concern of states in the realist paradigm is security. Realism relies on ideas of power, conflict, and a hierarchical international order of unipolarity.

Yet, simultaneously, the U.S. has relied on an amalgam of philosophies to guide its policymaking. Liberal Internationalism is regarded as a more optimistic viewpoint. Liberal Internationalists believe that a multipolar international order of cooperation is possible, especially through the use of international institutions. Through a liberal world system a vast network of institutions and economic interdependence creates strong deterrents against conflict and drives states to cooperate (Grieco 487).

The institutions, agreements, and tools of globalization have moved the international system in the direction of an international liberal world order. This has been a project specifically directed by the U.S. since WWII (Keohane, Nye 218). These continuously deepening economic ties and global interests create a system that makes warfare and conflict increasingly costly (Keohane, Nye 14). Yet, as security is a state’s primary concern, realist-based power politics continue to play an important role in foreign policy. Even Joseph Nye, an advocate of the use of soft power admits “realism will remain a basic framework for much of international politics” (Nye 1998, 167).

Again, as the primary goal of any state is to maximize one’s benefits, rational choice theory is appropriate. However, the interpretation of rational choice decisions and how to maximize a state’s benefits has historically been misguided and consequently counterproductive.
Interpretation is Essential

The problematic aspect of Realism and its subsequent foreign policy lie in its interpretation and subsequent application.

In rational choice theory actors are motivated to act or make decisions that satisfy their desires or preferences. In the case of nation-states that desire is to exist and to assure themselves of the necessary resources to ensure their existence (Scott). This is, of course, reasonable and necessary. However, because realism defines power through military force (Nye 1990, 154) and the system through conflict, the actions to obtain one’s needs tend towards conflict and force. But, this interpretation of a state’s needs and their subsequent actions, utilizes rational choice only in direct, short term considerations.

A state’s objective to ensure resources and existence is obtained by power. However, another predominant misinterpretation is the nature of power. The traditional understanding of power was seen in military terms. But, the nature of power has changed dramatically. Power through military might must be obtained and maintained through dominance. In today’s globalized world, where warfare is costly, dominant authority is not sustainable. Instead, in today’s globalized world, power has two necessary components. They are military force and a legitimated ideology (Keohane, Nye 220). The more one is used, the less the other is needed. As conflict and domination are costly, it is ideology that can sustain a state’s power in the long run. A state’s ideology is deemed legitimate if the international system accepts it and desire to be part of it, which creates the sustainability.

The tendency of the international system is to lean towards a unipolar order, based on a hierarchy of power. The idea is that “world politics is still characterized by the struggle of political entities for power, prestige, and wealth in a condition of global anarchy (Gilpin 230).” Therefore this competitive arrangement can only find stability through a singular state that can
maintain leadership in issues: military, economic, and political; in order to sustain a stable system. The problem with Realists’ reliance on the hegemonic stability theory is that it is beholden to the precepts of their “rational choices”. Walter Mead notes that an authoritarian approach by a hegemon can ultimately endanger its rule (Mead 63). Acting based on short term and direct gains detrimentally affects the world system’s leader to sustain their power and leadership role.

As discussed, interpretations of what constitutes a “rational” choice have been counterproductive to U.S. optimization. This is due to externalities of any foreign policy actions that may emerge in the long-run, as opposed to immediate and short term consequences. It is essential that a state accurately determine what constitutes rationality, in both short and long term consequences, and also for direct and indirect results. While the complexities of the international arena are immense, there is an approach designed to consider all inputs and consequences.

The problems of short sightedness and externalities are analyzed in Peter Senge’s book, *The Fifth Discipline*. Senge illustrates how all processes involve multiple inputs that in turn influence one or another. To fully understand any problem each component in the system must be considered. Senge’s “Systems Thinking” is highly applicable to foreign policymaking and seeking a state’s maximization. Systems thinking explains that the need for immediate results can be subsequently antithetical to one’s overall objective. This is because short and long runs have “dynamic complexity”, meaning that the consequences are different for each run (Senge 71). However, without viewing an entire system people and institutions are “addicted” to short term solutions (Senge 61). Therefore, policy is often made with Realists’ leanings towards conflict and addiction to short term gains. This will most likely not achieve sustainable objectives, and many times will have the opposite effect in the long term.
Summary

Systems thinking allows a policymaker to recognize the danger in pursuing short-term solutions; exposing problematic “rational” choices and illustrating those which are efficacious. Dynamic complexity must be considered to recognize that long term consequences can many times undermine any short term gains. Using systems thinking the concepts of unipolarity without hegemony and rational choice become helpful tools in determining U.S. foreign policy in the realist context. Also considering short and long runs, direct and indirect gains will bolster U.S. strength, but through less conflict-driven actions, bringing a more stable and peaceful system to the world’s citizenry. Joseph Nye’s entire quote from above illustrates this. He says, “realism will remain a basic framework for much of international politics, but if realists fail to [adjust], their irrelevance will gradually increase (Nye 1998, 167).” In this sense a reinterpretation of rationality and utilization of systems thinking will both satisfy the U.S.’s need to secure security, but will do so in a cooperative approach to the foreign policy, dramatically reducing conflict around the world.

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Negotiation and Nonviolent Action: Interacting in the World of Conflict

Implicit in how most negotiation experts analyze, conduct, and reflect on conflict is a preference for nonviolence and an aversion to the use of violence. Within the field of negotiation, however, there is little explicit appreciation for and understanding of the field of nonviolent action. Similarly, implicit in the field of nonviolent action are many more concepts of negotiation, but in the literature there is little recognition of negotiation’s broad repertoire of skills and strategies.

This article explores the interface between the field of negotiation and the field of nonviolent action, fields that share a commitment to engaging constructively with conflict. Both have played central roles, sometimes sequentially and sometimes in tandem, in helping solve or manage seemingly intractable disputes. Nonviolent action forces the issues, and negotiation takes the space that is created and gives people a process and tools for discussing the issues in a productive — and nonviolent — way. An examination of how this occurs and where these two fields intersect and support each other illuminates important historical turning points and offers inspiration for meeting both present and future challenges.

Frameworks of Negotiation and Nonviolent Action

Negotiation

Negotiations take place every day and in all kinds of situations. Government officials, guerrilla fighters, labor representatives, managers, deal makers, police officers — everyone who

\[\text{For a copy of the complete published article, please contact Amy Finnegan at finnegaa@bc.edu}\]
needs to influence others is a negotiator, and everyone negotiates in their personal lives as well as in their professional ones. Negotiation experts hold that preparation and analysis are vitally important in a negotiation and that one must assess one’s own interests and learn those of the other parties, be cognizant of the alternatives to a negotiated settlement, try to improve one’s own best alternative to a negotiated agreement (BATNA), generate options, and consider how legitimacy and objective criteria can strengthen one’s arguments (Fisher, Ury, and Patton 1991).

**Nonviolent Action**

Nonviolent action is the technique of “conducting protest, resistance, and intervention without physical violence” and may be employed by “acts of omission, acts of commission, or a combination of both” (Sharp 2003). It includes disruptive acts such as boycotts and strikes, as well as symbolic protests and civil disobedience. Nonviolent action is a set of strategic techniques typically utilized in a struggle over rights or justice, which can be grouped into three main categories: protest/persuasion, noncooperation, and nonviolent intervention (Sharp 2003).

**Considerable Commonalities**

An examination of the frameworks of negotiation and nonviolent action reveals numerous commonalities between the two activities, although scholars and advocates from both fields rarely profess it. Both are action-oriented strategies for persuading others to act in a way that meets one’s needs and interests. At a seminar in 2006 entitled “Negotiation: The Hidden Dimension of the Nonviolent Struggles of Our Era,” Maria Stephan, a scholar of nonviolent action, stated “that both nonviolent conflict scholars and negotiation experts recognize that both of these processes are skills-based. And that . . . these skills can be learned” (Stephan 2006). Moreover, both negotiation and nonviolent action offer specific frameworks and tools that can be used in a wide range of conflicts. Emanating from this beginning, we highlight three key underlying principles that negotiation and nonviolent action share: the desire to engage
constructively with conflict, the need to consider issues of leverage and power, and attention to preparation, process, and strategic action, including framing, coalition building and listening.

**Synergistic Qualities**

When utilized jointly in the same conflict, negotiation and nonviolent action not only share commonalities but can have synergistic qualities as well. Often the two together are more powerful than either one alone; “the processes are mutually reenforceable rather than mutually exclusive” (Babbitt 2006). The two strategies work together in what Sharp has identified as the external mechanisms of change: conversion, accommodation, nonviolent coercion, or disintegration (Sharp 1973). This synergy is apparent within the labor movement where a combination of nonviolent actions such as strikes have been juxtaposed with strategic negotiations.

**Misconceptions of Both Fields**

Experts in the field of negotiation, as well as those in nonviolent action, too often see these fields as separate entities, with little connection to the other discipline. Moreover, many in both fields have misconstrued or limiting ideas of the other. Negotiation has been viewed by nonviolent activists as compromise, splitting the difference, and a practical solution that does not factor in justice. Gene Sharp has written that when struggling against a dictatorship, a “call to negotiate can sound appealing, but grave dangers can be lurking within the negotiating room” (Sharp 2002: 11). These dangers are said to include capitulation, appeasement, and a willingness to get a resolution prematurely. Many human rights activists involved in social movements perceive negotiation as an interaction that involves making concessions to an opponent. For others, it is primarily a ceremonial function that occurs at the end of a nonviolent struggle. Few recognize how negotiation involves a strategic set of interactions that occur throughout a struggle, even between individuals and groups that are part of the same larger party.
Nonviolent action, largely because of its association with the term “nonviolence,” is also commonly mischaracterized by those unfamiliar with the field (Schock 2003). It is often regarded dismissively, and it has been frequently “idealized, scorned, made into a panacea or mystified, or it has been completely overlooked” (Ackerman and Kruegler 1994: xx). In popular culture, the work of nonviolent action is frequently tagged as passivity or pacifism. To those living amid the constraints of intense oppression, nonviolent action can seem essentially like inaction. Many also believe that nonviolent action is only useful with more benign opponents, not those who are truly repressive and violent. Finally, many believe that proponents or practitioners of nonviolent action must subscribe to a particular moral or ideological framework, when, in fact, nonviolent action has been utilized by both individuals and groups from extremely diverse racial, religious, and political affiliations, either on its own or as a negotiation tool.

Looking Ahead

We see that there is a need to develop a rich set of materials that will enable negotiation teachers to incorporate knowledge about nonviolent action into their curricula. Moreover, rigorous negotiation modules ought to be incorporated into nonviolent action courses and trainings to improve activists’ capacity to negotiate effectively during a nonviolent action campaign. Integrating the two concepts into one pedagogy reveals another key research need: identifying with greater precision some of the theoretical differences between the two fields. A final key avenue for future research and collaboration linking these two domains relates to communication. How can we linguistically and symbolically refocus negotiation and nonviolent action in a way that communicates their potential power?

Negotiation and nonviolent action are arguably the two best methods humanity has developed for engaging with conflict. Both are remarkably effective alternatives to war and can be viewed as distinct activities within the same larger process. Experts in each field can play a
role in helping to dispel stereotypes and simplistic thinking about the other. Indeed, if the fields of negotiation and nonviolent action were each to embrace the strengths of the other, their capacity to deal with destructive conflict would only grow.

References


Session I: Panel B

Refugees and Minority Populations

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Revitalizing Our Dances: Land and Dignity in Paraguay

Social movements unfold in the particular way that they do for very specific social, political, economic, cultural and historical reasons. Indigenous leaders in Paraguay frame their movement for land and other rights through the basic human need of dignity, and I believe this is for three main reasons. The earthquake of the end of Stroessner’s autocratic regime opened up sociopolitical space for indigenous people to organize. They did so often in partnerships with NGOs who could provide critical legal expertise, media and political connections, and money. The need for such partnerships made the Dignity Frame especially strategic; as a universal value, the language of dignity not only resonated with the poverty and exclusion of indigenous daily life, it also resonated cross-culturally.

The ousting of Stroessner in 1989 offered indigenous leaders an unprecedented political opportunity. It is difficult to overstate the importance of this opening to the indigenous movement in Paraguay. Under Stroessner, at one time, it was illegal to speak Guarani and legal to kill an indigenous person (MR Personal Correspondence, May 2006). While his regime did pass Law 904 protecting indigenous land and cultural rights, such laws were rarely enforced (Horst 1997; Lambert 1997). Civil society flourished after his fall, enabling the NGO partnerships so important to indigenous organizing to operate openly (Alexander 2005, 121-144). The 1992 Constitution was a landmark victory for indigenous leaders. A press which has been largely sympathetic (if essentializing) to indigenous communities could report more freely without fear of reprisal. Protests and marches which were met with “disappearances” and arrests under Stroessner are open, reasonably peaceful and regular occurrences today (Nickson 1995,
Lambert 1997). These parts of the repertoire of Paraguayan indigenous protest would have been either impossible or lethally risky under *el Stronato*.

Poverty and related racism are another important part of the context in which the Dignity Frame occurred in Paraguay. Paraguay must maintain neoliberal, export-oriented, largely deregulated macroeconomic policies to keep IFIs and investors’ money flowing. Yet these policies further empower agribusiness elites, who of course buy more land, displacing more indigenous communities. Such development continues apace. Recent forms of protest against displacement include land invasions, marches, petitions, and sit-ins. Such actions and public statements are consistently framed by indigenous leaders and their NGO allies through dignity. Hence the conflict, in my view, is not just about a lack of economic growth or economic policy, but the racism and narrative of dehumanization that has legitimized the abuses to begin with.

As with the global international financial institutions and regional development banks, MERCOSUR also institutionalizes neoliberal economic policies (Manzetti 1994). As the least powerful partner, economically and politically, in MERCOSUR, Paraguay has experienced much of the austerity of neoliberalism without the macroeconomic growth that Brazil and Argentina have seen. Paraguay’s membership further strengthens the pressures on Paraguay to maintain the neoliberal policies that deregulate the sale of indigenous land. This in turn, of course, displaces more indigenous communities, exacerbating the conflict, as the most recent ECLAC reports suggest (ECLAC 1999 online, ECLAC 2003 online). Further, neoliberalism is not just a set of culturally or ethically neutral or natural policy prescriptions; it enshrines and institutionalizes a set of specific values such as individualism, scientific and economic progress and commercial productivity. Ethnographies and my own field data suggest that these values conflict with the economic values of indigenous communities, such as collectivism, tradition and conservation, suggesting in turn that neoliberalism is viewed as both a threat to livelihood and
culture (Reed 1997, Schmidt 1994, Horst 2007, Renshaw 2002). Once again, movement frames take shape in very particular contexts, and the marginalization and poverty indigenous communities continue to experience are major forces shaping this movement such that it was the Dignity Frame to occur in Paraguay, when other frames might have been possible.

The need and opportunity for partnerships with NGOs to mobilize resources has been another critical factor shaping this movement around the universal value of dignity. Dignity, as a universal human need, resonates across a variety of indigenous and other cultures. The need for such partnerships made a frame that could resonate cross-culturally quite strategic. NGOs such as OGAZU and Tierra Viva offered encouragement, connections to the international media, expertise about international human rights law and financial backing. In Stroessner, indigenous and nonindigenous social leaders alike could find a common enemy. This resulted in partnerships that empowered indigenous organizing in critical ways, though the relationship between indigenous communities and NGOs is contested and asymmetrical. That said, Tierra Viva has won indigenous communities secure land title and OGAZU has provided media outreach training, among numerous other similar examples (Personal Interview, MR, May 2006; Personal Interview, JC, May 2006). Such partnerships have created some success that could be built on. Without the financing and legal expertise, in particular, that many of these NGOs provide, it is likely that indigenous leaders would not have seen these successes, so the confluence of interests between the indigenous leaders and other democracy leaders was an important factor shaping the particulars of this social movement. Specifically, the framing around the universal value of dignity facilitated these partnerships, as is evident from numerous media interviews, NGO documents and statements issued by both indigenous and other civil society leaders which exemplify a common use of the Dignity Frame. Given how crucial these
partnerships have been to the advocacy of indigenous leaders, it is hardly surprising that a frame which also resonates with nonindigenous civil society was the frame to occur.

The 1992 Constitution was also a critical movement victory exemplifying the utility of partnerships with NGOs. Specifically, the new Constitution saw the Dignity Frame in many ways legitimized by the Paraguayan State itself. Obviously this was largely on paper. Ratified several years after Gen. Rodriguez ousted Stroessner, the new Constitution reflected a period of intense indigenous advocacy. Human rights lawyers and democracy activists won the inclusion of two indigenous leaders in the Constitutional Convention and the statements released announcing their demands demonstrated a clear common use of the language of dignity (Lambert 1997, 117). This post-ouster period also included land invasions, petitions to the new President Rodriguez, marches, plaza occupations and outreach to the media (Lambert 1997, Horst 2007). Especially notable was the Constitution’s protection of communal land rights, given that the Stroessner regime explicitly considered such practices backwards (Horst 2007, 43-65). This victory is, no doubt, another major reason for continuing to frame this movement around the dignity of indigenous cultures. Put simply, at least as far as impacting the national debate, it was working.

Despite these gains, indigenous leaders and their communities find themselves in some ways worse off and with little actual guarantee that the legal rights described above will be protected in practice. Again, this is largely because the sale and theft of indigenous lands continues to accelerate (Horst 2007, Maybury-Lewis 2007, 309-328). Selling indigenous land is explicitly illegal, but reality on the ground remains that such laws are inconsistently enforced, at best. Corruption and lack of capacity are central reasons for this. Human rights organizations and my own field work, among other sources, confirm that developers still sometimes beat or torture indigenous leaders, frame them for a crime to lead to an arrest, and burn houses down,
and such abuses are not often prosecuted (JC, Personal Interview, May 2006; IWGIA 2007, Derechos Humanos 2004, Derechos Humanos 2005). Even with the protection of the law, without a change in the beliefs held about indigenous peoples, such abuses will continue. Again, in my analysis, this reality is why the Dignity Frame, as opposed to other potential frames, occurred in contemporary Paraguay. Once the sociopolitical space was opened by the fall of Stroessner, indigenous leaders and their NGO allies could partner openly to advocate against the racist marginalization and poverty characterizing indigenous daily life. This made the Dignity Frame, a universal value which resonated across cultures, as strategic as it was resonant.

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Joanna Hurlburt

Loss and Politics: Seeking a Solution to Vietnamese Central Highlander Discontent

February 2001 marked another outbreak of the ongoing struggle between ethnic minority people of Vietnam’s Central Highlands and the government of the Socialist Republic of Vietnam. Several villages in the Central Highlands participated in organized demonstrations protesting religious oppression and land rights issues. As a result, the Vietnamese government cracked down on religion and political activity in the Central Highlands. Facing increased persecution, Central Highlanders began fleeing Vietnam to seek asylum in Cambodia in 2001, and have continued to do so until the present time. Though the problems are three-pronged—political, religious, and socio-economic—both religious and political oppression and uprisings are linked to socio-economic problems. Thus, working to solve the thirty-plus years of Central Highlander socio-economic grievances would be the fastest, easiest, and most cost-effective method for the Vietnamese government to work toward effectively and peacefully stifle unrest.

In a 1971 report for the Rand Corporation, Gerald Hickey outlined a series of steps to take if the Vietnamese government at the time wanted to address the Montagnard situation and prevent future unrest. ¹ Considering that the problems in the Central Highlands today are amplified versions of the problems of three decades ago, some of Hickey’s suggestions can still apply to a possible conflict resolution strategy today. For instance, while the government cannot return land already claimed by ethnic Vietnamese, they can, however, break up the lands left in State Farms and State Forestry Cooperatives and distribute them to Central Highlanders as

partial compensation for the land that was taken. This would need to be a more dedicated and large-scale effort of State Farm distribution to Central Highlanders than what the Vietnamese government distributed in October 2001.² Hickey suggests that focusing on incorporating the Central Highlanders into the national economy will be a more successful way to garner Highlander support for national solidarity than political indoctrination.³ Not only is it necessary for Central Highlanders to have enough arable land to survive, but it is important to invest them in the national economy. Hickey suggests doing this by giving the Highlanders a role in the economic development of the region, taking into account technical and educational support that the government or aid organizations would need to provide in order to bring the Highlanders up to the most current techniques and practices.⁴

This proposed incorporation would be particularly advantageous because the indigenous Central Highlanders are likely to know how best to take advantage of their landscape. If the government could then assist the Central Highlanders in advancing agricultural techniques and give Highlanders access to more information on how to increase crop production and efficiency, the Central Highlanders could produce crops or other products to invest in the economy with less likelihood of further environmental degradation. Hickey also proposed a micro-credit scheme to provide poor Highlanders loans for the start-up capital necessary for agricultural production, animal husbandry or other projects.⁵ Today there are myriad examples of successful micro-credit banks emerging all over the globe, suggesting that this approach also could be successfully adapted to the Central Highlands. The economic diversity that these projects would create also could help alleviate previous problems of coffee market dependency and environmental degradation.

³ Hickey “Recommendations” 3.
⁴ Hickey “Recommendations” 3.
⁵ Hickey “Recommendations” 3.
Furthermore, giving Central Highlanders the freedom to actively create their own niche in the national economy could open up a wide variety of possibilities that could benefit both Vietnam in general and the Central Highlands specifically. By incorporating Central Highlanders into development projects, allowing them to reinstate Highlander leaders and initiatives in schools and courts would, at the very least, provide a way for the Central Highlanders to dictate what their land, culture, and people become in future years. For instance, while the Vietnamese government currently has a small tourist circuit through the Central Highlands, this circuit is very constraining and allows little flexibility to travelers. If, however, the Central Highlanders are allowed to open their plateau to tourism, they could offer more engaging and dynamic avenues in response to tourist market demands for ever more “off the beaten path” routes. Not only would Central Highlanders and the Vietnamese government reap the benefits of the booming tourist industry in South Asia now, but the Vietnamese government would benefit because the increased transparency in the Central Highlands would raise international perception of both human rights issues and repression in Vietnam.

Vietnamese government could solve many problems of ethnic minority discontent by following through with plans that it already announced. Such projects include education and radio (and perhaps television) broadcasts in minority languages; equal healthcare for ethnic minorities; increased infrastructural investment; continued social welfare investment; and the promotion of economic development, targeted at Central Highland ethnic minorities. The Vietnamese government has occasionally issued declarations of Central Highland development projects from late 2006 through 2008, but largely the implementation of those programs remains to be seen. In order for these initiatives to be effective, the Vietnamese government needs to commit enough money, resources and personnel to bring these plans into realities in the Central Highlands in a reasonable and visible timeframe.
It would also directly benefit the Vietnamese government economically and politically to prove that they have stopped persecuting Central Highlanders and other minorities, by allowing for more transparency and independent monitoring in the country. If the government of Vietnam did not persecute its religious groups and was transparent and open enough to prove that it did not, for example, they would have no grounds upon which to petition foreign powers or international religious organizations for intervention against religious persecution abuses. This, at least, would confine the situation to a purely domestic disturbance.

In the end, none of these solutions address the issue of the disappearing “Montagnard culture.” Even the most positive outcome “will be detrimental for the culture of Montagnards,” reflects former Central Highlander lawyer and advocate, Anne Peeters; “their land has already been taken away… Montagnards already had to adapt to the circumstances. More development will change their way of life [even more].” Further development of Vietnam and the Central Highlands will expose the country to more international influence. This, in turn will likely force more conciliation on human rights regulations and a freer, more open economy.

While this exposure eventually will alleviate much of the repression in the Central Highlands and possibly lead to the implementation of solutions to other grievances aired by the Montagnards, their traditional culture and way of life will be next to impossible to preserve. “You can’t halt progress,” admits Kevin Doyle, editor of the Cambodia Daily and long-time reporter on the Montagnard situation. In the end, what is really at hand is the battle between tradition and modernity. Kay Reibold, a US-based Montagnard activist, observed, “There is great suffering in the Montagnard Central Highlands. It is not only suffering of the body and mind because of poverty, disease, and fear, but it is the heart of the highlander people that is

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broken.” Even if the Montagnards get land titles and indigenous language instruction in schools, if they get health care and equal hiring practices, even if they get true freedom of religion, even then they have lost something that they will never regain. They have lost their traditional agricultural practices. They have lost their village structures and the leaders embodied in the Kings of Fire and Water. They have lost these things to the Vietnamese and they have lost them to the modernizing world. Even if the Vietnamese return what they can, the processes of globalization and modernization are irreversible.

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The Role of Refugees in Separatist Conflict

Introduction:

In the fallout of the Soviet Union’s collapse, hostilities erupted between the former Soviet Republic of Georgia and separatist groups in the regions of both Abkhazia and South Ossetia. For several years two very violent and destructive wars were waged between the central Georgian government and the respective separatist forces. Ceasefires signed in 1994 and 1995 brought an end to open warfare but failed to resolve the conflict over the status of these regions, leaving the parties in a state of legal and political limbo. The period between 1995 and 2008 saw decreasing Georgian control over these regions and the increasing role of Russia in the conflicts.

Recently, Georgia and Russia appeared to be at the edge of “all-out war,” arguably over control of one of the breakaway regions, South Ossetia. It is still too early to know the outcome or to fully determine the causes of this recent outburst, and it is unsure what this conflict will mean for Georgia, Russia, and the future of the disputed territories. However, it can be said at this point that this recent threat of war merits another look at the Abkhazian and South Ossetian wars of the early 1990’s and consideration of why they went unresolved for over 15 years.

This paper focuses specifically on the Georgian-Abkhazian conflict of 1992-1994 and looks at the so-called “frozen” period in that conflict which lasted roughly from the time of

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ceasefire until the recent round of fighting. Looking at this period of resolution-resistance with particular attention to the role of the refugee community in the conflict’s entrenchment, the study seeks to answer the question: why did this conflict go unresolved for so long and what role did the refugee population play in this resolution resistance? In doing so, this paper hopes to show that displaced persons can play an underestimated yet significant role in a conflict’s resolution.

Methodology:

This study is based on field research conducted during the summer of 2007 in the Republic of Georgia. 45 Georgian refugees were interviewed about their experience of displacement, the possibility of return, and their perceived role in the conflict. The questionnaire was formed and translated through consultation with students and faculty at Tbilisi State University and through pilot interviews.

The analysis and interpretation of these interviews was informed by a wide ranging literary review which includes fields such as ethnic conflict, power-sharing, refugee studies, and sociology. Particularly influential in this review were William Zartman’s ripeness theory, Dov Lynch’s conceptualization of conflict in the former Soviet Union, and Kurt Lewin’s theory of force field analysis and social change.

The data was analyzed with a two-tiered approach. First, influenced by Kurt Lewin’s force field analysis theory, the study sought to identify the forces and motivations at work within the IDP population toward either return, integration, or the status quo. To do this it analyzed interviewees’ impressions of their host community, their home territory, and the prospect of return. The second part of the analysis attempted to determine whether this community acts as a driving factor in the Georgian-Abkhaz conflict by identifying trends within the interview

responses that would indicate such a role. All of this was done with the intention that the study’s results would prove one hypothesis to be a more accurate than the other in describing the dynamics at work during the “frozen” period of this conflict.

Results & Conclusions:

Several key factors were identified in the analysis. Strong motivations toward both integration and return were identified in the IDP community, yet a strong resistance to either of these movements is also present, which suggests that there is some sort of pull toward the status quo at work in the refugee population that this part of the analysis was unable to identify. The analysis also identified several themes that suggest that the IDP community may indeed serve as a driving factor in the conflict. Mainly, there is a prominent theme in the interviews where subjects claim that return is conditional to Georgia having control over Abkhazia. By making such a demand, the IDP community places itself as a driver in the conflict; if the IDP community does not simply fade into the Georgian population (which it does not appear to be doing). And if this community makes clear that they will not be gradually returning to Abkhazia on their own, or without Georgian protection, then it is unlikely that the conflict of which they are a part will fade dramatically in intensity.

However, when synthesized the analysis suggests that power dynamics are central to explaining the role of displacement in this conflict. Namely, the IDP community is able to safeguard a distinct role in the conflict and some degree of power through their displacement and identity as IDPs. While this conclusion may not specifically answer the question of “why does frozen conflict go unresolved for so long,” it does lend an understanding to the role that IDP/refugee communities play in the conflicts that displace them.

Significance & Further Research:

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In the area of refugee aid and integration/repatriation the conclusions of this study have implications for the way in which refugee populations are treated both by host communities and within the peace process. These conclusions suggest that incorporating the refugee population into the peace process and treating them as the stakeholders in the conflict is an important part of refugee aid and re-integration.

In regards to the current conflict in Georgia this study shows that the refugee/IDP population from the first round of conflicts still exists and is still an issue; if anything, this population has been augmented by the recent fighting. The failure to incorporate the needs and interests of this population in the peace process that should theoretically follow this most recent round of fighting would be detrimental to the success of whatever agreement in reached. Furthermore, as debate and analysis about the recent conflict in Georgia develops it should become abundantly clear that we need a greater and fuller understanding of why the first round of ceasefires never led to workable peace agreements in either Abkhazia or South Ossetia. To do this, further research is needed into these conflicts, the frozen period that followed them, and the interests of both Abkhazians and South Ossetians. The study of these conflicts requires a greater understanding of the positions and interests of separatist groups. In regards to this particular study, a transparent and comprehensive assessment of Abkhazian attitudes towards their status, Georgians, and the issue of IDP return is needed. And as the recent events in Georgia presumably move from violence toward settlement, it will be imperative that all parties involved have a clear and honest understanding of both Abkhazian and South Ossetian perspectives.
Conflict in the Camps: Dispute Resolution in the Refugee Camps of Dadaab Kenya

Introduction

Culture influences individuals’ and groups’ perceptions of and responses to their environment. This can include perceptions of justice and responses to injustice. When two groups of differing cultures are compelled to respond to the same specific act of injustice, they may have different conceptions of the appropriate response. This issue can become acute in protracted refugee situations where refugees from one culture may come to settle in a country with a different culture and live in camps managed by an organization which brings its own culture. When this occurs a tension often arises along the nexus of cultural practice, state sovereignty, and human rights.

This problem exists in the refugee camps located in Dadaab, Kenya where United Nations High Commissioner for Refugees (UNHCR) mandates, Kenyan law, and traditional conflict resolution mechanisms of the Somali refugees have come into conflict.

Culture and conflict

Conflict

If we are to look at the tension surrounded justice mechanisms in the Dadaab as a conflict, I should define I mean by ‘conflict’. (Pruitt & Kim, 2004) define conflict as “[the] perceived divergence of interest, a belief that the parties’ current aspirations are incompatible. In other words, conflict is a belief that if one party gets what it wants, the other will not be able to do so.” Implicit in this definition is that parties believe the conflict is a zero-sum game (any
parties gain must lead to another parties loss). While Coser defines conflict as “a struggle over values and claims to scarce status, power, and resources, a struggle in which the aims of the of opponents are to neutralize, injure, or eliminate rivals.” (Avruch, 1998) marries these two definitions to define conflict as occurring when “two related parties -- individuals, groups, communities, or nation-states -- find themselves divided by perceived incompatible interest or goals or in competition for control of scarce resources” This definition broadens the scope of what is considered ‘conflict’, emphasizes perception and belief and leaves the door open to peaceful resolution rather than merely “elimination” of the other party. Thus, building upon Avruch’s definition I will define conflict as occurring when two or more related parties find themselves divided by perceived incompatible interests, values, or goals or are in competition for control of scarce resources.

Culture

(Pruitt & Kim, 2004) define culture as “the set of shared and enduring meanings, values, and beliefs that characterize national, ethnic, or other groups” and state that cultures vary from society to society. (Avruch, 1998) would find this definition to be unsatisfactory, arguing first of all against the reification of ‘culture’ as a ‘thing’ which would exist in a society. More importantly, for Avruch culture is in fact a phenomenon that is not ‘enduring’ but which is flexible and can change with time and that it is not a feature of societies alone but exists within individuals. (Avruch, 1998) prefers Theodore Schwartz’ definition of culture:

“Culture consists of the derivatives of experience, more or less organized, learned or created by individuals of a population, including those images or encodements and their interpretations (meanings) transmitted from past generations, from contemporaries, or formed by individuals themselves”

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emphasizing that “culture is to some extant always situational, flexible, and responsive to the exigencies of the worlds that individuals confront . . . [it is] the primary way in which humans have adapted to their ever changing environments.”

**Culture and Conflict**

Influenced by ones culture is ones “moral order” (Pearce and Littlejohn, 1997). Defining “moral order” as “the theory by which a group understands its experience and makes judgments about proper and improper actions . . . [thus providing] a tradition of truth and propriety” A tradition built upon a discourse of social experience which forms ones social reality. This discourse is seen as a loop in which actions inform meaning and meaning inform actions. “A moral order then, . . . is constructed and reconstructed in what a group says and does”. In essence a moral order serves to guide an individuals behavior, interpreting what is the right or wrong action in a given situation.

(Pearce and Littlejohn, 1997) use the term grammar to describe the container for ones moral order and argue that “every social situation has a grammar of action . . . if the situation is to be coherent”. They identify “moral conflict” as occurring when two parties with incommensurate grammars must take action within a shared social context. This is one route in which differing cultures may come into conflict. In the case of Dadaab, this is occurring within the sphere of the parties responses to injustice -- responses that are of distinct and incongruent moral grammars.

"(Nisbett, 1996) made a distinction between moral orders built on rights and those built on virtues. A rights-oriented order is based on the individual as the independent unit of action. It assumes individual differences, and moral actions promote the dignity and choice of persons. A virtues-oriented order is based on the community as the unit of action. Individual differences are insignificant, whereas group differences are important. Proper actions conform to social
expectations, promote the welfare of the community, and thereby award honor." (Pearce and Littlejohn, 1997)

We can see Dadaab on the one hand the individualist culture of UNHCR and on the other, the collectivist culture of the Somalis. The differing moral orders derived from these distinct world views come to differing understanding of the right response to injustice.

*Collectivist and Individualist Cultures*

(Pruitt and Kim, 1998) also observe that one dimension along which cultures can vary is that of collectivism versus individualism.

Individualist cultures value independence, personal rights, and the pursuit of one's personal goals. UNHCR has a strong individualistic, rights-based culture. This is not only made explicit in such documents as the 1951 Convention on Refugees but can be observed in the language used by its staff. For example, when a UNHCR Protection officer stated “We want to look at conflicts that affect particular communities, individuals as pertains to their individual rights, because each and every individual has a right, each and every trespass affects the mandate of UNHCR in helping the refugees.”.

Collectivist cultures “value interdependence, group harmony, and place individual interest as subservient to the interest of the group”. This phenomenon is seen amongst the Somali in cases where girls are forced to marry their rapists and the group obtains the majority of a diya payment in lieu of the victim. Structurally, the very nature of the clan system and especially of diya-paying groups is one of political and economic interdependence.

Likewise, in collectivist cultures “Asserting personal rights and interests is viewed as dangerous to group unity, and such public displays are likely to bring about strong social sanctions.” This occurs in Dadaab in such cases as individual refugees who do choose seek
redress via the Kenyan court systems facing considerable pressure from their clansmen to withdraw their case.

UNHCR culture and Somali culture are quite different and almost at odds with each other in how they organize themselves and what values they emphasize.

**A Way Forward**

(Pearce and Littlejohn, 1997)'s interpretation of moral conflict is consistent with a “post-modern paradigm” of conflict theory. The post-modern paradigm believes that conflict stems from how parties “subjectively define a situation and interact with one another to construct a sense of meaning, responsibility, and value in that setting [and] suggests that it is primarily through assumptions about what is unquestionably ‘right’ in a given context that different groups develop and maintain incommensurate world views and conflicts persist.” (Coleman, 2006). Overcoming the conflict is viewed as a matter of surfacing each parties assumptions about what is right “through critical reflection, dialogue, and direct confrontation.”

Their approach to resolving moral conflict is using a communication model they term “transcendent discourse”. While the underlying goal of the discourse is to enable conflicting parties to find a solution, they see the path to that solution is not found in changing or preserving the “story” of one side or the other, but rather in coordinating the stories. The reason parties engaged in moral conflict are unable to find resolution is because they rely on the same signs, symbols, and rhetorical styles that build their moral orders in order to convince the other of their position. Yet, these disparate grammars are at the heart of the very problem, therefore it comes as no surprise that the parties are unable to come to a solution. For Pearce and Littlejohn, the solution is to create a new “language in which each side can understand the moral order of the other.” Transcendent discourse is a model that works to create that new language.

They contrast transcendent discourse with ‘normal’ discourse as:
“... [going] beyond the normal communication of moral conflict. It can lead to the possibility of constructive dialogue, new contexts in which to weigh alternative choices. Where normal discourse in moral conflict is condemnatory, transcendent discourse suspends execration. Where normal discourse tries to persuade, transcendent discourse aims to probe. Where normal discourse is designed to prevail, transcendent discourse seeks to compare and critique. Transcendent discourse can be employed ... by the disputants themselves as a means of transforming the conflict”

Transcendent Discourse has the following characteristics:

Transcendent discourse has five essential characteristics, it is: 1) philosophical; 2) comparative; 3) dialogic; 4) critical, and 5) transformative.

Using a transcendent discourse approach in Dadaab may serve to enable the parties to overcome this conflict and develop an integrative solution more palatable to all side.
Session I: Panel C
Social Dynamics of Conflict

“Nature and Nurture: Elements that Contribute to Basic Human Needs As They Relate to Interpersonal Behavioral Responses in a Negotiation”
Maria Garcia, Nova Southeastern University

“Social Intelligence: What Social Neuroscience Tells Us about Emotions: Yours, Mine, and Ours”
Juliana Hoyt, Woodbury College

“Why Do In-groups Split?”
Mohammed Cherkaoui, George Mason University

“Toward an Integrated Theory of the Sources and Dynamics of Social Conflict”
Ethan Finley, George Mason University
Maria Garcia

Nature and Nurture: Elements that Contribute to Basic Human Needs As They Relate to Interpersonal Behavioral Responses in a Negotiation

Introduction

The formation of our identities can be attributable to the elements of nature and nurture. They can serve as precursors to the developmental aspects of our personalities. Our identity formation is correlated to our behavioral traits, and the instinctual responses we illicit on a daily basis. The behavioral instincts we choose to utilize in negotiations throughout life are indicative of how we handle stressors, conflictive issues, and challenges that arise in negotiations. Depending on the circumstances, the responses that we initiate in connection with conflictive issues are an important factor to consider. The way we are raised builds who we are, and life experiences change our worldviews and perspectives. In researching this topic I have observed how nature and nurture can both negatively and positively affect us and our decision-making processes throughout life. These two elements may have the potential of damaging reconciling interests.

My research demonstrates the intrinsic challenges faced when the state of balance and self-concept are in a state of imbalance. For example, parties dispute when they do not share common interests. When a negotiation process ensues, one party may remain unsatisfied because their needs were not met. Upon further reflection, the other party can express themselves in a negative fashion and offend the other participants. The behavioral instincts that were exposed could have been as a result of the behavioral traits I previously mentioned. The difference these elements can make when factored in and considered as part of the dynamics of a negotiation process can harbor negative implications and unsuccessful outcomes if not foreseen.
Consequently, if nature and nurture are in a state of imbalance, conflict resolution can turn into a challenging process. An example of nurture playing a part in this dynamic is taking for instance a person who is lacking nurturance, and who has lived most of their life in self-doubt. This person may be struggling with insecurity issues, or harboring a poor self-concept. This may be as a result of not developing internal stability by being raised in a dysfunctional household. Furthermore, when facing a conflict resolution process they may not feel as if their needs were or are being met. An example of nature playing a part in this dynamic is a person being damaged by environmental factors such as being raised in a volatile environment. They may deal with life stressors aggressively making irrational contributions to the process. This can also have a negative impact on the handling of a negotiation, and that person may reduce to outbursts, and/or aggressive negotiation tactics against the other party which places the conflict resolution process in a state of high levels of emotional imbalances.

Theoretical Concepts

The theoretical concepts I discuss in this paper were based on several theories. For example, psychologist Donald Hebb once answered a journalist's question of "which, nature or nurture, contributes more to personality?" by asking in response, "which contributes more to the area of a rectangle, its length or its width?" (Hebb, 2001) Psychologist Abraham Maslow's theory on the hierarchy of needs postulates that needs are instinctive, and some are more powerful than others. (Maslow, 1998) If our most basic needs are not being met, our survival instincts take over, and we would do what is in our power to restore a state of balance when there is imbalance. The most basic needs as described by Maslow are food, water, shelter and clothing. When these needs are being met, we fall into a homeostatic pattern of life. Jean Piaget believed that human development from one stage to the next is caused by the accumulation of errors in the child's understanding of the environment, which can eventually
lead to cognitive disequilibrium. (Piaget, 1955) The commonalities of these theories carry a strong correlation to each other in that human responses to life stressors are exacerbated by the nature and nurture elements. For example, someone could have been raised in a completely functional environment, their basic needs have always been met, and they live a fully functional structured life. However, it can take one traumatic experience to transform this balance structure, which can negatively impact how the person handles future life stressors and negotiations with others.

The Nurture Perspective

The nurture perspective relates to the idea of being loved or not being loved as a child authentically. Authenticity comes from embracing your upbringing, but if the upbringing is distorted, so is the perspective of self, self-esteem, and the ability to cope with the emotions of others. Alice Miller, author of the book, "Drama of the Gifted Child," described how some of her patients lost their true selves in early childhood. She believed that as young children her patients faced a difficult choice: they would be authentic and honest, or they could be loved. (Miller, 1997) As children, her patients chose parental approval and experienced a loss of their true selves. They stopped expressing unacceptable feelings and engaging in the unacceptable behaviors, at least in front of adults. Miller believes that the true self is disowned, the false self was elevated. If others approved, the false self felt validated and the person was temporarily happy. With the false self in charge, all validation came from outside the person. If the false self failed to gain approval, the person was devastated. (Miller, 1997)

If we are raised to develop a denial of our true identities, we allow others to only see what we want them to see dampening our authenticity in the process. If our natural instincts are being suppressed, we can damage our self-concept. If a positive self concept is formed, chances are that the outcome of negotiations with others can be positively successful. If our true self is
not nurtured, and compromised, then we face the world with trepidation, fear, anger, resentment. Therefore, the demands of a negotiation with others can lack authenticity.

The Nature Perspective

The nature perspective is symbolic of Jean Piaget's theory carrying four levels of development. Each stage is characterized by a general cognitive structure that affects the child's thinking. (Piaget, 1955) Each stage represents the child's understanding of reality during that period. Development from one stage to the next is thus caused by the accumulation of errors in the child's understanding of the environment; this accumulation eventually causes such a degree of cognitive disequilibrium that thought structures require reorganizing. (Piaget, 1955) Abraham Maslow remembers his childhood as lonely and unhappy. As a Jewish boy being raised in a non-Jewish environment, he became isolated and lonely. This led him to develop the concept of the hierarchy of needs, meta-needs, self-actualizing persons, and peak experiences and set them to theory. (Maslow, 1998) He explains peak experiences as profound moments of love, understanding, happiness, or rapture, when a person feels more whole. He also theorized that unfulfilled cognitive needs can become redirected into neurotic needs. For example, children whose safety needs are not adequately met may grow into adults who compulsively hoard money or possessions. (Maslow, 1998) Therefore, if the most basic human needs of feeling love and security are not met, disequilibrium becomes entrenched within ourselves. The feeling of insecurity and instability sets in, and as a result our behaviors can be negatively affected. (Maslow, 1998)

Analysis and Discussion

If the experiences encountered are positive in nature, self-esteem tends to be higher. However, if the experiences encountered are negative it can hold the opposite effect on an individual. If nurturance is lacking, and environmental stimuli are working against the person, a great loss of self is suffered. They can find themselves lost and searching for a solid identity.
most of their lives. In order to negotiate through life collaboratively, learning to identify and understand with one another is a critical component to negotiating and setting healthy negotiating boundaries among the parties.

**Conclusion**

Negotiating through life collaboratively can be a challenge if you are wrought with unequal distribution of power. When a person is lacking self-esteem, suffering from identity crisis, and struggling with issues of insecurity, resolutions to conflicts may lack authenticity. It can reduce them to conflictive power struggles. For example if a person who does not do well with power struggles and lacks assertiveness, may succumb to a party who does. As a result, further conflict can ensue and the person could possibly end up leaving the conflict resolution process with the feeling that their needs were not met. This is where future conflict resolution practitioners can assist in reducing the power struggles, and return the conflict resolution process to a synergetic dyad so that both parties can feel that the process has a level of equality they can both live with.

This paper explored the concept of nature and nurture, as they relate to each other. The structure of our personalities can affirm or misconstrue the value of effective communication. The power of interpersonal relationships is one of the most difficult contingencies to master when negotiating. As a result, conflictive patterns follow and can continue to escalate. These discrepancies can affect one person more than the other. Finally, nature and nurture can impact interpersonal relationships leading to power struggles between two disputing participants. Once the disputing parties make the first step of inviting a conflict resolution practitioner to assist them in restructuring an ongoing dispute, the most important part of the process has begun. Emotions are involved in everything we do in life. Therefore, it is vital that practitioners in the conflict and resolution field be trained in "emotional intelligence." (Bjernekes & Paranica,
Emotional intelligence allows future peacemaking practitioners to lead a successful practice while being sensitive to the emotional component. (Bjerknes & Paranica, 2002)

The effects of nature and nurture as they relate to social learning, childhood nurturance, and environmental factors can serve as conduits towards the intractability of conflicts. Nature and nurture can radically shift the escalation or de-escalation of the trajectories within conflictive patterns. The social-emotional aspects can build trust or contribute to mistrust. It can have a significant impact on the outcome of a negotiation. The human phenomenon deserves a deeper understanding from the social-emotional perspective first in order to build trust and break down the walls of mistrust. The outcome of a balanced conflict resolution approach depends on it.

References


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Social Intelligence: What Social Neuroscience Tells Us about Emotions: Yours, Mine, and Ours

Social neuroscience is an emerging interdisciplinary scientific field utilizing scientific research techniques from the field of neuroscience to discover what happens in the brain as people interact with one another. What makes it complex is the challenge to explicitly link neural processes to concepts like moral dilemmas, empathy and self-regulation (Decety and Keenan 2). It is clear that these discoveries, now in preliminary stages, will uncover an exciting new arena with many implications for the field of mediation.

The spark that ignited the field of social neuroscience occurred in the early 1990s. Researchers observing motor neurons firing in monkeys as they lifted objects saw similar firings of neural activity when the monkeys were passively watching lab technicians engaging in similar physical activity (Hawaleshka 23). They concluded that neurons fire in a way that mirrors actions we see in others as if we ourselves were performing the activity. The concept of the mirror neuron was formed. Mirror neurons allow people, even as they are trapped within themselves, to have a good understanding of what others might be feeling or what mood someone is in (Nash 3). Brains contain multiple mirror neuron systems, some that allow mimicking of action and others that allow reading of emotion, intention, or extraction of social implications that surround the actions of others (Goleman 42).

Mirror neurons operate on a subconscious level, reactions are reflective and involuntary but they also are capable of embedding in the brain the meaning behind the movements (Nash 2). As Wray Herbert has observed, there is a close link between the action and the emotional reaction to it. It is why we grimace when we see someone hurt or why a baby smiles when she
sees her mother smile. Our physical reactions in response to someone else’s actions—the grimace or the smile—in turn releases emotion in our bodies—pain at the grimace or joy at the smile. The collaboration between the mirror neurons and the parts of the brain that regulate emotions creates the ability to discern the thoughts and feelings of others (Bower 273). Mirror neurons are suspected in being the integral neurological foundation of empathy (Bower 273 and Herbert). Empathy is a shared feeling between two people, a connectedness that creates a platform for interaction and collaboration (Albrecht 30). Empathy has three meanings: knowing another person’s feelings, feeling what that person feels, and responding to compassionately to another’s distress (Goleman 58).

Commentators in the field of mediation have long noted the critical role of empathy in dispute resolution. In a three part study of mediators and advocates, Stephen Goldberg and Margaret Shaw noted that a core element of mediator success was the ability of the mediator to establish a relationship of trust and confidence with parties (414). Building this rapport requires attunement, a sustained form of empathy (Goleman 86), mutual attention, shared positive feelings and a well coordinated non-verbal duet (Goleman 29). Body language is a critical component to building empathy and is demonstrated by matching body posture, physical orientation and gestures (Albrecht 143). Empathy is built by “making an effective connection with another person, based on where he is, what he needs, how he views the situation and how he sets priorities” (Albrecht 148). The field of neuroscience is unveiling the pathways for the creation of empathy and rapport.

It has long been understood that people can catch emotion like catching a cold and that this is an unconscious happenstance (Jones and Bodtker 232). The connection between people as they engage with one another creates a joint neural firing system known as an oscillator which acts to regulate and harmonize each so that it is in synch with the other (Goleman 34). When two
people are engaged in interaction, “contagion spreads via multiple neural circuits operating in parallel with each person’s brain. These systems for emotional contagion traffic in the entire range of feeling from sadness and anxiety to joy” (Goleman 39). The more empathetic the relationship between the two, the stronger the loop.

What results is the formation of a social neural loop “a formation between two brains of a functional link, a feedback loop that crosses the skin and skull barrier between bodies…forming what amounts to an interbrain circuit” (Goleman39). Strong loops amplify the resonance letting feelings, thoughts and actions synchronize (Goleman 40). “Mirror neurons make emotions contagious, letting the feelings we witness flow through us, helping us get in synch…We feel the other in the broadest sense of the word: sensing their sentiments, their movements, their sensations, their emotions as they act inside us” (Goleman 42).

Enthusiastically embracing a social neural loop will no doubt allow mediators to strongly connect and gain trust and confidence of parties and be more effective at work. However, like many in helping professions, mediators have a higher susceptibility to emotional contagion because of the way mediators must remain open to others, attending to verbal and non-verbal cues and reflecting back emotions (Jones and Bodtker 233). Just as we can attune to and have our outlook altered by another, we can impact others in similar ways. Radiating calm during mediation is not just a matter of appearing professional, it is a stepping stone to creating a productive setting between parties and an expectation of the mood that will permeate the discussion. Social neuroscience is providing clues on how empathy and rapport are built and how emotions become contagious.

The discussion in practitioner circles of social intelligence (“SI”) is not yet advanced, however, the potential implications position SI to become as important, if not more important, a grouping of “soft skills” as emotional intelligence. SI has two facets, one is social awareness—
what we sense about others and social facility—what we then do with that awareness (Goleman 84). The skills of social awareness are primal empathy (sensing non-verbal signals); attunement (listening with full receptivity); empathic accuracy (understanding another’s thoughts, feelings and intentions; and social cognition (how the social world works) (Goleman, 84). Social facility requires synchrony (interacting smoothing on a non-verbal level); self presentation; influence; and concern (Goleman 84). Karl Albrecht breaks SI skills down differently than Goleman. He uses the acronym S.P.A.C.E. to describe his components of SI which are situational awareness (ability to read intent and emotional states in others); presence; authenticity; clarity and empathy (29-30). No matter which definition of SI skills is more accurate, each has substantial areas of overlap. From these lists, it is possible to begin to focus on ways to develop the skill set needed to increase SI in mediators. The next frontier in mediation training will involve assimilating neurological findings into training techniques that will increase mediator’s fluency with emotional and social intelligence.

Social neuroscience is helping to give mediators new insights on how to create the right atmosphere for more productive conversation and making it clear that building the space for the conversation derives, to a large extent, on the ability of the mediator in understanding the way the brain processes information so optimum discussion can take place. Success depends on how accurately a mediator can connect with each person and how well they can maintain their equanimity. It requires a willingness to engage with others on a visceral level. Building trust and confidence is a neurological imperative for only by being willing to form a strong, positive social loop with our parties, can we take advantage of the potential power of socially intelligent mediation.
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Why Do In-groups Split?

“Our problem is with a small group who rose up against legitimate authority. The coup must end immediately and ranks fall in behind the legitimate president, Mahmud Abbas.”

Nabil Abu Rudeina, Palestinian Authority Spokesman, 2007

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Social scientists tend to address the dynamics of any conflict within a simplified duality: 
in-group versus out-group. The in-group maintains self-glorification while the out-group becomes the object of negative perceptions and discrimination. However, this duality is neither static nor constructed on a rigid or flat social base. For example, Palestinians now have split between new identities: Hamsawi (pro-Hamas) or Fathawi (pro-Fatah). Scholars interpret this transformation as a spillover of the original conflict. However, this concept may reveal the dynamic nature of the conflict, but does not explain the implosion of the in-group.

My paper aims to two questions: First, why do in-groups split into political and cultural sub-groups while still maintaining the enmity with the main out-group? Presumably, alternative typologies will capture the nature of this social transformation of the in-group beyond the limitations of spillover framework. They will illustrate the process of fragmentation of the old dysfunctional 'we-ness', and reconstruction of a new 'we-ness'-'they-ness' nexus. Second, the fluidity and transformation of the enmity system from a bi-lateral structure into a triangular and revolving mode, where each group perceives itself as an in-group versus two out-groups.
In-group fragmentation:

The 60-year-old Israeli-Palestinian conflict should no longer be perceived as a mere border, ethnic, or religious conflict fueled by suicide bombings, military incursions, failed rounds of peace talks, and divergence of narratives of historical rights, legitimacy, and self-determination. Similarly, the enmity system between Israel and the Palestinians has not been static within one in-group/out-group framework, especially after the establishment of the Palestinian Authority as a quasi-state in 1994. International linkages have contributed immensely not only to the various modes of the conflict, but also to a stimulated fragmentation process of the Palestinian in-group. Indirectly, they have energized the psychological variables, which emerged out of the sense of fraternalistic deprivation among the majority of Palestinians.

After the collapse of the Saudi-brokered Mecca Agreement\(^1\), the Fatah-led Palestinian Authority and elected Hamas officials reached a political impasse. In June 2007, bloodshed erupted in Gaza after deposing a short-lived government led by Hamas’s Prime Minister Ismail Haniya. Instead of the classic ‘we’ (Palestinians) versus ‘they’ (Israelis) divide, new narratives of representation and legitimacy forcefully emerged around ‘we’ (Hamas) versus ‘they’ (Fatah). These subgroups sought to establish two \textit{de facto} realities: Fatah governs the West Bank, whereas Hamas rules Gaza, while Israel controls all crossing points to Gaza and imposes a blockade on its population. Subsequently, violence became a “rational response to strategic dilemmas fueled by fear”\(^2\). Both groups’ aspirations have become clearly incompatible. Palestinians still contest Hamas’s ‘legitimacy’ of governance and Fatah’s decision ‘constitutionality’. Most Palestinians have split between two camps with two distant positions fueling more controversy over Hamas’s ‘illegal coup’, and Fatah’s ‘illegitimate government’.

\(^1\) Both Fatah and Hamas leaders vowed to form a coalition government and prevent bloodshed in an agreement signed in Mecca, Saudi Arabia, February 8, 2007  
Internal and external linkages:

After the parliamentary elections of January 25, 2006, Hamas, the ‘absent’ stakeholder from the Oslo Accords (1993), emerged as the new leader with the reputation of the ‘party that serves the people’. However, US Secretary of State Condoleezza Rice convinced most of the international community to isolate Hamas on the premise that it could not “have one foot in politics and the other in terror.” In contrast, Hamas leadership emphasized the West’s ‘hypocrisy’, “It is a rejection of the democratic process, which the Americans are calling for day and night”, said one Hamas official.

Subsequently, most Gazans have regrouped around the deposed Prime Minister. Haniya, a frequent Imam at Fridays’ prayers in Gaza city, advocates the idea of restoring “religion to its rightful place at the center of society, culture, politics, and law”\(^3\). The emotions of trauma and victimization are often perpetuated by Friday’s sermons before prayer, and frequent funeral ceremonies of the falling of the Movement’s militants. What is happening now between Hamsawis and Fathawis is a relational shift shaping two distant identities by vivid religious markers and ‘bitter residue in people’s minds’.\(^4\) The social and economic disparities have also contributed in Hamas’s popularity with the adherence of more resilient believers and “caring, idealistic, and morally committed persons.”\(^5\) After visiting Gaza, Harvard political economist Sara Roy started to develop her concept of ‘de-development’, as a “process that undermines the ability of an economy to grow and expand by preventing it form accessing and utilizing critical inputs needed to promote internal growth beyond a specific structural level.” Over time, devalued groups like Hamas become radical, while their ideology turns extreme. Ironically, some

NGOs officials noted, "The more successful the strategy of choking off Gaza and rewarding the West Bank, the greater will be Hamas's motivation to sabotage it."6

Limitations of spillover framework:

Most conflict theorists derive their definitions of the in-group transformation from a presumed continuity of the original conflict. The complexity theory has been the gateway to analyze existing spillovers or predicting future ones. Still, spillover does not go beyond a related extension of the conflict, in space, time, causalities, refugees’ exodus, or economic losses. It often implies a catastrophe across the state border, as it creates some ‘interlocking patterns’ of conflict as civil war sparkles in neighboring states.7 Accordingly, Conflict Resolution tends to generalize the use of the term in describing various transformations of protracted conflicts. The concept of spillover, as a next-door effect or continuity cross the state border, may explain the dynamic nature of the conflict, but does not reveal the implosion of the in-group. It does not address the fracture of collective identity, as shared and interactive sense of ‘we-ness’. This ‘we-ness’, in terms of in-group bondage and cohesion, is not static or rigidly constructed, but rather fluid and adaptive in seeking legitimacy and recognition. Theorists like Azar noted the impact of the ideological basis of the conflict on the increasingly complex definition of "self" and "enemy," partly because of “constant goal proliferation and redefinition.”8

The following figure illustrates the disparity of perceived distance between the actors in the new enmity system. Fatah is perceived to be close to Israel than to Hamas.

1964-1993: Fatah-led PLO ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ → Israel

2006-2007: Hamas ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ ↔ → Israel

Conclusion:

6 Pelham, Nicholas. After Gaza, International Crisis group, August 2nd, 2007
7 Daniel L. Byman and Kenneth M. Pollack, Things Fall Apart: Containing the Spillover from an Iraqi Civil War, Brooking Institution Press, 2007.p. 21
The ‘we’ against ‘they’ divide is incrementally replaced by a triangular structure of the enmity system. In the Palestinian triangle, most Gazans now refer to Israel as the *enemy*, and Fatah as the *other enemy*. Accordingly, split-Palestinians create their new sense of collectiveness and competing narratives of morality and justice vis-à-vis other groups on the principle of non-sameness. Their narratives imply a divergent redefinition of what *happened* in the past; and what *should happen* in the future, which implies the centrality of *perceived legitimacy*. I argue for an alternative typology: ‘in-group implosion’ or ‘we-ness split’. Both phrases illustrate the process of fragmentation of the old dysfunctional ‘we-ness’, and reconstruction of a new ‘we-ness’-‘they-ness’ nexus on the basis of various traits and experiences. Accordingly, new enmity starts to take its course amidst minor differences and perceived fear of the future. The study of split, as a relational shift and conjunction of inner and outer mental processes of the individual, requires a better-nuanced rapport between various social sciences.

The isolation and criminalization of an identity group like Hamas will only sharpen a resilient and more radical Islamist identity in the entire region. The involvement of international linkages tend accelerate the fragmentation of the original in-group, and trumpet the necessity of eliminating one subgroup. In light of increasing identity-based conflicts, surge in failed states, and fading nationalism, I anticipate splits will be more common, through various political, religious inducements, in the next decades; a period of obvious *fatigue* of the state-actor system and *unreliability* of the power paradigm.
Ethan Finley

Toward an Integrated Theory of the Sources and Dynamics of Social Conflict

The Dream of a Unified Theory of Conflict

It has long been the dream of many in our field to create a unified theory of the sources and dynamics of conflict which would allow for prediction of and intervention into conflict at all levels. However, in spite of some attempts to create this unified theory (Boulding, 1962; Mansbach & Vasquez, 1981; Rummel, 1991), an accepted comprehensive theory remains elusive. Some scholars believe in the feasibility and value of such a project (Sandole, 1999, pp. 109-132; Vasquez, 1995, pp. 137-143), while others argue that there are significant barriers to the enterprise (Levinger & Rubin, 1994), and that it may even prove impossible (Rapoport, 1974). There are others still who express doubts that such a theory would even be useful for conflict resolution (Cheldelin, Druckman, Fast, & Clements, 2003, p. 16). It is this author’s view that an integrated theory is achievable and would be beneficial. To be complete, any such theory must incorporate all existing explanations of conflict which have proven valuable and must account for both the sources and the dynamics of conflict. This paper represents a first step in that direction.

Many Explanations of Conflict

Numerous theories of conflict have emerged from as many disciplines over the course of decades. Each purports to tell us definitively "here is the cause of conflict." A useful typology developed by Ramsbotham, Woodhouse, and Miall (2005) classifies these theories as internal (attributing conflict to sources within the participants, their human nature); contextual
(attributing conflict to features of the participants’ situation); and relational (attributing conflict to the interactions between the participants) (p. 79).

Sources

Some of the earliest theories of conflict were internal theories that ascribed it to some drive within the human organism. After the horrors of World War I, Sigmund Freud (1922), for instance, suggested a ‘death drive’ which compels men to seek destruction and to do violence to one another. Later, the Austrian natural scientist Konrad Lorenz (1967) argued that intra-species aggression is not a self-destructive tendency, as Freud believed, but is instead the result of a drive promoting individual survival. In the same vein, the founders of modern realist political theory, particularly Hans Morgenthau (1973), argued that conflict is the result of a drive for power, which allows people to maximize their own benefits and security vis-à-vis others.

Certainly the most important drive theory for conflict analysts is basic human needs theory, originally developed by psychologist Abraham Maslow (1943; 1954) and brilliantly applied to social conflict by John Burton (1979). Burton asserted the existence of universal human needs that “are a systemic requirement of the individual” (1979, p. 58). When these needs are met, the individual and society function optimally. However, peace scholar Johan Galtung argues that unmet basic human needs may result in “some kind of fundamental disintegration” (1990, p. 304) that can manifest as an unhealthy individual, or as a society in conflict. This theory is more optimistic about human nature than other drive theories, contending that people want to fulfill their greatest potential – as both Maslow and famed humanistic psychologist Carl Rogers (1961) have argued – rather than follow selfish or destructive impulses.

The second set of internal theories attributes conflict to individuals’ attitudes, emotions, beliefs, and perceptions. Two affective experiences particularly have been linked to the phenomena of aggression and conflict: frustration (Dollard, Doob, Miller, Mowrer, & Sears,
1939) and threat (Maslow, 1941). More recently other scholars (Lindner, 2002, 2006) have paid attention to humiliation as a frequent precursor to conflict. These feelings can be amplified by the perception that one is being deprived unfairly relative to some standard. This phenomenon is called relative deprivation (Davies, 1962; Gurr, 1970), and is frequently cited as the cause of violent social eruptions. A related concept is rank disequilibrium (Galtung, 1964), which states that segments of society that enjoy high social positions on some measures, but unfavorable positions on others, are the most prone to aggress in order to achieve an ‘equilibrated’ state. However, perceptions about one’s own situation are not the only perceptions thought to engender conflict. Negative perceptions of ‘the other,’ in the form of stereotypes, biases, and enemy images (Gross Stein, 1996) can also provoke aggressive behavior or even be used to justify violence.

Contextual theories of conflict attribute its emergence to features of external circumstances. Perhaps the most famous key concept in this area is structural violence (Galtung, 1969b). Galtung equates structural violence to social injustice, defining it as “the cause of the difference between the potential and the actual” (p. 168) that is “built into the [social] structure and shows up as unequal power and…life chances” (p. 171). Essentially structural violence exists when one portion of society suffers basic human needs deprivation while others have their needs met. Both Galtung and Burton argue that this condition is the precursor to social conflict. Marxist theorists also contend that inequality – specifically economic inequality separating classes – is the root of conflict. However, contemporary scholars of social movements insist that social injustice and its associated grievances are necessary, but not sufficient, conditions for contentious action. People must also enjoy the political and physical opportunity to act (Tarrow, 1998; Tilly, 1978) in order for conflict to emerge.

Dynamics
Relational theories attribute social conflict to the interactions between parties. These theories begin to consider conflict dynamics, how conflict unfolds over time through exchanges between adversaries. Functionalism (Coser, 1956) and social identity theory (Brewer, 2003; Korostelina, 2007; Tajfel & Turner, 1979) describe how groups are formed and, in the process, exclude some individuals who become ‘them,’ a potential competitor and a threat to ‘us.’ This process does not necessarily create conflict, however; it must be catalyzed by competition, usually over basic human needs (Korostelina, 2007, pp. 149-150).

Once this progression begins, conflict develops further through dynamic processes of escalation. Some escalatory models are linear (Curle, 1971; presented in Lederach, 1997, p. 65), while others are spiral in nature (Pruitt & Kim, 2004, p. 103). The latter illustrate how one party’s behavior begets a response from their ‘other,’ and vice-versa, in a cyclical manner. This notion of one side’s actions conditioning the other’s is shared by conflict theorists who adopt a narrative approach, analyzing the shared ‘stories’ created by participants in conflict (Cobb, 2008).

Many of the theories above are valid to a certain extent and provide ingredients for an overall explanation of social conflict. Before turning to a new framework which links many of these theories in a logical and parsimonious manner, let’s consider some existing models that informed my effort.

Starting Points for a New Theory

Starting Point 1: Galtung’s ABC Model

Johan Galtung’s triangular model of conflict (1969a), often called the ABC model, argues that Attitude (emotions, beliefs, and perceptions), Behavior, and Contradiction (underlying structural conflict) are the three ‘dimensions’ of conflict and that all are required for a “full conflict” (Ramsbotham et al., 2005, p. 10).
Johan Galtung’s ABC Model of Conflict

Contradiction (latent or structural conflict)
- “The underlying conflict situation, which includes the actual or perceived incompatibility of goals.”

Conflict

Attitude
- Perceptions of self, other, and the situation.
- “Includes emotive (feeling), cognitive (belief) and conative (will) elements.”

Behavior
- Actions taken in pursuit of goals in a conflict.
- “Can include cooperation or coercion, gestures signifying conciliation or hostility.”

Figure 1: The ABC Model of Conflict (from Galtung, 1969a; presented in Ramsbotham et al., 2005, pp. 9-10)
This model incorporates many of the explanations of conflict described above and is an exceptional visualization of conflict, though it doesn’t account for biology (drives) or dynamic processes over time.

Starting Point 2: Pruitt & Kim’s Structural Change Model

The Structural Change Model developed by Pruitt and Kim (2004) offers a simple, clear visualization of the traditional notion that “violence begets violence.” A predisposing conflict situation leads one actor to respond contentiously to the other, provoking in them negative emotions and perceptions, and inviting a similar, if not more highly escalated, response.

Figure 2: The Structural Change Model of Conflict Escalation

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Figure 2: The Structural Change Model (adapted from d'Estrée, 2003, p. 73; Pruitt & Kim, 2004, p. 103)
A New Synthesis

My model maintains Galtung’s attitude, behavior, and contradiction elements; adds greater recognition of the biological dimension of conflict; visualizes a system that includes two or more actors; and emphasizes the dynamic processes of conflict. This theoretical model also distinguishes between two fundamental phases of social conflict:

Phase 1: Initiation

Social conflict begins with a drive to fulfill basic human needs. This drive, however, is met by a relationship, or social system, which is unresponsive (structural violence). The structure also contains political opportunities and constraints which encourage or discourage specific responses on the part of the discontented party.

Figure 3: An Integrated Model of the Sources and Dynamics of Social Conflict, Phase 1: Initiation
The exterior state of inequality produces an interior recognition of a discrepancy between “the ought and the is” (Gurr, 1970, p. 23) of needs satisfaction (relative deprivation). This produces feelings of frustration, humiliation, and hostility. In addition to this emotional process, a parallel cognitive process occurs in which the party attempts to rationally decide, based on a cost-benefit analysis, how to act to seek redress of their grievances. Thus, affective and logical processes together ultimately determine behavior. The resulting behavior, some form of goal-oriented contentious action, may include argumentation, litigation, protests, strikes, threats, and even aggression or violence. This behavior often begets the same from the opposition, as we will see in Phase 2.

*Phase 2: Escalation*

Thus prompted, Party 1 acts to gain redress for their grievances and to achieve greater equity. This produces a change in the social structure, which may be beneficial for Party 1 but simultaneously detrimental to Party 2 (which also has basic human needs to fulfill). The mismatch between needs and social structure, now experienced by Party 2, engenders, as it did with Party 1, negative attitudes, feelings, and perceptions. These may include enemy images of Party 1, who is “to blame” for hurting Party 2. Based on these feelings, Party 2 acts to retake control of the situation, alter the relationship to their exclusive benefit, and perhaps even take revenge on Party 1.

From here, a dynamic escalatory process takes over. The conflict can become ‘decoupled’ from the original issues that incited it and continue based solely upon what ‘the enemy’ did and the need to respond in a defensive way. The irony of this vision of conflict (illustrated in Figure 4) is that it shows how the parties are linked by a shared relationship/social structure of their own creation. Thus bound, they are interdependent. Any injurious behavior fed into the relationship will come back to hurt both parties. Tragically, parties are often unaware of
this interdependence, and ascribe to ‘zero-sum’ thinking (Schellenberg, 1996, pp. 113-114).

Unless they can awaken to the fact of their interdependence, parties to conflict will continue to participate in a mutually hurtful, escalatory spiral.

Figure 4: An Integrated Model of the Sources and Dynamics of Social Conflict, Phase 2: Escalation

Conclusions and Recommendations for Further Development

The model presented in this paper aspires to be the seed for the further development of an integrated theory of the sources and dynamics of social conflict. More effort will be needed to consider additional existing explanations of conflict and to determine whether and how they fit into this scheme. Nonetheless, this theoretical framework offers an architecture which takes into account all the essential dimensions of conflict, both the precursor conditions behind its emergence and the dynamic features of its growth and development. I offer this in the sincere
hope that the newest generation of conflict scholars may finally see the dream of our predecessors, the dream of a unified theory of conflict, fulfilled.

REFERENCES

New York: Alfred Knopf.
Session I: Panel D
Alternate Approaches to Conflict, Peacemaking, & Capacity Building

“Community Based Development of an Islamic Approach to Conflict Resolution”
Christopher Mendez, Nova Southeastern University

“Lasting Impacts of Leadership Training: The Case of Burundi”
Elizabeth McClintock, Tufts University

“The Use of the Internet as a Coalition Building Mechanism”
James Coughlin, University of Massachusetts Boston

“Women Taking Agency During Violent Conflict: Case Studies of Women PeaceMakers at the Joan B. Croc Institute for Peace & Justice”
Emiko Noma, Portland State University

“Copts Possibilities to Move into a Social Non-Violent Group”
Samy Gerges, American University
Christopher Mendez

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Community Based Development of an Islamic Approach to Conflict Resolution

Introduction

This research is the initial development of an approach to conflict resolution that is based on Islamic values. This system, the Islamic Conflict Resolution Approach (ICRA) is intended to help Muslims find effective styles and strategies to resolve conflict by utilizing the Western techniques that are available to them. ICRA balances the needs of the community and input of the imams (religious leaders) with the established Islamic values. It also attempts to embody the “spirit of conflict resolution as a movement for social change and an interdisciplinary field of research” (Abdalla, 2000-2001, p. 151).

This approach (ICRA) is based on one fundamental assumption; the Islamic ideal, that every action can and should be intended and carried out as an act of worship (ibada’h in Arabic). It is commanded from Allah and the Prophet Muhammad to the Muslims to resolve conflict amongst themselves. For example, it is reported that “the Prophet ordered two disputing parties must sit before a judge” (“Life as a,” n.d.); while some verses from the Quran exemplify the same principle (e.g., Quran 49:9-10, 4:35, & 4:75). In obeying these commands (in the right manner) a Muslim would be engaging in acts of worship.

ICRA will be composed of two major elements: the contemporary social theories and Islamic principles. It is intended that such a method of research will be useful in the development of an approach to conflict resolution that is congruent with Islam and thus adaptable for Muslims. ICRA is intended to be value-based approach to resolving conflict. That is if values are
properly understood and implemented, conflict can be resolved using numerous approaches simultaneously.

ICRA attempts to demonstrate how Islam’s method of “dispute resolution, thus, attempts to operate within the larger Islamic world view, not just within its traditional legal system” (Abdalla, 2000-2001, p. 158). It developed theory and practice in the current social context; with a balanced focus to both the contemporary social theories and principles from Islamic sources. It adopted these precautionary steps to avoid the traps of over emphasis on either the Western or Islamic literature (Abdalla). This form of theory and practice development is a tool of community development and empowerment and is needed because “once local people had tasted victory through organized activism in pursuit of principles closely related to their interests, they acquired a taste for activism itself, the experience of self-organization and confidence in their collective ability to produce change” (Zubaida, 2001, p. 26).

Values

Due to lack of time, space, and opportunity, this work will focus on stating the values which ICRA is based upon.

Brotherhood and Unity

The unity and cohesion of any group of people is fundamental to effective group processes. Along these lines Islam establishes that it is an obligatory blessing upon Muslims to be united (e.g., Quran 3:102) and that negative consequences arise out of disunity (e.g., Quran 8:46, 3:105, & 6:159). This value is the primary motivator for a person resolving conflicts to keep in mind for themselves, as well as a reminder to the conflict parties.

Enjoining Good and Forbidding Evil
A basic belief that guides Islamic manners is the commandment of enjoining good and forbidding evil. It was reported that the Prophet Muhammad said,

When any one of you sees anything that is disapproved (of by Allah), let him change it with his hand. If he is not able to do so, then let him change it with his tongue. And if he is not able to do so, then let him change it with his heart, though that is the weakest (kind of) faith. (Sahih Muslim)

It is in this value that the command to resolve conflicts is rooted.

Justice

From the Islamic paradigm, activism could be interpreted as the work towards justice. Justice in Islam is a fundamental idea that should be sought after not only interpersonally but on the societal level as well. The Quran repeatedly calls for justice (e.g., Quran 16:90 & 4:58). It should be noted that justice takes precedence over peace within the Islamic context (see Quran 8:93 & 2:193). This is significant because, by definition, peace is not synonymous nor a prerequisite for justice, but rather the opposite. This is why ICRA places its focus on resolving conflicts by establishing justice.

Knowledge

Knowledge is also fundamental to an Islamic approach to conflict resolution. ICRA does not guide itself on strategies that are only found in the Quran and Sunnah. The approach will, however, attempt to utilize knowledge from every theory and practice available and use the Quran and Sunnah as the ruler with which to measure the acceptability of the strategies. This method indicates that knowledge can be implemented as long as it does not contradict Islamic principles. It is narrated that the Prophet Muhammad said: “Seeking ilm (knowledge) is incumbent on every Muslim” (Sahih Bukhari). It must be noted that there is one special condition set on the acquisition of knowledge; that being that the knowledge must be beneficial. Jabir ibn ‘Abd Allah narrated, I heard the Messenger of God (the Prophet Muhammad) saying:
“My Lord I ask you for the beneficial knowledge, and I seek refuge with you from non-beneficial knowledge” (Sahih Bukhari).

**Mercy**

Evidence indicates that it is important for ICRA to embody the concept of mercy. Mercy is important because it is mandatory upon a Muslim to do so as is indicated by the Quran and Sunnah. An example of such evidence is that Jabir bin 'Abdullah narrated: The Prophet Muhammad said, “He who is not merciful to others, will not be treated mercifully [by God]” (Sahih Muslim).

**Patience**

Patience is also of most importance in an Islamic approach. This is especially useful about which to remind disputants. To remind disputants that patience is valued and commanded upon them by God and his Messenger will likely increase internal identification as a Muslim. A well suited verse states: “O you who have attained to faith! Be patient in adversity, and vie in patience with one another, and be ever ready [to do what is right], and remain conscious of God, so that you might attain to a happy state” (3:200). This example lays out the importance of patience and its promised reward.

**Restraint**

ICRA also set forth the guideline that restraint should also be practiced, especially if violence is involved. The Quran states that one should show restraint because an enemy might become a friend in the future (e.g., Quran 60:7). It also establishes the practice of restraint against those that restrain themselves from being violent against you (e.g., Quran 60:8). The Quran also delineates that a response to an attack should not increase in intensity, covenants should be respected, and that speech should be withheld to only that which is beneficial. The
concept of restraining from punishment is further validated by research in game theory (Dreber, Rand, Fudenberg, & Nowak, 2008).

Forgiveness

Forgiveness has long been underestimated as an effective tool in conflict resolution. However, in Islam it is highly regarded and rewarded. Said and Funk (2001) stated that in Islam what is “sought is a reformation or moral good accomplished by sincere forgiveness” (p. 6). There are also numerous Quranic verses that exemplify this value (e.g., Quran 42:37-43). There is also numerous prophetic sayings that elaborate on this effective conflict resolution practice; in that manner that accepting an apology is mandatory and rejecting one is sinful.

Conclusion

It is with much hope that ICRA will form a new basis for resolution of conflict, at all levels, within Muslim society. By utilizing the tenets; beliefs of justice, brotherhood and unity, enjoining good and forbidding evil, forgiveness, restraint, patience, mercy, and seeking knowledge; participants will be better able to acknowledge both their Islamic values and Western tools. It is believed that the stated tenets of ICRA if grasped, reviewed, and understood by participants will establish justice and contentment with resolution.
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Thoughts on Capacity Building Efforts in Post-Conflict Contexts: The Case of Burundi

Introduction

Peace agreements rarely bring about lasting peace on their own. There are numerous instances where the warring parties have signed peace agreements and resumed fighting shortly thereafter. One cause of these failures may be that the peace processes do not create an environment where the necessary relationships can be built between parties to ensure the effective implementation of the peace accords. Little if any effort is focused on capacity building in communication, conflict management and negotiation skills – all critical management skills for any new government official, particularly in post-conflict contexts. Burundi presents us with a unique case – an opportunity to examine the impact of leadership training programs both on individual leaders and on the institutions responsible for the implementation of peace accords. According to Howard Wolpe et al, “Burundi may be the first case of a country just emerging from conflict in which key leaders have integrated into their peace process a national training program explicitly designed to rebuild their capacity to work effectively together in advancing their country’s postwar reconstruction.”

This paper will take a preliminary look at the work of the Burundi Leadership Training Program (BLTP) in an effort to better understand one leadership training program and its potential for having long-term impact in post-conflict environments. It is not within the scope of this paper to fully evaluate the success of the BLTP but rather the purpose here is to raise questions whose answers, it is hoped, will ultimately lead to more effective approaches to
conflict management and more concrete suggestions for how to design implementation processes to assure that peace is truly sustainable.

Background on the BLTP

In March 2003, thirty-five leaders Burundian leaders gathered in Ngozi, Burundi for the first of three unique seminars – a process that became known as the Burundi Leadership Training Program (BLTP), later established as a local NGO. While the Arusha Accords had been signed two and a half years earlier, Burundi had not yet seen an end to its civil war. These leaders, identified by both their Burundian peers and international observers were going to attempt to build relationships across conflict lines – relationships that were to play a key role in the initial implementation of the peace accords and, indeed, were to form the basis of Burundi’s post-conflict development. Much skepticism surrounded the workshop. However, the unique nature of the group, the skills and tools shared, and the singular objective of building key relationships across conflict lines ultimately resulted in a network of 95 leaders that has begun to have a notable impact on sustaining Burundi’s peace -a network whose influence has continued to grow as its membership has now multiplied to include over 7500 national and local leaders.

Two anecdotes convey the special character of the BLTP training. Towards the end of the second seminar in Ngozi, a former spokesperson for the rebellion and a colonel from the former Burundian army – the alleged “triggerman” for the assassination of Burundi’s first democratically elected President – found themselves working together in a small sub-group. The improbability of this situation was best expressed by the former spokesperson when he declared “Name your selling price for the photo of me sitting beside that man! In a million years I never imagined it possible that I could sit with him. And now we have even been able to communicate and found that we agree on a possible solution to one of Burundi’s problems.”
In a second case, at the beginning of the workshop for the Integrated Command Commission charged with stewarding the reform of the Burundian Army, a Major from the former Armed Forces of Burundi was seated next to a Colonel from the former rebel forces. The tension in the room was palpable and the animosity between these two men was especially evident. When asked to participate in an introductions exercise, where pairs of participants first interviewed each other and then presented their partner to the group, the Major asked, “Why do I need or even want to know his name?” After this unpromising start, the two begrudgingly participated in the exercise, learning that they had several things in common. By the end of the five-day workshop, the two were practically inseparable, grabbing a beer together most nights in the canteen. Within three weeks of the workshop’s conclusion, the members of the Commission then went on to resolve three of the most contentious issues facing them – issues that had lain unresolved for the previous five months. As one participant put it, “We are now able to put ourselves in the shoes of the other and understand their perceptions. This helps us to deal with our conflicts.”

As these anecdotes demonstrate, the BLTP training process has had impact. The personal transformation experienced by some of the participants is inspiring. Stories abound about rekindled friendships; joyous returns to Burundi after 30 years in exile; misperceptions corrected; and new relationships established. However, the personal transformations taken together constitute a necessary but insufficient foundation for peace. In order to have a significant impact on the ongoing implementation of the peace accords and to achieve a truly sustainable peace, these individual transformations must be translated into institutional change.

The BLTP’s “Theory in Use”

Before offering some reflections on how that institutional change might take place, it is
useful to understand the BLTP’s “theory in use,” as that theory informs the entire process; from participant selection to program design, from diagnostic interviews to implementation plans; from program activities to strategies for program sustainability. As the BLTP has expanded its activities and begun to reach different groups at all levels of society, it has tried to remain flexible and responsive to its participants (and potential participants) -learning at each step in the process and incorporating that learning into each subsequent activity.

The “theory in use” has been framed by the contextual realities of a post-conflict state and has primarily been rooted in three schools of thought from the conflict resolution and negotiation field. In Burundi, as in most post-conflict states, leaders face four basic political challenges:

1) Overcoming the zero-sum, winner take all mentality that results from war;
2) Rebuilding relationships amongst critical actors - both horizontally and vertically;
3) Establishing consensus on the rules of the game; and
4) Rebuilding communication and negotiation capacities of key leaders and ‘influencers’ in society.

The program was designed keeping these four imperatives in mind, and grounded in three schools of thought - combining both prescriptive and elicitive approaches.

The first school of thought is that of Human Needs theory, whose early roots can be found in Maslow’s Hierarchy of Needs and has been promoted by John W. Burton. Indeed, while largely implicit, Human Needs theory is arguably one of the strongest theoretical underpinnings of the BLTP’s work, particularly the focus on building relationships and reinforcing communication skills. Burton’s central thesis is that conflict cannot be effectively dealt with through a continued emphasis on coercive measures to “force” the individual to conform to societal norms. “Do we assume that conflicts are due to human aggressiveness, requiring and justifying authoritative political structures and processes of punishment and containment as the
means by which to control conflict; or do we assume that there are inherent human needs which, if not satisfied, lead to conflictual behaviors? In the latter case, appropriate processes would be ones that revealed such inherent sources so that there could be introduced the environment that might be required to resolve or to prevent conflict.”\(^5\) Indeed, as Burton puts it, “Individuals cannot be socialized into behaviors that destroy their identity and other need goals and therefore must react against social environments that do this.”\(^6\) Understanding that mutual recognition of respective needs\(^7\) was a critical first step to the success of their programming, the BLTP team made a concerted effort to integrate relationship building exercises into the curriculum, which allowed participants to analyze conflict using the human needs lens and develop approaches with an emphasis on “resolving” rather than “settling” the conflict.\(^8\)

The second approach which informed the development of the BLTP training was Fisher and Ury’s work on negotiation\(^9\), with a focus on using a framework to more effectively structure and conduct negotiation processes. Many of the skills shared were developed by Fisher and his colleagues at the Harvard Negotiation Project, Conflict Management Group and elsewhere. While the interest-based approach is considered to be more prescriptive -i.e. bringing predefined skills and tools to the workshop setting and then offering them to participants -the program was designed to allow for the adaptation, revision, and translation of the concepts to the sociocultural milieu in which the team was working.

The third approach integrated into the BLTP program design is championed by John Paul Lederach and includes his work on conflict transformation. Lederach’s elicitive approach “views the trainer as a catalyst for discovery and creative responses”\(^10\). The training curriculum and follow up activities were designed to maximize participant input and to value traditional
Burundian approaches to conflict resolution. In particular, following Lederach’s approach, the BLTP targeted a range of leaders, not simply those at the top of the power pyramid, in order to maximize impact of the training process and to ensure that implementation of the peace accords would become the responsibility of citizens at all levels of society. The original Ngozi network includes religious leaders, educators, army officers, NGO and other community leaders, youth, and government officials. This multi-layered approach resulted in a broad range of follow up activities and programming that touched actors such as the Burundian National Police, officers in the Burundian army, members of political parties, and ultimately over seven thousand grassroots leaders in central Burundi.

Institutionalization?

Within the context of the BLTP’s work, we have documented that personal transformation can influence institutional change. However, this is rare and indeed, where we observed institutional change in one body we did not observe the same level of change in another. For example, within the institution of the Army we have documented the value that participants place on the skills, tools, and relationships developed during the BLTP training and their perceptions as to how these skills and tools have positively impacted the institution and contributed to long-term peace. However, within political institutions such as political parties or parliament, we have not seen the same changes. The stories of personal transformation are similar but the institutional impact is lacking. The next step in the BLTP’s trajectory is to determine how to address this gap.

A brief example illustrates the necessity of effectively integrating institutions and an institutional approach into the the BLTP’s efforts. Since the end of the civil war, substantial resources have been invested in a range programming designed to assist Burundians to confront
the wounds of war and to develop the relationships necessary to move Burundi forward in a process of development. While much of the programming has been targeted at individuals, some of it implicitly using a human needs approach to help participants to identify and deal with the key drivers of the conflict (including recognition, sense of belonging, right to access to resources, among others), it was quickly recognized that in order for Burundians to benefit, efforts had to be made to engage institutions, as well as individuals, especially as institutions serve as aggregates of and sometimes proxies for a collection of human needs. Equally important, designing programming that worked through institutions made it possible to reach a larger number of participants than had originally been anticipated.

After the success of the Ngozi process, the Army Chief of Staff requested that the BLTP design a training program, targeted at officers in the new Burundian Army. The program succeeded in aiding participants to develop relationships across conflict lines, specifically focusing on a mutual recognition of the “other’s” perception of the conflict and its causes. The needs met through this process, as extrapolated from participants comments, included recognition (of them as a member of a specific identity group, as well as of their competence as an officer), security, self-esteem, and status. While important, this work with individuals did not go far enough - in order to prevent future conflict involving the Army, it was necessary to work through the institutional structure to change behaviors and attitudes at all levels. The result was both an acknowledgement of the officers’ previous identities (e.g. rebel soldier fighting for “the cause” or Army colonel charged with protecting citizens from being massacred) and the creation of a new identity group - the Burundian National Defense Force - ready to serve the new goals of a republican, non-politicized Army command. In this case, the institution, once a cause of conflict, served as the vehicle throughout which negotiation and conflict resolution strategies
were spread and through which an increasingly large number of officers and soldiers could be reached with similar programming. This institutional success has had a direct impact on the successful implementation of the Arusha Accords.

Unfortunately, the BLTP’s work with the Burundian Army was not as successfully transposed to other institutions and organizations. Training for parliamentarians, for example, did not achieve programmatic goals, certainly not at an institutional level and there is evidence to suggest that even personal transformations were not sustained. It may be that political expediency prevented members of opposing political parties from coming together to create a more effective working environment -particularly in Burundi (as in other developing countries) where having your party elected to power can literally mean life or death (or near death) for your family as it is through the party that jobs are found and lucrative opportunities are awarded.

Another reason that BLTP training activities were more successful in the Army than in the parliament may be due to the role of the Army Chief of Staff (who later was named Minister of Defense). The Minister of Defense made the BLTP approach a training priority for all top officers and allocated resources to the partnership. He named a point person with whom the BLTP would regularly work and advocated for a training of trainers program. A strong leader, setting the tone for institutional transformation, created an environment in which a program like the BLTP’s could gain traction.

Questions for further exploration

Evidence is beginning to mount that training and capacity building efforts can contribute to the successful implementation of peace accords. However, there are many questions that require further exploration before the verdict can be delivered. General questions might include:
Are training and capacity building initiatives for high-level leaders in post-conflict contexts an effective way to promote post-war peace building and sustainability? Are there other mechanisms, involving access to more concrete resources that might be more effective? What is missing from these efforts and how can training be rendered a more effective tool in the search for sustainable peace?

And at a more specific level: Are some institutions better positioned to benefit from leadership training than others? Why has the program targeted at the Burundian National Defense Forces worked more effectively than the program targeted at parliamentarians? Are there certain assumptions about infrastructure, education levels amongst members of the target group, resources available, organizational culture, and leadership that make leadership training programs more successful in some cases than in others?

Finally, what is the relationship between training in leadership, communication and conflict management skills and the accomplishment of very specific, concrete objectives related to a peace process? How can we avoid the phenomenon of “training for training’s sake”? How can we distinguish between these different types of programs? If we are interested in ensuring the sustainability of our efforts, is it enough to train only high-level elites or is it important to work with non-elites as well in order to provide lasting positive impact on peace and development? Only when these questions have been fully explored can we begin to get an understanding of the potential impact of capacity building efforts in a post-conflict context and how programming should be designed to maximize that impact.

Notes
3 Both anecdotes are the personal recollections of the author and BLTP team members present at the Ngozi workshops.
As described by both Maslow and Burton, human needs can include status, recognition, belonging, basic survival needs, among others. Burton distinguishes between “disputes” (arguments, debates or quarrels that can be dealt with by compromise and/or some form of power bargaining) and “conflicts” (struggles over resources, ideas, values, or deep-seated needs). How these are then dealt with also differs, with disputes being “settled” (through the use of negotiation or mediation) whereas conflicts are “resolved” (problem solving by deeply analytical means, where no element of coercion is implied). For further detail on these and other definitions from Burton’s Human Needs framework, see John W. Burton, Conflict Resolution: Its Languages and Processes, (London: The Scarecrow Press, 1996).


See for example, Lederach’s discussion of the levels of leadership in John Paul Lederach, Building Peace: Sustainable Reconciliation in Divided Societies (Washington DC: USIP, 1997) chapter 4.

See for example Search for Common Grounds’ Studio Ijambo, CARE-USA’s work with returning refugees and the internally displaced, and PADCO-AECOM’s work with demobilized combatants.

Based on author’s personal involvement in training program. For further information, see the final monitoring and evaluation report produced for DfID, “Program Impact within the Burundian Forces de Défense Nationale” by Adrian Johnston (2007).

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The Use of the Internet as a Coalition Building Mechanism
Since the advent of the World Wide Web, the way in which human beings communicate and interact has undergone drastic transformations. Through the use of websites, email, and chat rooms, information can now be sent from starting point to destination with amazing speed. Anyone who utilizes the internet is able to appreciate the ease of information sharing. However, one medium of the internet’s use that may not be as obvious is its use as a tool to build coalitions and consensus among people with common goals and objectives. In 2004 a group of Sicilians in Palermo created a non-profit organization named Addiopizzo designed to combat the Mafia’s use of extortion rackets. The implementation of a website has enabled this group’s mission to expand and gain consensus among business owners and consumers in Sicily.

For centuries the Sicilian Mafia, a criminal organization also known as “La Cosa Nostra” has oppressed the people of Sicily, the island off the coast of the Italian peninsula. This criminal enterprise has prospered off of extortion rackets, violence, intimidation and the silence of the Sicilian people. However, in 2004, a group of students and business owners formed the group “Addiopizzo,” which in English translates to “Good Bye Racket.” On a micro level, Addiopizzo has used the internet to enable Sicilian business owners to recruit new members and build a coalition to stand up against the extortion rackets. On a macro level the nonprofit has been successful in empowering the population of Sicily to speak out against the Mafia by shopping at stores who refuse to pay the extortion and are thus “pizzo free.”

While the notion of speaking out against the Mafia’s use of extortion is not entirely novel, the voice of a united group is. It was not always as safe to take a stance against the Mafia as it is now and the ability to build a united coalition with the help of tools such as the internet makes the fight against Mafia extortion payments even more feasible. However, in order to understand the dynamic of the extortion racket and its effect on the economy in Sicily, one must first study the nature of the relationship between the Mafia and the businesses from which they
extort money. The relationship is structured on a power imbalance in which the Mafia utilizes violence to reinforce its asymmetrical nature.

During the 1980’s and early 1990’s taking a stand against the Mafia and their tactic of extorting money from legal businesses had an extremely low level of perceived feasibility. In other words, the strategy of taking an overt stance against extortion payments did not seem “capable of achieving Party’s goals at an acceptable cost and risk.”\(^1\) Therefore, the most feasible strategy employed by business owners to keep themselves, their families and their stores safe and secure was to yield to the Mafia and to accept the stranglehold created by the extortion racket.

When on rare occasion a business owner employed contentious tactics to defy the Mafia and the extortion payment, those actions would instigate drastic ramifications. In early 1991 a man by the name of Libero Grassi began refusing to pay the monthly extortion payment demanded by the Mafia and eventually made use of more contentious strategies such as writing a letter to the Mafia published in a Sicilian newspaper, in which he vowed that he would not pay.\(^2\) Grassi even went on national television denouncing the Mafia’s extortion scheme while pleading for other business owners to join him. However, Grassi became isolated from fellow business owners as many viewed him as maniacal. In fact, “the more he denounced what was happening, the more his colleagues abandoned him, accusing him of attracting negative publicity to the businesses of Palermo.”\(^3\) To the Mafia, Grassi’s behavior was seen as a major threat since “omerta” or the silence of victims is integral to the overall success as a criminal organization.\(^4\) The Mafia thus saw fit to silence Grassi and on the morning of August 29, 1991 he was shot and murdered.\(^5\)

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\(^3\) Schneider, Jane, and Peter Schneider. *Reversible Destiny: Mafia, AntiMafia and the Struggle for Palermo*. Los Angeles, Regents of the University of California. pp 230.


Towards a Free Market Future: Finishing Libero’s Fight by use of the Internet

The tragic killing of Libero Grassi, as well as other high profile murders, allowed a grassroots initiative such as Addiopizzo to succeed. The founding members of Addiopizzo are themselves members of “a generation whose adolescence was punctured by the murders of anti-Mafia judges, journalists and entrepreneurs.” Thus the terroristic events caused by the Mafia sparked a sense of revolution within the Sicilian youth population. The Addiopizzo movement began in 2004 when a group of Sicilians discussed opening a bar in Palermo. The subject of the discussion quickly turned to question what would be done if they were asked to pay extortion. Shortly thereafter this group of youths launched an anti-extortion campaign by posting stickers around the city of Palermo that stated “A whole people who pays the pizzo is a people without dignity.”

One of the next steps taken by Addiopizzo was to recruit participation of business owners and publish the names of shops on a website that is accessible to not only the Sicilian population, but the international community as well. In the four years since the birth of the extortion rebellion in Sicily, awareness of the extortion rackets and the movement against them has grown exponentially. As of August of 2008, 279 businesses have refused to pay money to the Mafia extortion rackets and countless articles have been written in international newspapers regarding the movement. Addiopizzo has also been successful in enabling other groups to take a stand against the Mafia’s use of the Pizzo. In September of 2007, Confindustria, which is the federation of Italian industrial employer’s, implemented a policy which expelled members who

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were caught making extortion payments. This new procedure has thus made it arguably more costly for businesses to pay the extortion racket than to refuse.

Addiopizzo has thus far been successful in addressing the underlying interests of both business owners and consumers, since neither group benefits when extortion payments are made. Furthermore, Addiopizzo has succeeded in using the internet to facilitate a consensus among business owners and consumers to build a coalition to fight demands for payment of extortion. In the words of Enrico Colaianni, an anti-extortion activist:

All you need to do is introduce consumers to producers, neither of whom want to pay the pizzo, and bring about a common bond, a more ethical consumption and a client loyalty which is absolutely guaranteed.

To borrow the words of Edmund Burke in his treatise Thoughts on the Cause of our Present Discontents, 1770, "When bad men combine, the good must associate; else they will fall one by one, an unpitied sacrifice in a contemptible struggle." Through the utilization of the internet Addiopizzo has been able to make Burke’s words actionable by facilitating unity among consumers and business owners and thus increasing the perceived feasibility of battling the payment of Mafia extortion also known as the pizzo.

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In March 2007, I sat in the theatre at the Joan B. Kroc Institute for Peace & Justice (IPJ), viewing the documentary entitled “Reversing the Ripples of War,” about four women from pre-, mid-, or post-conflict countries—Zimbabwe, the Philippines and Uganda, and Cambodia—who were attempting to build peace despite the rippling effects of violence. After the 20-minute film was over and the lights went on, a Q&A session with the filmmakers began. After one or two questions about the fortitude and bravery of these women, one man stood up and remarked, “But what good are these women really doing if their countries are still violent and poor? The war in Uganda is making headlines. Zimbabwe is going down the drain. I mean, we can’t assume these women are really having an effect.”

After working at the IPJ for over two years, I have been immersed in the kinds of questions raised by that audience member. But the more I listen to and read the stories of women who are constructing new ways of being and new roads to peace amidst deadly violence all around them, the more I understand how short-sighted his question was. The guns may not be silent, but that does not mean the peace is not being built.

Women are often portrayed as merely victims during times of violent conflict. In an attempt to challenge this portrayal, the paper investigates how women take action during and after armed conflict to contribute to building holistic cultures of peace. The purpose of the present study is to answer the question: How do the methods and activities employed by women working toward peace in countries experiencing or recovering from violent conflict challenge conventional notions of peacebuilding?
To answer this question, then, it is essential to understand the conventional notions of peacebuilding. The exploration begins with the UN and its various agencies because of its obvious monopoly or predominance in official peace activities. The UN, as a general rule in its policies and practices, views peacebuilding as the third and final stage on the peace process continuum: it sees peacemaking as the first stage and peacekeeping as the second stage. Peacebuilding then, as understood by the UN, occurs in the post-conflict stage, only after the first two; it is generally seen as a longer-term process. As the UN’s relatively new Peacebuilding Commission views it, peacebuilding is most concerned with reconstruction, institution-building, and sustainable economic development in countries emerging from conflict.

Academic notions of peacebuilding, however, go much further than the UN. John Paul Lederach, defines peacebuilding as “a comprehensive concept that encompasses a full array of processes, approaches, and stages needed to transform conflict.” Furthermore, these processes “both precede and follow formal peace accords” – unlike the UN’s practice – and it is not relegated to “merely a stage in time or a condition” but is a “dynamic social construct.” Elisabeth Porter says that peacebuilding “involves all processes that build positive relationships, heal wounds, reconcile antagonistic differences, restore esteem, respect rights, meet basic needs, enhance equality, instill feelings of security, empower moral agency, and are democratic, inclusive, and just.”

With those definitions established, four case studies of women on the frontlines of violent conflict will be examined through the lens of peacebuilding theory. The case studies are drawn from narrative documentation conducted by the IPJ in their Women PeaceMakers Program. They are Sister Pauline Acayo of Uganda, Mary Ann Arnado of the Philippines, Svetlana Kijevcanin of Serbia, and Luz Mendez of Guatemala.
Their methods provide telling detail of the myriad ways women in settings of conflict and post-conflict are building peace. I have elucidated seven common themes. These categories are quite fluid and not exhaustive.

First, these women have concrete answers to the status quo of violence, and they use creative methods to counter or provide alternatives to that violence. These are what Elise Boulding calls “peacemaking inventions.” They don’t just say “we are against violence,” but undertake practical activities to counter that violence.

Second, these women focus on the effects of violence on civilians, and because of this sensitivity to the victimization of civilians, they cross dividing lines in order to include all parties in their activities, and to demystify notions of the other and end enmification.

Third, representative of this inclusion is the creation of parallel structures that address the needs of civilians and the needs of peace, when both are sorely neglected by the government or the international community.

Fourth, similarly, these women create and reclaim spaces for peace.

Next, all these women are clearly concerned with “the aftermath,” a misnomer. The UN, with their insistence on peacebuilding at the post-conflict stage, fails to realize that there is no aftermath for women – that even when direct physical violence may have ceased as a result of a peace agreement, structural violence may continue and psychological wounds continue to devastate individuals and communities. Because these issues are overlooked by the UN, women in the field are often concerned with healing, rehabilitation, and reconciliation.

Sixthly, all four stories show the building of grassroots capacity for peace. They are often trying to bridge the work of the grassroots to the official level.

And finally, these women see the big picture, a vision of sustainable peace, and it’s much more involved than the UN’s narrow understanding of reconstruction or development. For
example, here is Mendez’s conception of peace, which is never stipulated this explicitly in peace agreements or by the UN: “Children attending school, no illiteracy. Children wearing shoes, not barefooted. Families living in dignified houses. Hospitals providing health care to the population. No children dying from malnutrition. No women dying in childbirth. Women living in their houses and walking the streets without the threat of sexual violence. Women elected equally to powerful positions. Flourishing of arts and culture. This is my hope.”

In conclusion, the case studies of these women do challenge the UN understanding and policies concerning when peacebuilding occurs, who does the work of peacebuilding when relegated to post-conflict phases, and who then is recognized and supported in those activities. As Porter states, “conventional peacebuilding methods do not capture the full range of areas which women work toward regenerating their communities.” If peacebuilding is not done even before the end of direct violence, then post-conflict peacebuilding cannot be successful. Institutions cannot be rebuilt if communities are divided by ethnic animosities or are consumed by the presence of unintegrated former child soldiers.

To clarify, women are doing the work of peacebuilding, but it is not recognized as such because it is not necessarily done in the UN’s parameters of “post-conflict.” Thus, they are continuously overlooked and underfunded. However, while the UN’s definition is challenged by these four case studies, the academic definitions are sufficient. I argue though that they do justify and deepen those definitions, and appeal for recognition at the policymaking level.
Copts Possibilities to Move into a Social Non-Violent Group

The Context of Clashes between Muslims and Christians in Egypt:

Currently Egypt has nearly 80 million inhabitants with Christians making up an estimated 10 percent of that population. Although Coptic Christians now enjoy many of the same rights to which the Muslim majority are entitled, there continues to be a vast disparity in the actual implementation of these rights. For example, the Hamayouni law, instituted in 1856, placed restrictions on the building and maintenance of churches. These same restrictions do not apply to Muslim mosques. Discrimination still exists in the ability to build houses of worship. New churches can only be constructed with a presidential decree, while mosques are not required to obtain such permission.

Other forms of discrimination also exist. Such as Coptic Christians are under-represented in the government in leadership positions. At present, only two government ministers are Coptic Christians. Only one of the country’s 25 governors is currently Coptic, and he is the first to be appointed in many years. In relation to freedom of religion, Christians that convert to Islam face few problems from government sources but the same cannot be said for Muslims that make the decision to convert to Christianity. This difference is also noticeable on the airwaves. Television programs are interrupted for Muslim prayer times throughout the day, and programs close at night with a reading from the Koran. Television airtime in Egypt is also allocated disproportionately towards Muslim programs. In the educational system, the public school

1 (Central Intelligence Agency 2007)
2 (Compass Direct News 2005)
3 Ibid
4 (Sharp 2007) Egypt: Background and U.S. Relations
5 (Human Rights Watch 2006)
6 (Hasan 2003)
curriculum is slanted towards an overrepresentation of Islam. It emphasizes the history of Islamic civilization, virtually ignoring the history of Christianity in Egypt7.

Promoting a contextually relevant theory of nonviolence:

It is important to develop a contextually relevant theory of nonviolence in order to fully address the complexity of issues found in a conflict.

Make Conflict Visible:

As Peter Ackerman states, making conflict visible and tackling the issue requires four attributes: First, the conflict has to be important to the factions involved. Second, the conflict needs to last long enough for social dynamics to change. Third, conflicts need to have intensity. The participants must be committed to inflicting or sustaining very serious damage to pursue their goal. Finally, according to Ackerman's recommendation, Coptic must choose conflicts in which at least one party exhibited significant use of nonviolence methods, such as sanctions.8

Therefore, we must involve many grassroots actors, in addition to intellectuals and Coptic Christians, who are interested in mitigating such sectarian events between Muslims and Coptic Christians. This could be achieved through dealing with conflict between Muslims and Coptic Christians as a major issue in society. In this way, a large number of people can be mobilized for action or have a significant stake in the outcome. Putting this idea into practice, Coptic intellectuals must organize their movement not as a sectarian movement but as a social movement that has an agenda for demanding and promoting human rights for all Egyptians, including Muslims and Coptic Christians. In this sense, the participants will be committed and willing to sacrifice to pursue their goal. In this way, Coptic Christians could cooperate with Muslims and have more credibility in achieving their aims. This movement must be permanent and not only address occasional sectarian events, but continuously address widespread issues.

7 Ibid
8 Peter Ackerman & Christopher Kruegler, Strategic Nonviolent Conflict: The Dynamics of People Power in the 20th Century, 1994, p:3.
To be more operationally precise, we have to deal with strategic choices. As Ackerman states, "Conflict strategy, in the broadest sense, is the process by which one analyzes a given conflict and determines how to gain objectives at minimum expense and risk." In addition, the adversarial relations between conflicting parties could be viewed as a game between "offense" and "defense." To reach this stage, Coptic movements must adhere to certain strategies and follow principles of development, engagement, and conception.

**First Principles of Development,**

**Coptic movements must formulate functional objectives.** Chief among these objectives are that Coptic Christian movements should preserve the vital interests of nonviolent protagonists and ideally be of more compelling interest for them then for the adversary. Also, the goals of these movements must attract the widest possible support within societies affected by conflict. Third, objectives should resonate with the values or interests of external parties, in order to attract their support and potential assistance."

In this sense, Coptic Christians must express their demands on the base of equality and freedom from everyone with in Egypt not in sectarian language. For example, they have to ask for equality for different groups to have equal air time on the government-controlled TV and radio stations to broadcast their beliefs, instead of saying. "Coptic Christians want equal air time on the government controlled TV and radio stations to broadcast their beliefs to their people." This approach will present the Coptic movement as one focused on the individual as the main unit of interest not a certain group. According to Amina, Gandhi stressed that the

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9 Ibid, p:6
ultimate goal everywhere is the development of human beings. Gandhi stated that the real issue “Is the quality of human being… an investment in man”\textsuperscript{12}

\textbf{Coptic Christians must create new groups and institutions} and turn preexisting groups and institutions into efficient fighting organizations at the level of leadership, operational corps and the general population. This action requires Coptic businessmen such as and the extremely successful businessman Naguib Sawaris to establish a new Coptic organization for social services and media outlets that defend Coptic Christian rights. \textbf{Coptic Christians must secure access to critical material resources} to contribute to the physical survival and well-being of the embattled population.

\textbf{Coptic Christians must employ the help of the Coptic diasporas living in the United States, Europe, and Australia,}--estimated to be around 500,000 to 2 million\textsuperscript{13}-- as a channel to cultivate external assistance for those countries. Thus their role is to open new fronts of pressure on the opponents by bringing in third parties.

\textsuperscript{13} http://www.medea.be
Coptic Christians must also build channels of communication between activists domestically. This can be achieved by establishing media outlets. This kind of new communication will contribute to cultural change since in “What is Peace Culture,” Nagler states that we are living in culture almost founded on violence. Even when scholars of nonviolence attempt to put out a nonviolence message, they are forced use the discourse of the mainstream. Unfortunately, this kind of communication has within it notions of violence. Therefore, cultural change is essential.\footnote{Michael N. Nagler, “What is Peace Culture?” in The New Agenda for Peace Research Ho-Wong Joeng eds, 1999,pp 236: 237.}

Using cultural symbols: Symbols contribute in reinforcing the unity of followers. These symbols must be simple and recognizable to everyone, making them a rally point for entire movement.\footnote{Peter Ackerman & JACK Dulvall A Force More Powerful, Palgrave,2000. p: 290.} An example of this could be found in Palestine, where the kuffiyeh is used as a symbol of Palestinian unity.

Coptic movements must promote a decentralized movement where individual groups and social networks would be encouraged to create a bulwark of resistance against sectarian events in different areas. The Coptic movement must also create charismatic leaders who are able to lead and make decisions while at the same time adhering to the functional goals and ends of the movement.

Principles of Engagement

Coptic Christians must identify their opponents (conservative Muslims and groups, the Egyptian government and its institutions, such as the police). After that, they must attack the opponents' strategy of consolidating control through establishing influential groups who believe in a broad concept of citizenship. These groups could help in combating any sectarian events and boycotting those who practice religious discrimination against anyone because of religion, such
as *Al-Tawhed Wal Nour* shops, *Alosboaa* newspaper, *Alnabaa* newspaper, *Albian* newspaper, etc. If we manage to have a connection with influential groups within Islamic movements, police, and military, then we can alienate opponents from expected bases of support and mute the impact of their actions.16

Coptic Christians with Muslims must move together in nonviolent movements but at the same time they must be careful to get out of harm's way or opponents' instruments of violence. Coptic Christians must escalate demands when the opponents have few alternatives due to their domestic and external isolation. Coptic Christians and their protagonists must be prepared to expect the worst and must learn not to equate causalities with defeat; they have to negate the long-term significance of the actual losses. They have to mobilize their resources to mitigate suffering if they could not eliminate it. This Coptic Christian movement must maintain discipline. This discipline must remind protagonists of the choices of what to fight for, whether to fight at all, how to fight, and when to stop. This discipline will optimize the complete range of available nonviolent alternatives.17

**Principle of Conception**

According to Ackerman, I can say that Coptic movements must assess events and options in the light of five levels of strategic decision making:18

1. Knowing what policies to fight for
2. Operational planning: assumptions about the opponents that may prove true or false once the fight is under way
3. Strategic level: determines how the group in conflict will think about all of its assets, human and material, in the context of interaction with opponents.
4. Tactics level: informs individual encounters with the opponents, what they will do, what their options are,
5. Logistics level: refers to the whole range of activities that support conduct of strategy and tactics.

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16 Peter Ackerman & Christopher Kruegler, pp 35:37
17 Ibid, pp:38:45.
18 Ibid, pp: 45:48
Coptic Christians have to adjust offensive and defensive operations according to the relative vulnerabilities of the protagonists. These movements must be ready to enhance the environment in preparation for waging conflict, and make defensive corrections including dispersion of sanctions, persons, and material resources. In addition to this, they have also to sustain continuity between sanctions, mechanisms and objectives.

In conclusion, a Coptic nonviolence movement must tend to be a praxis that connects actions and theories, also be pragmatic, putting their objectives in a national context rather than in terms of sectarian demands. Second, they must achieve solidarity among Coptic Christians and moderate Muslims, then move forward supporting Coptic Christian rights. and the needed strategies to achieve their objectives and contribute in achieving change within the society's social cosmology and its four mutually reinforcing components: the society's specific pattern of matter energy use, its particular set of social relations, its prevailing philosophy about the nature of society, and its strategies for dealing with conflict.\(^{19}\)

Session II: Panel A
Conflict Consulting Workshop

“The Ups and Downs of a Consultative Experience: A Workshop on Designing Conflict Management Systems in Organizations”
Christine Chung, Molly Clark, Katharina Kugler; Columbia University
Christine Chung, Molly Clark, Katharina Kugler

Christine Chung, Molly Clark, Katharina Kugler
Columbia University

The Ups and Downs of a Consultative Experience: A Workshop on Designing Conflict Management Systems in Organizations

Abstract:

This workshop will introduce conflict management systems design through theory, interactive exercises, and the identification of critical skills. Participants will be given a brief overview of the theoretical concepts and shown how they may be applied to the consultation process. They will be guided through the five phases of the process—Entry and Contracting, Assessment, Goals and Evaluation, Design, and Reporting—and, by practicing skills in structured activities,

The Ups and Downs of a Consultative Experience:

A Workshop on Designing Conflict Management Systems in Organizations

Introduction

As in all spheres of human interactions, organizations are homes to conflicts. Disagreements between employees, frustrations with policies, and customer complaints: these are all manifestations of organizational conflict and they are processes of expressing dissatisfaction within the system (Costantino & Merchant, 1996). Such dissatisfactions and contentions must be addressed appropriately and in full or they will lead to widespread disputes, low morale, inefficiencies, and even acts of sabotage. How these can be resolved is through the implementation of a conflict management system (CMS) designed to meet the needs and challenges unique to each organization’s circumstances.

While the benefits of a CMS are clear, organizations often struggle with this choice. They may rely instead on reflex responses, falling back on their instincts for either fight or flight. The
organization’s culture may ingrain these tendencies into its members and encourage these practices, despite their inability to bring about comprehensive resolutions. A successful intervention, therefore, must be guided by sensitive change management and force field analysis, such that the organization may unfreeze from its existing destructive habits, transition into a set of constructive and collaborative processes, and then refreeze smoothly into its new and evolved system (Lewin, 1943). Furthermore, for the new system to be most effective it must satisfy the core needs of those in the conflict by identifying the interests at hand and providing ways for these interests to be fulfilled (Burke, 1994; Costantino & Merchant, 1996).

More and more institutions are recognizing the need for CMS and are turning to specialists for guidance. One such case was an organization we will call the Hudson Community Center (HCC). In the spring of 2008, HCC partnered with us, the authors, to embark on a CMS exploration, which led to a successful consultation. This workshop will follow the five phases of our consultation—Entry & Contracting, Assessment, Goals & Evaluation, Design, and Reporting—and demonstrate the fruits and challenges of our experience.

Entry and Contracting Phase

Entry and contracting marks the beginning of the CMS consultation. During this phase, the consultants will gather information about the organization’s goals, structure, and presenting conflicts, while also determining the scope of the project and building a relationship of trust and collaboration. The outcome of the following four phases depends on how much the client allows the consultants to delve into their difficulties and disrupt their work routines. The shared understanding and trust established here will encourage the client to provide the access, support, and commitment needed for a successful intervention.

We will demonstrate this phase through a role-play. After a discussion of the topics above, we will engage the participants to develop a list of questions for an entry and contracting
meeting. One facilitator will then take on the role of the HCC client and another will take on the role of the consultant. We will act out how such a meeting may proceed, incorporating the questions generated by the group. Along the way, the “consultant” will purposely make mistakes, to which the “client” will react realistically. A facilitator outside the role-play will freeze the acting at teachable moments to discuss the interaction. The participants will provide alternatives for the “consultants”, the role-play will resume, and the “consultants” will incorporate the new suggestions to bring about a successful entry and contracting meeting.

Assessment Phase

The assessment phase involves looking at the organization as a whole in order to gain an understanding of the systemic nature of conflict management. This includes gaining insights into how conflicts are viewed and handled, the nature and number of the disputes, and the dynamics between the stakeholders involved. When looking at an organization it is important to set up a participative process by involving all stakeholders in the assessment. This helps to ensure buy-in and commitment for the revised system.

Divided into three assessment teams, the participants will receive and review a packet of background information on HCC from the actual consultation. This packet will include the entry and contracting data such as the mission statement and organizational chart. Next, the teams will engage in a role-play. Participants will act as consultants and we will act as the client. Participants will discuss and make decisions regarding how to assess the organization. This includes writing specific questions and deciding how to motivate members to participate in the assessment. Using their assessment plan as a guide, “consultants” will then interview the “client”.

At certain points during the assessment, the teams will be presented with “challenge cards”. For instance, they will learn that a manager is out of town, only two of six people arrive
for the focus group, or the HCC point person does not follow through with the incentive that was promised to employees. The teams will organize and record the employee data from the focus groups. Each group will share their experiences/difficulties encountered while gathering data. Keeping in mind the information from the packet and the role-play, we will review our analysis and evaluation of the actual data, which identified major themes of conflict at HCC.

Goals and Evaluation Phase

The goals and evaluation stage determines the action plan for the consultants. Using information from the assessment phase, participants will engage in a short discussion to identify a few goals for the organization. We will then give examples of goals from our intervention such as clarifying job descriptions, establishing clear procedures and a chain of command for handling conflicts, building relationships between high and low power groups, and improving employee retention rates.

Next, we will share our evaluation plan with participants to show how progress toward the goals can be evaluated once the new system is in place. Evaluation helps to determine how well the system is working and clarifies the results and impact of the new system (Costantino & Merchant, 1996). Having clear goals in mind at the beginning of the process increases the likelihood that the design will be effective in achieving the organization’s goals.

Design and Presentation Phase

The design phase is about the whether, when, and how of a new CMS. We will focus on alternative dispute resolution (ADR) as one possibility for an organization to enhance their way of dealing with conflicts. In order to get an impression of the design phase, participants will engage in a small group activity. In three small groups participants will work with one of the facilitators, who will answer questions and guide the process, to design a CMS for the HCC.
Participants will be given a set of cards with descriptions of various possible ADR components for the design. For example, a card may read:

**Ombuds**

- A neutral and confidential individual
- Listens to concerns and gives recommendations for appropriate conflict resolution strategies
- Accessible to all parties at all levels
- May facilitate mediations

The participants will use the cards to explore and lay out an appropriate CMS design for HCC. They will be given twenty minutes for this activity followed by a five-minute discussion of their results with the facilitator.

To conclude the activity, we will present our actual design recommendation for HCC. While listening to the presentation, each participant will be asked to view the presentation from the perspective of one of several roles: middle manager, board member, etc. This will enable participants to understand the range of possible reactions that clients may have. In a ten-minute discussion, the reactions of the participants in their assigned roles will be shared, followed by a final debrief.

References


Session II: Panel B
Reconciliation and Conflict Transformation

“Restorative Justice and Culture: A Case Study of the Nickel Mines Amish”
Theresa Ralicki, University of Massachusetts Boston

“Justruth: Conceptual and Practical Approach to Reconciliation”
Laura Taylor, University of Notre Dame

Peter Stockburger, University of San Diego

“National Conference for Conflict Transformation and Peacemaking”
Jacques Koko, Nova Southeastern University

“Truth-Telling: A Double Edged Sword”
Laura Sauer, Eastern Mennonite University
Restorative Justice and Culture: A Case Study of the Nickel Mines Amish

INTRODUCTION

Restorative justice is a process used as an alternative to the western punitive system. Its purpose is to address the needs of the parties involved, restore the relationships of the victim, offender, and community, and prevent further offenses by changing behaviors. For some cultures, a restorative system of establishing justice is more common. An example of a culture using a restorative justice process can be seen in the Nickel Mines Amish community. In October 2006, a non-Amish (English) man went into an Amish schoolhouse and shot all of the female students, ranging in age from 6-13. Of the ten girls five were killed and five were injured. The Amish responded to this tragedy with processes that can be examined in terms of restorative justice. My full paper examines the elements of Amish culture that enabled the Amish to forgive, reconcile, and essentially, take part in an organic restorative justice process.

For the purpose of the UMB Conflict Studies Conference, here is a brief overview of my study.

Culture and Restorative Justice

Culture is communicated and understood through cultural representations (i.e. messages, images, and artifacts) that take place outside of an individual that are internalized and can then influence and be further transmitted through behaviors. Culture informs how people within a society act during and perceive about the processes of mourning, forgiveness, and reconciliation (Avruch, 2004).
Restorative Justice is a process for establishing justice that provides an alternative to the western criminal justice system. The restorative justice process is based on the needs and participation of the victim, offender, and community. This process aims for the transformation of the relationships of the parties involved and the hopeful reintegration of the offender into the community after establishing and agreeing to ways to improve behavior. Possible processes in restorative justice include forgiveness and reconciliation (Johnstone, 2002) (Menkel-Meadow, 2007) (Zehr, 2002).

**ANALYSIS**

In response to the tragedy, the Amish extended forgiveness to and reconciled with the offender’s family and the surrounding ‘English’ community. The process addressed the needs of the Amish and of the community. Relationships were formed through people attending each other’s funerals across cultural boundaries, and in a meeting that was held three weeks after the tragedy. In this meeting, the Amish, first responders, family of the offender, and community members met, talked, and formed relationships. B. Aldrich describes forgiveness he saw in the meeting that took place between communities three weeks after the tragedy,

“I remember the best was one of the fathers um stood up and and um this one father’s whose daughters was killed and stood up and said you know I haven’t had the opportunity to meet you prior to this um I hope that we can our families can become friends. You are welcome in my home anytime that you’d like you know and just kind of poured his heart out and his daughter was just killed by their husband, son, you know” (personal communication, January 24, 2008).

Not only was forgiveness extended, but also a wish for a continued relationship. It is through Amish communal beliefs and communal support that a restorative justice process took place.
Communal Beliefs

Religion and religious beliefs guide Amish culture and Amish life. Everyone within the Amish community hold the same beliefs, including their beliefs of forgiveness. Their communal beliefs of forgiveness are communicated through cultural artifacts, such as the bible, the reciting of the lords prayer (which speaks of forgiveness) everyday, forgiveness in songs, and in stories of martyrs in history. Everyone in the community believes that it is Gods job and place to judge others, it is their job to forgive others, for God to forgive them. But it is God’s place to judge other people, not theirs. They also trust God has a plan, though they do not understand the reasons for certain events in life, they trust God has a plan for everything (Hostetler, 1968) (Kraybill et. al, 2007) (Ruth, 2007). These communal beliefs and convictions tell the Amish to forgive and help them support each other in their forgiveness.

Communal Support

Communal support is another cultural value that aided in the forgiveness and reconciliation process. The Amish value attending to the needs of the communities over the needs of the individual. The community takes care of its own, and thus the community survives. Most people are familiar with the example of Amish barn raising. When a barn needs to be built, the community comes together to help raise the barn. This happens in other contexts as well. When someone dies, community members help the grieving family by helping with the daily chores and farm work so the family can have the time to go through their mourning rituals (Hostetler, 1968) (Kraybill et al, 2007) (Ruth, 2007). Because of Amish communal beliefs and support, they are able to act on behalf of each other.

DISCUSSION
The United States of America’s culture of dealing with crime and establishing justice is one based in the punitive system of the state, by which the processes of restorative justice are not culturally supported or explained. B. Hart describes, “first of all we have a legal framework that’s very punitive and not very restorative, and that legal framework has been so engrained in our thinking and in our ways of doing that it’s really quite problematic to make a shift” (personal communication, January 21, 2008).

It was the collective beliefs and support of the Amish community that guided their restorative justice process. If the United States, as a multi-cultural unit in itself were to try to adapt these Amish restorative justice elements to its justice system the following things would be needed:

- Communal/Shared Beliefs
- Communal/Shared Support

The United States of America is a country that consists of people from many different cultural backgrounds and value systems. Because of this, transferability of the Amish lessons to the larger United States community would be hard. In the United States there are communities of church groups, close neighborhoods, and other common interest groups that could utilize common values to structure and support its members through a restorative justice process. Individuals and groups could focus on the things that hold them together to engage in a restorative process.

For more information on what took place in the Nickel Mines community in October 2006, Amish culture and their response to the tragedy, forgiveness, reconciliation, restorative justice, Social Identity theory, Social Interdependence, and a more full discussion of the implications of this study on American culture, please contact me for a copy of the full paper.
References


Justruth: Conceptual and Practical Approach to Reconciliation

Short Description

Justruth is a term designed to capture the dynamic process of narrating the events of the past while envisioning just relationships in the future. Justruth lays the theoretical foundation for the practical transformation of relationships that constitutes deep reconciliation at the individual, community and national level. The lens of Justruth will frame the analysis of the relationship among survivors, perpetrators and truth – a key factor that must be addressed in post-conflict societies for reconciliation to take root.

Truth: Process, Product, Impact

Oftentimes, truth commission literature fails to explore the relationship between individual psychological consequences of truth-telling, the effect of truth-telling on local communities and the role of clarifying historical truth at the national level. While mention of these dimensions is common, comprehensive analysis for how truth contributes to reconciliation at each level is not. Truth is a process, a narrative of individual interpretations woven into a community’s and a nation’s history. It cannot be reduced to facts alone.

Understanding this truth is commonly reduced to the assessment of the commissions of inquiry formed to document it. In the past few decades over 30 truth commissions have been created, but what is the impact of official truth-seeking bodies? How do they contribute to our understanding of personal, community and national reconciliation?
Truth, as a concept and process, must be understood independently from its manifestation in an institution. Truth is not about “establishing facts and attaching those to individual persons… it is a social energy.” Truth commissions, on the other hand, can be broken into the dimensions of time, space, personnel, expertise and the affect of these components on different levels of reconciliation. Truth as a social energy should guide the creation of these commissions and institutions; it should not be mistaken as measurement of the institution’s successes or shortcomings.

The goal of this essay is not to debate the existential value of truth, leaving that deliberation to historians, journalists, philosophers and theologians, but move forward to a practical discussion of how truth is constructed from multiple Justruth narratives.

**Justruth: An Analytical Lens for Practical Reconciliation**

Two key components of Justruth are assimilation of all voices – survivors, perpetrators and bystanders – and attention to the context in which those voices are heard and acknowledged. This multitude of voices will ensure the fullest possible truth. The microtruth of what happened to specific loved ones and the macrotruth about the nature of the struggle of the conflict must be intertwined in the narrative.

Justruth expands the understanding of truth to be an inclusive and participatory process; it guides contextual analysis of truth narratives, both the truth-telling and the listening and receiving of that testimony. This challenges the simplistic cathartic release justification for survivor testimony. “Just revealing is not just healing. It depends on how we reveal, the context of revealing, and what it is that we are revealing.”

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53 Brandon Hamber. Does the Truth Heal? A Psychological Perspective on Political Strategies for Dealing with the Legacy of Political Violence. Edited by Nigel Biggar. Burying the Past:
John Paul Lederach understands reconciliation to be “dynamic, adaptive processes aimed at building and healing the torn fabric of interpersonal and community lives and relationships.” Therefore, reconciliation is not solely a peaceful democratic transition, or the final report of a truth commission, it is the fundamental transformation of relationships. It suggests a paradigmatic shift from the traditional framework of national security and interests to one of human security and sustainable peace. Justruth provides a conceptual framework to analyze the process and product of truth-telling and guides practical implications to promote reconciliation and transform social relationships.

South African TRC: The Long Road to National Reconciliation

The South African Truth and Reconciliation Commission (TRC) is perhaps the best known and most studied. The public images of the Human Rights Violations Committee hearings and the disclosure of torture practices in the Amnesty Committee hearings have permeated the global consciousness. As the heading suggests, the TRC was successful in taking a first step on the long road to national reconciliation. Its ability to meet the requirements of a Justruth and its impacts on individual and community reconciliation still remain to be seen.

While the name clearly presents the focus on national, top-down reconciliation, the commission initially attempted to portray itself as addressing individual and community reconciliation as well. The period for public comment was preceded by little community consultation was conducted prior to the hearings, and after the day-long hearing took place follow-up or follow-through was established. This does not detract from the findings and contributions of the TRC towards establishing Justruth, but rather highlights the need for other mechanisms to complement its work, specifically to address community and individual reconciliation.

Guatemala: Historical Memory and Justruth

Guatemala presents an interesting case-study with two truth commissions – one by the United Nations generated from the formal peace negotiations and one initiated by the Human Rights Office of the Archbishop of Guatemala – and a comparison of how these two responses to collective violence contributed to the pursuit of Justruth and reconciliation. In contrast to the South African TRC, Guatemala’s bodies of inquiry avoided using the term “truth” in the naming of their bodies of inquiry, but were explicit with their approach to truth through historical and collective memory. Their engagement with the construction of a historical narrative would lay the groundwork for future processes of Justruth and reconciliation at the local and community levels.

Recommendations

South Africa and Guatemala offer a number of lessons to the field of restorative justice and reconciliation. Culturally relevant creativity is essential to envision the forms of these truth-tools, integrating, when possible, indigenous or local methods of social and individual recovery from violence. Parallel, simultaneous, coordinated and complementary track one and track two processes would lead to a fuller and more robust Justruth and reconciliation at all levels of society.

Track one Justruth could focus on achieving some type of justice, not necessarily retribution or punitive, but restorative justice that addresses accountability. Track one Justruth would end impunity through institutional reforms, create a national macronarrative for education of future generations, and devise and implement a program of reparations for survivors which addresses the root causes of conflict. The goal would be to impact structural injustice in society exacerbated by mass atrocity.

54 Minow, “Vengeance and Forgiveness,” 87.
Track two Justruth could provide the space and create channels for individual and community healing, transforming the relationships that created a culture of violence. As noted in South Africa and Guatemala, this dimension of Justruth is a longer process, frequently carried out by local NGOs and churches. The manner in which the stories are heard and validated must be included at this level: moral recognition of suffering and apologies are important at each level of society. Together with the formal, track one Justruth processes, these efforts would deepen reconciliation in post-conflict settings, promoting complementary processes of national reconciliation and individual and community healing.

Conclusion

Truth commissions should not be confused with or compared to therapy or trials – that is not their intent. Truth commissions have evolved as a vehicle to clarify the history of the past, to prevent against repetition of heinous crimes, and in many ways, begin to take the first steps to heal a wounded society. While they might not be the most appropriate vehicle towards reconciliation at all levels, the investigation demonstrates that they have had notable success in political, or national, reconciliation.

Justruth can steer the social energies for change in the construction of the truth-tools and institutions that best fit the historical-social-political context needs of the society. The cases of South Africa and Guatemala demonstrate that truth commissions may indeed be a well-crafted tool for national reconciliation, but the Justruth lens reveals that new tools must be developed to address community and individual reconciliation. Justruth frames simultaneous processes at each level of reconciliation is needed for the reconstruction of collective memory and rebuilding of relationships. As an analytical lens it can suggest practical solutions and areas for further
research, such as developing a toolbox of track two Justruth mechanisms to complement official truth commissions at the national level.
Peter Stockburger
University of San Diego

The Science of Peace: A Closer Look at Atonement, Social Reconciliation, and International Criminal Law in Northern Uganda

Few horror stories "rival the humanitarian crisis occurring in Northern Uganda."¹ Since 1986, the Lord's Resistance Army ("LRA"), a "cult-like rebel group," and the Ugandan government have engulfed the northern region of Uganda in a bloody civil war, leaving approximately 100,000 dead, 1.6 million displaced,² and more than 25,000 children serving as soldiers, sex slaves, and porters.³ In 2005, a poll of experts ranked northern Uganda as the world's second most "forgotten humanitarian hotspot,"⁴ leaving behind a “tale of astonishing suffering and massive displacement" largely ignored by the international community.⁵

Recent negotiations between the Government and the LRA in Juba, southern Sudan, have represented the “best-ever opportunity for lasting peace.”⁶ Central to these talks have been questions of accountability and reconciliation.⁷ Despite the recent stalling of these talks, there have been continued efforts to achieve reconciliation in the region through the creation of a special domestic war crimes court⁸ and the offering of amnesty through 2010.⁹ Notably, these

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² Id.
⁴ Tim Large, supra note 1.
⁵ Id.
⁷ Id.
regional reconciliation efforts have been immeasurably complicated by the involvement of the International Criminal Court (“ICC”).

Unfortunately, the plethora of these ad hoc regional reconciliation efforts have only fueled the debate in northern Uganda, dominated by “artificial dichotomies, including peace versus justice, local versus international responses to harm, and the population’s desire for forgiveness and reconciliation versus punishment.” The effect of this polarization has been to “cloud debates about the most appropriate ways to address conflict and its aftermath.”

The purpose of this paper is to examine this debate between the application of local, restorative reconciliation methods and retributive judicial models in Northern Uganda and provide a conceptual framework for applying a hybrid model of both to achieve social reconciliation in the region. To achieve this stated purpose, this paper will consist of two parts: Part I will highlight the competing reconciliation methods currently being applied in northern Uganda; Part II will address the plausible arguments for a hybrid model application.

**Part I: Competing Models of Reconciliation in Northern Uganda**

Responsibility and accountability in northern Uganda are difficult and complicated concepts. In a recent survey conducted by the United Nations High Commissioner for Human Rights, most northern Ugandans are careful to distinguish “between notions of responsibility and accountability, identifying a wide range of parties they considered responsible for the harms caused during the conflict but only a few select parties - usually senior LRA and UPDF figures - as accountable.” This differentiation is important to the debate as most residents have

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11 UN Report, supra note 6 at 1.
12 *Id.*
13 UN Report, supra note 6, at 1.
emphasized that “not all those responsible for causing harm should be brought to account, for example through prosecution or some other form of recourse.”

In response to this dichotomy of responses, there have been a variety of ad hoc regional reconciliation models proposed. In 2000, for example, the Ugandan government adopted the Amnesty Act of 2000, "pardoning insurgents who voluntarily renounced rebellion and surrendered their arms." The Amnesty Act defines amnesty as "a pardon, forgiveness, exemption or discharge from criminal prosecution or any other form of punishment by the State." Since August of 2008, nearly 23,000 former rebels have been pardoned under the Amnesty Law. According to Ugandan officials, the largest number of the pardoned ex-rebels were from Kony’s LRA.

In May 2008, an alternative approach was taken, in part response to the activity of the ICC, as the Ugandan government set up a special domestic war crimes court to deal with cases of human rights violations committed during the 20-year insurgency in the north. This special court, a special division of the Uganda High Court, is yet to have its budget, statute and jurisdiction determined, and notably does not clarify whether government officials will be tried along with the LRA. The Principal Judge of this Ugandan war crimes court, Judge James Ogoola, has urged the court to merge the western punitive system with traditional restorative mechanisms, such as the mato put Acholiland ritual of atonement and forgiveness. These methods, according to Judge Ogoola, will provide a fertile ground for achieving forgiveness in the region.

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14 Id.
15 Hema Chatlani, supra note 3, at 288.
16 Id.
18 Id.
Finally, and perhaps most controversially, the ICC has played a major role in the peace efforts of the region. In 2005, after the Ugandan situation was referred to the ICC in 2003, the Prosecutor issued five arrest warrants against the highest leaders in the LRA. These arrest warrants have been met with mixed views, often being labeled as negotiation roadblocks, ignoring government inflicted atrocities in northern Uganda. In short, and as a result, reconciliation remains to be an elusive concept.

**Part II: A Hybrid Approach**

Unfortunately, this mixed bag of ad hoc regional efforts at reconciliation have resulted in an intellectual debate clouded by false dichotomies of peace versus justice and reconciliation versus retribution. This paper argues for a new conceptual framework to be applied to the debate, focusing on a hybrid application of local traditional justice mechanisms and international retributive justice models.

This position is not novel. A number of scholars have argued for hybrid approaches to resolve social issues in post-civil war regions. For example, as Donald Hafner and Elizabeth King have noted:

> In the aftermath of civil conflict marked by widespread human rights violations, international criminal tribunals alone cannot bear the full burden of doing justice and stitching polities back together. They must be augmented by other mechanisms.

This perspective, according to the United Nations, is particularly applicable to northern Uganda, where there is:

an overwhelming desire for reconciliation, particularly at the family, community and inter-regional levels. However, there was widespread skepticism about the potential for current transitional justice mechanisms - especially state institutions - to facilitate

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reconciliation….Many respondents argued that a multi-faceted transitional justice response, combining several processes and institutions to address different types of harm caused by different levels of perpetrators, is required.²¹

These views reflect the idea that a hybrid approach is arguably the most effective and necessary solution to the ongoing conflict in northern Uganda. The local regions that have been affected by this conflict also agree. The victims in the region are shaping their views by the multifaceted nature of local and traditional practices and their personal experiences of the conflict as both victims and perpetrators. There is a clear connection with local practices in transitional justice, however victims are normally only viewing these practices as a valuable aid in forgiveness and reconciliation with the low-level perpetrators. For many, the desire to prevent impunity and achieve some notion of justice sparks a desire for transitional, retributive justice models to be applied. These types of trials are an important contribution to peace and reconciliation, according to Louise Arbour, former Chief Prosecutor with the ICTY and former High Commissioner for Human Rights. According to Abour, how these trials are conducted should be given careful consideration:

They should be conducted solemnly and with gravitas. There is an international interest, as well as the interest of the victims, which should be set above the rights of accused to a speedy trial…in assessing where the correct balance lies between the rights of the accused and the international interest, the Tribunal should err on the side of the international interest, which is concomitant with the interest of the victims…²²

Conclusion:

Ultimately, as a hybrid approach is accepted into the intellectual fold in northern Uganda, the dogmatic exponents of either local or internationally based reconciliation models will be

²¹ United Nations Report, ii.
²² Hafner and King at 109.
relegated to the fringe of the debate. Consequently, with the theoretical foundations in place, the
NGO’s and regional institutions on the ground in northern Uganda can begin to rebuild their
society.
This paper focuses on the event of the 1990 national conference in Benin. It describes the genesis and the epiphany of the conference. The paper depicts the characteristics and the process of the conference. It emphasizes on the person of the chairman of the conference as well as on his functions. Overall, this paper presents the national conference as a model of multi-track diplomacy, which is a substantial and useful legacy for conflict transformation and peacemaking. It is a conceptualization paper which allows a systematic understanding and an appropriate usage of the national conference in divided societies.

1. Genesis

In the last trimester of 1989, as the socio-political unrest in the République Populaire du Bénin escalated to become destructive, the army observed for a while the order received from its commander-in-chief to shoot all protesters in an attempt to quell the demonstrations. Few citizens got killed on the streets while reclaiming their civil and political rights. But the shootings did not discourage the manifestations and marches. Through slogans and songs, the protesters not only expressed their willingness to fight the regime and get back their rights, but they also demonstrated readiness to sacrifice their lives to transform the course of history in Benin for the benefice of future generations. In those circumstances, President Kérékou decided to call for a national conference for nationwide problem solving.
2. Epiphany

The conference opened its sessions on February 19, 1990, in the splendid Hotel PLM-Alédjo, on a sandy beach area in the city of Cotonou. For ten days (from February 19 through February 28, 1990), 488 men and women from all categories and socio-political groups negotiated over national crisis issues. Participants into the conference encompassed all the actors in the Benin conflict, both national and international actors, state actors and non-state actors. The immediate national actors that were present at the meeting included delegates of the ruling party with the military hierarchy, political parties of the opposition and former heads of state, NGOs and religious leaders, leaders of trade unions and prominent businessmen, civil servants and the intellectual elite, student organizations and associations of farmers. An important group of diplomats represented the non-immediate international actors in the conflict (Dossou 1993; Laloupo 1993; Clarke 1994; Houngnikpo 2001).

In the presence of this honorable assembly of the vital forces of Benin, Kérékou made his opening statement, appealing to the delegates to focus their consultations on addressing the economic and socio-political crisis in Benin.

Following Kérékou’s opening statement, the negotiations unfolded under the presidency of His Excellency Monsignor Isidore de Souza. He was made president of the conference on consensus. The conference quickly decided on a working procedure and behavioral ground rules, including the schedule of sessions, the encouragement to share information, the empowerment for free speech, a sense of mutual respect and reflective listening. Gradually, participants brought the core economic, ideological and socio-political issues to the attention of the general assembly of the conference. They highlighted the adoption of Marxism-Leninism as a disastrous political disorientation that brought economic and socio-political abominations upon Benin. They
stigmatized the massive violations of human rights by the ruling party, and denounced all practices of corruption and nepotism in the hierarchy of state.

As the conference was progressing in its sessions, the participants questioned the legitimacy of their decision-making process and of the validity of the decisions of the conference. Such attitude emerged from the fear that the ruling party might refuse to implement the upcoming decisions by the conference if they require in-depth structural changes on socio-political levels. Thus, the delegates moved into deliberations that resulted into decreeing the sovereignty of the conference and its decisions as binding (Eboussi 1993; Nzouankeu 1993; Heilbrunn 1994; Clarke 1994; Decalo 1997; Houngnikpo 2001).

The proclamation of the sovereignty of the national conference comforted the participants and consolidated their sessions and decisions. The acts and decisions of the conference included the following:

- The dissolution of the 1977 Constitution, and the termination of the former legislature of Benin; a provisional and balanced Haut Conseil de la République (HCR) was formed to draft a new constitution and to assume legislative power until the election of a new National Assembly;

- The disbanding of Kérékou’s government; the conference strategically conceded that Kérékou remains as the head of state but not as the head of the government. The conference unanimously elected a Prime Minister to exert executive power for a transitional period of a year; the negotiations would also grant Kérékou a political immunity for having initiated and allowed the sessions of the conference;

- The restoration of the independence of the judicial power;

- The set-up of an agenda for presidential and parliamentarian elections;
On February 28, 1990 in a final speech that closed the sessions of the national conference, Kérékou solemnly recognized and accepted all decisions by the conference and expressed his good will to abide by those decisions (Eboussi 1993; Houngnikpo 2001). The implementation phases of the resolutions followed immediately. Following the conference, the first act was the vote in a national referendum to approve a new constitution. The new constitution stimulated the emergence of several new political parties. In the same period independent media became abundant and civil society prospered (Adjovi 1993; Dossou 1993; Eboussi 1993). The numbers of national and international NGOs increased. Civil society became a strong and important role-player in the country’s economic and socio-political reconstruction. The municipal elections as well as the installation of the constitutional court followed later. The conference transformed Benin into a heaven of peace, with a strong hope for economic, social and political development.

3. Characteristics

- Manifestation of participatory democracy and multi-track diplomacy
- Interactions of stakeholders and main conflict actors
- Media coverage for national and international participation
- Supervision by an insider president
- Building on local capacity for national problem solving
- Addressing conflict as an opportunity for change
- Symbolism, spiritual devotions and emotions in the process
- Building on African palaver for problem solving
- Reminiscence of the French revolution of May 1789
- A national family reunion for socio-political change
4. The Process

4.1 The Pre-Conference Phases

- Recognition of a Problem or Critical Conflict Issue
- Willingness to Repent or Abandon One’s Low Socio-Political Will
- Confession of Wrongdoing
- Call for a National Conference
- The Immediate Preparation

Phase 4.2 The In-Conference Phases

- Introduction or Opening
- Identification of Conflict Issues
- Information Collection over National Interests and Aspirations
- Identification of Possible Solutions
- Declaration and Recognition of the Sovereignty of the Conference
- Design of Criteria for Selecting the Best Resolutions
- Selection of the Best Resolutions
- General Report
- Adoption and Recognition of the Resolutions

4.3 The Post-Conference Phases

- Referendum on a New Constitution
- Legislative Elections
- Presidential Elections
## 5. National Conference Compared with Negotiation and Mediation

<table>
<thead>
<tr>
<th></th>
<th>Negotiation</th>
<th>Mediation</th>
<th>National Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Worldview</strong></td>
<td>Individualist (distributive) or Relational (integrative)</td>
<td>Individualist (problem-solving) or relational (transformative)</td>
<td>Systemic (national discernment for change)</td>
</tr>
<tr>
<td><strong>Meaning of conflict</strong></td>
<td>Conflict is a problem that needs resolution</td>
<td>Conflict is a problem that requires resolution / or Conflict is an opportunity for moral growth and change</td>
<td>Conflict represents an opportunity for structural change on national level</td>
</tr>
<tr>
<td><strong>Goal</strong></td>
<td>Resolving conflict through bargaining or dialogue</td>
<td>Reaching an agreement that settles conflict and satisfies the parties and the mediator / or Creating an ambiance of empowerment and recognition for the parties to attain moral growth and transformation</td>
<td>Making political changes conducive to economic transformations, stability, peace and democracy</td>
</tr>
<tr>
<td><strong>Focus</strong></td>
<td>Parties’ interests (integrative) or positions (distributive)</td>
<td>Parties’ interests / or Parties’ relationship</td>
<td>National interests</td>
</tr>
<tr>
<td><strong>Moderator type</strong></td>
<td>No third party intervention</td>
<td>Mediator and outsider</td>
<td>President (chairman) and insider</td>
</tr>
<tr>
<td><strong>Role and functions of moderator</strong></td>
<td>No third party intervention</td>
<td>As an expert, he explains and directs the mediation process towards a mutual settlement for the parties / As a facilitator, he assists the parties in reaching empowerment and recognition.</td>
<td>As a respected leader and an elder, he heads the conference and he coordinates the proceedings.</td>
</tr>
<tr>
<td><strong>Time parameter</strong></td>
<td>Open-ended or closed-ended (with deadlines)</td>
<td>Close-ended (mediator sets deadlines and time limit for the process / Open-ended process (transformative mediation)</td>
<td>Open-ended process</td>
</tr>
<tr>
<td><strong>Strengths</strong></td>
<td>Dialogue, bargaining</td>
<td>Settles conflict timely, helps parties shift from positions to interests / Builds relationships and transforms the</td>
<td>Allows debates conducive to constructive structural changes conducive to peace and democracy;</td>
</tr>
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parties, is voluntary and confidential represents a public non-confidential process; fosters national reconciliation

<table>
<thead>
<tr>
<th>Limitations</th>
<th>Power imbalance</th>
<th>Directive (problem-solving mediation)</th>
<th>Issues of sovereignty; will not occur if the head of state does not call for it, forgiving the head of state might create issues of justice</th>
</tr>
</thead>
</table>

| Indicators of success | Mutually agreeable settlement | Accepted agreement, cessation or decrease in violence, satisfaction, moral growth, peace | Socio-political stability, economic growth, democracy |

### 6. Criteria for Selecting the President of the National Conference

- Insider
- Elderliness
- ‘Spiritualliness’
- Integrity and Trustworthiness

### 7. Emphasis on the Functions of the President

- Coordination
- Monition
- Communication
- Spiritual Support
- Facilitation

### References


Definition of Key Terms:

**PTSD** – Post Traumatic Stress Disorder: “a condition of persistent mental and emotional stress occurring as a result of injury or severe psychological shock, typically involving disturbance of sleep and constant vivid recall of the experience, with dulled responses to others and to the outside world ("The Oxford Essential Dictionary of the U.S. Military," 2001).”

**TRC** – Truth and Reconciliation Commission: is a commission tasked with discovering and revealing past gross human rights violations committed by a government, paramilitary or rebell groups, in the hope of resolving past conflict and preventing future conflict. They are set up by states emerging from periods of internal unrest, civil war, or dictatorship.

**DDR** – Disarmament Demobilization and Reintegration: “Disarmament is the collection, documentation, control and disposal of small arms, ammunition, explosives, and light and heavy weapons of combatants and often also of the civilian population. Demobilization is the formal and controlled discharge of active combatants from armed forces or other armed groups. Reinsertion is a form of transitional assistance to help cover the basic needs of ex-combatants and their families. Reintegration is the process by which ex-combatants acquire civilian status and gain sustainable employment and income ("United Nations Disarmament, Demobilization and Reintegration Resource Center,").”
**Gacaca**: “Rwandan word meaning "justice on the grass." It refers to the traditional Rwandan practice in which trial occurs in a community gathering, the focus of which is on reconciliation of the community. On October 13, 2000, the Rwandan National Assembly passed a law establishing large scale "gacaca courts" to process the tens of thousands of cases of those accused of participating in the 1994 genocide ("American Radio Works: Justice on Trial - Key Terms,").” Gacacas are Rwanda’s version of the TRC.

**Directed Forgetting**: The process of psychologically containing memories (severing the relationship between oneself and the event or person), so that the person who has experienced a traumatic event is able to move on with their life.

I grew up listening to stories of my grandmother’s experience in concentration camps during the holocaust. She was interviewed many times about her experiences, so that others would know the reality of the holocaust, and that it could never be ‘successfully’ denied. Telling her story was meaningful to her and it was meaningful to me as a listener. Unfortunately, human beings continue through the overt act of war, ethnic cleansing and covert acts of state sponsored oppression (terrorism) to commit gross human rights violations against one another. This scale of violence leaves not only traumatized individuals, but traumatized societies as well. If societal trauma goes unhealed it tends to replicate itself either by previously oppressed groups committing gross human rights violations against others (often their former oppressors) or through self destructive behaviors such as substance abuse and suicide. Traumatized individuals and societies need healing in order to break the cycle of violence.

An important element in trauma healing is constructive storytelling, being able to talk about the trauma in a way that helps the person to no longer be controlled by the traumatizing
event, promotes understanding about what happened and releases the desire for revenge (Herman, 1997). In order to be able to create these storied narratives it is necessary to break the silence about the past. Truth Commissions attempt to help individuals and the society move forward by initiating the process of acknowledging and narrating the past through taking individual statements and having individuals with representative stories publicly share their experience.

I went into this research with the assumption that public truth-telling gave victims in traumatized societies a feeling of acknowledgement of their suffering. Therefore, I believed that public-truth telling was a healing activity. Through my research on truth commissions I have found this assumption to be widely shared and also naïve. The small number of empirical studies that have examined victims’ experiences with truth commissions, indicate that public truth-telling hurts more than we think and only sometimes begins a healing process. Public truth-telling according to empirical studies conducted by: (Brouneus, 2008; Byrne, 2004; Hamber, 2003; Picker, 2005; Shaw, 2007) does not bring closure or healing in and of itself. Where did academics, theologians and I get this idea from?

First, let us examine where this often unexamined idea that truth telling is healing comes from. 1) Christian theology believes that truth leads to forgiveness, healing and reconciliation (Brouneus, 2008, p. 58; Shaw, 2007). This is practiced in confession where telling the truth about your misdeeds leads to forgiveness and healing. 2) The Enlightenment privileged reason and introduced the idea that rational discourse is civilizing, where as violence and hatred are irrational, destructive, and primitive forces. Therefore, speaking about what happened would prevent impunity (Shaw, 2007). 3) Psychoanalysis is rooted on the premise that repressed memories are unhealthy and need to be verbalized for healing to happen (Hayner, 2002). The
therapist’s job is to help their client come to terms with the past trauma and be able to speak about, so that the past no longer controls their present (Herman, 1997). 4) Most recently, it has been argued that truth telling is part of the traditional African practice of *ubuntu*. When a collective norm is broken the community gathers around a tree and all parties can give voice to their truth about the event. The community then corporately decides what type of restitution the offender provide in order to demonstrate their sincere regret about the incident and for the victim to feel that justice has been done. Together, these constructs have produced the universally accepted principle that verbal remembering is necessary for personal healing to take place (Shaw, 2007, p. 192).

Second, it is important to look at the original context from which the idea for truth-commissions first emerged. Official denials of covert state sponsored violence, during the cold war and post-cold war period could only be countered through personal testimonies. Without these testimonies there would have been impunity. Truth telling created moral accountability and acknowledged the victims experiences as “the reality” which had previously been denied (Shaw, 2007, p. 189). How might the context that truth commissions emerged from inform where they ought to be applied today? If violence is overt and paramilitary then is a truth commission appropriate? Could other methods be used to re-build public trust and address trauma caused by gross human rights violations? Might cell level formation of support groups with trained lay counselors be more beneficial? What about public works projects to restore infrastructure and provide employment that intentionally incorporates participants across lines of division? It is important to realize that the circumstance which truth commissions were first devised to address may differ significantly from the contexts where they are currently being prescribed.
Let us look at how survivors perceive the more recent application of TRCs in states emerging from mass atrocities over the last 15 years. There is a small body of research that probes victim’s reflections on their experiences with the truth-telling process. The empirical studies conducted by: (Brouneus, 2008; Byrne, 2004; Hamber, 2003; Picker, 2005; Shaw, 2007; Skinner, 2000) used small convenience samples and do not claim to be generalizable results. However, the themes that emerged through the interviews and focus groups can inform our understanding of the effect of truth-telling upon some victims’ lives. These studies were conducted in South Africa, Rwanda and Sierra Leone yet three common themes emerged; 1) there was disappointment and anger over unmet expectations, 2) participating in the TRC was emotionally painful, and 3) survivors believed that perpetrators unjustly benefited more from the TRC process than they did. Each of the themes that emerge from victim’s experiences will be examined in turn.

1) What were victim’s expectations and how were they unmet? Survivors expected that after giving their statements the TRC would investigate their case and report back their findings. The TRC was slow and in some cases did not provide any follow up regarding the status of individual cases (Hamber, Nageng, & O'Marrey, 2000). Victims expected timely reparations. They expected the TRC to provide relief and assistance to help them deal with unemployment, inadequate housing, and medical needs so that they could reconstruct their lives (Byrne, 2004; Shaw, 2007). Others wanted symbolic reparations such as a tombstone or memorial (Byrne, 2004; Hamber et al., 2000). In Sierra Leone, victims were explicitly told that they would not get financial compensation, yet they could not get their mind around this reality and left the interview with the statement taker sometimes disappointed and other times incensed (Shaw, 2007). Victims expected their life conditions to improve by testifying. Yet around 50-60% of
those who testified at the SA TRC reported difficulties after testifying and expressed regret (Hayner, 2002, p. 144).

2) Why did victims experience the TRC as emotionally painful as opposed to healing? Some survivors through the process of truth-telling relived the traumatic experience and left the proceedings with the same disturbed feelings that they had immediately after the incident. Others reported a temporary feeling of relief and later heightened PTSD symptoms returned.

3) In what ways did victims feel that the system privileged perpetrators? Survivors felt that their life conditions remained the same, while offenders’ life conditions improved (Byrne, 2004). Offenders were granted amnesty and allowed to return to their community. Survivors in South Africa, Rwanda and Sierra Leone reported that they feared and in some cases experienced retaliation against them for telling the truth (Brouneus, 2008; Shaw, 2007; Skinner, 2000). Ex-combatants were given job training through DDR programs, while victims were not offered job training opportunities to help them become productive members of their communities. Survivors felt perpetrators should give something back to right the wrongs they had done (Hayner, 2002, p. 147). Perpetrators were under no obligation to do so and in most cases had no way of informally getting in contact with victims (after the amnesty hearings), even when they wished to make amends (Abrahamsen & van der Merwe, 2005). Victims were angry that few perpetrators testified to their crimes. A main reason that survivors gave statements was to find out the identity of their assailant and to have the opportunity to confront them (Hamber et al., 2000). They felt the TRC should have done more to compel the perpetrators to come forward and tell the truth (Skinner, 2000, p. 104). Perpetrators in most cases did not perceive themselves to be personally culpable and therefore in some cases did not express regret, show remorse, or apologize for their actions, which was very distressing to victims (Abrahamsen & van der Merwe, 2005; Byrne,
Truth-telling is only one means of containing traumatic experiences, so that they do not control the person’s life another is directed forgetting. In this later practice, individuals dissociate themselves from the memory of an event or person, so that they can move forward with their lives. The memory will be absent from their discourse, because it is believed that verbal utterance re-attaches the memory to the person (Shaw, 2007). In the course of recounting the event the violence previously experienced or witnessed may re-enter the person and cause further violence to be perpetuated. Only certain elders may be allowed to tell the story, but first they must invoke the ancestors, so that they are protected from violence re-entering their lives through remembering (Shaw, 2007). In cultures, where directed forgetting is practiced symbolic healing ceremonies usually take place. There are various types of ritual washings for ex-combatants or victims who want to be re-integrated into the life of the community. These ceremonies detach the spirit of violence from the person and the incidents are “forgotten” and no longer spoken about, so that the spirit of violence does not return to the individual or the community.

Is there a need for truth-telling or are their simply better means for allowing individuals to cope with their traumatic experiences? Victims have a wide range of opinions about what they individually need to best cope with their experiences (Barsalou, 2008). However, the importance of opening up a space for individuals who wish to come forward to tell their truth in a safe supportive environment should not be underestimated (Herman, 1997). In the studies conducted with South African survivors most of the respondents were very supportive of the TRC when it began. They hoped that it would uncover the truth about what happened in the past, so that they could have some closure (Hamber et al., 2000). In Haiti, people lined up for hours or
days in the hot sun, potentially in full view of their oppressors, endangering their lives to tell their truth (Hayner, 2002). In South Africa, victims were frustrated that more time was not given for statement collection. There were complains that it was not well known when statement takers were coming and that they came and left, so quickly that some people were unable to give their statements. There was a feeling if more people had come forward the truth would have been more fully known. Through the truth commissions sensitizing campaigns some South Africans had come to believe that “revealing is healing” and Sierra Leonians “that coughing it out would lead to a cool heart” (Byrne, 2004; Shaw, 2007). There were people who came forward because they wanted to experience that healing, to unburden themselves and feel better.

Psychologists question the healing potential of a one time catharsis. Therapists avoid having subjects address the worst of their pain too quickly (Hayner, 2002). “Short exposure to traumatic experiences risks enhancing trauma reactions instead of decreasing them because there is no time for desensitization or relearning” (Brouneus, 2008, p. 62). In fact, some psychologists have suggested that the one-session trauma debriefing cease because it increases the risk of PTSD and depression (Brouneus, 2008). Gradual exposure to trauma leads to desensitization, the traumatic cue no longer leads to anxiety and fear. A new psychological response is learned. Basic conditions for trauma healing are a safe and controlled environment and a trusting relationship between the counselor and the subject. TRCs to greater and lesser extents have tried to provide for these basic necessities. Unfortunately, while they may give their statement takers some basic training in trauma and provide briefers and debriefers at public hearings they did not offer long term counseling or follow up.

Additionally, the way that questions are framed in TRC statement taking protocols can aid or hinder the healing potential of re-telling ones traumatic experiences. “If people move in
the direction of the questions they ask and where they consistently focus attention, then crafting questions with a vocabulary of pain, negativity, and loss may promote a downward spiral rather than upward movement toward growth and healing” (Sider, 2003, p. 294). The posttraumatic growth literature implies that while the trauma is ongoing, the survivor has many important opportunities for positive change. Therefore, it is important to open the space provided in statement giving to explore both the losses and possible growth opportunities from trauma (Sider, 2003, p. 294). The legal framework for TRC’s is evidentiary based on victim’s stories as it relates to the when, where and who were involved in the event. The TRC typically relates to the how in terms of psychological, physical and property damages. The lack of questions that draw out the survivor’s resilience may contribute to the negative evaluation or effect of truth-telling on some participants. Appreciative interviewing holds out hope for the survivor’s future without minimizing the negative effects of trauma (Sider, 2003, p. 295).

The empirical studies indicate that survivors viewed giving their statement as an opportunity to discover the truth, receive reparations and experience psychological relief. Truth-telling creates a relationship between the truth teller and their audience (statement taker, commission) with certain expectations. From the interviews conducted it seems that these expectations include different forms of acknowledgement: 1) Victims expect that they will be kept informed regarding the status of their case: when it is being investigated, what the findings are, when the offender is located, if the offender is applying for amnesty or being prosecuted, and whether they will be asked to testify publicly. 2) Victims expect reparations in exchange for their statements. They feel that amnesty seekers should have an obligation to help better their life conditions to right the wrongs that they have committed. The victim and offender should have agency and agree upon what that reparation should look like. The commission or a commission
partner should mediate a victim offender process. The commission or a partner organization should provide education, job training, and medical assistance to help improve survivors’ life conditions. 3) Public truth-tellers should be connected with a support network that will help them with the transition back into their community and provide long term counseling or circles which utilize other expressive methods for continuing the healing process. If the commission is unable to provide for these needs through a more holistic approach, which may include partner organizations then it should reconsider what it is expecting from victims. TRCs have an ethical obligation to do no harm. They should in light of these research findings make every effort to create a strategic plan specifically aimed at supporting the healing process of survivors particularly those participating in the commission by tell their truth.

Based on the themes that I have gathered from the empirical studies of survivors’ experiences with truth-telling I will explore the following research questions: How does truth telling at TRCs effect survivors and commission staff? What implications may this have for future TRCs?

Methods

The purpose of this study is to explore the effect of truth telling on survivors and commission staff at Truth and Reconciliation Commissions (TRCs). Through in-depth semi-structured interviews and content analysis of documents and videos I will explore how survivor’s participation in TRCs did or did not promote personal healing. The small body of research on survivor’s perspectives on the truth telling process has shown a very mixed impact. Through this study I intend to promote the voice of survivors, who are paying the high price of sharing their personal stories of trauma for the purpose of promoting national reconciliation. Their perspectives have been seldom studied and thus their voices have not been widely heard or
perspectives considered in the proliferation of TRC processes. It is vital to strengthen their representation in the literature/field as truth commissions are replicated across the globe.

Population and Selection Criteria

In line with my research purpose my populations are victims and commission staff who directly participated in statement taking and public hearings at TRCs. It is only through interviewing this population that a grounded theory for how truth telling impacts survivors and their immediate audience (statement takers, commissioners) can be ascertained. I will be interviewing victims and commission staff from Sierra Leone and Liberia. It is important to study a more recent commission, such as Sierra Leone’s TRC, to see how commissions have changed as they have gone through various iterations and how effective truth telling is in bringing about healing. I hope to include Liberia at a later point in this study as it has an emerging TRC, which has not yet been studied. Additionally, as a neighboring country to Sierra Leone it has a similar context and would provide an interesting comparative case study.

I will begin my research by interviewing two persons, whom I have already established contact with, who worked for Sierra Leone’s TRC and a man who works for the Center for Victims of Torture in Sierra Leone. When Liberia’s TRC process becomes open to researchers I will begin by interviewing two persons who work for the TRC and one person who works with an NGO that provides support for survivors participating in the commission’s truth telling process. I will use these contacts to begin purposive snowball sampling of the desired population.

African culture is heavily relationship oriented and therefore establishing rapport and trust

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23 I have learned through discussion with the director of the Minnesota Human Rights Advocates who is coordinating statement taking of Liberians in the diaspora that the Liberian TRC process is closed to media, academics and researchers. Even though I have contacts with commission staff and an NGO that is working with victims I will not be able to speak with them until the commissions work is complete. I believe that Liberia is an important case, since it is an emerging TRC that has not been studied yet. Also I will be studying it from the victim’s perspective an often missing dimension in TRC research. I hope to complete this phase of my research when the commission becomes open to academics conducting research.
through personal references is important in making contacts for interviews. In addition, the topic of my research is a sensitive one since it deals with the remembering of traumatic events. Thus being connected by a trusted third party for an interview is even more important. Snowballing, therefore, is a good way to be invited in to have conversations with victims and other commissioner staff given the culture and topic of my research. I hope to make contacts with victim support agencies in Sierra Leone, and Liberia that have lists of victims’ names and can put me in touch with survivors who would be willing to participate in my research.

Interviewing commission staff directly involved in the statement taking or hearing process is core to my research. Such participants can provide rich insight into the TRC process. They can speak to the methodology utilized during statement taking and to how stories of human rights violations both impacted them and seemed to affect the survivors telling them. The methodology is imported because the ways stories are elicited impact the way they are remembered, recounted and recorded. Observations of survivor’s nonverbal and verbal cues reflect the emotional impact of truth telling. This is important because sometimes the way we remember a highly emotional event is quite different from how we experienced it in the moment. Therefore, commission staff present during the statement taking process or hearings can provide useful and unique insight that will build our knowledge of the effect of truth telling upon victims and their immediate audience.

**Pilot Test Results**

My pilot study comprises learnings and emerging themes from my interviews with Zoe Dugal, who engaged in quality control of the work of the statement takers and organized training sessions for them, and Usman Fornah, a regional coordinator for the Sierra Leone’s TRC. Zoe Dugal is a Canadian woman. She came to Sierra Leone in 2002 to work as an intern for the TRC.
She was asked to stay on as a supervisor of statement takers and researcher for the TRC’s final report. Usman Fornah is a Sierra Leonean pastor who lives in Makeni one of the regional capitals. He remained in Makeni during the course of the war and in his own words he “saw it all.” Usman worked for the Inter-Religious Council which helped bring an end to the fighting in Sierra Leone. After the war, Usman was solicited to work for the TRC by his boss the President of the Inter-Religious Council who came to serve as the President of Sierra Leone’s TRC. Usman applied to be a statement taker supervisor like Zoe, but was instead asked to serve as a regional coordinator for the TRC. It was interesting gaining the perspectives of a woman and man working at different levels within the commission one being an outsider (Canadian) and the other an insider (Sierra Leonean who had lived through the war).

I took away two main learnings from my interview with Zoe. First I realized that I needed to modify my methods to include a content analysis of the film “Witness to Truth” a documentary of Sierra Leone’s public TRC hearings. Throughout the interview she kept referring to this video and how if I watched this video I would see what she was trying to tell me. I will analyze this video at a later date to triangulate my findings. Second, she frequently referred to the statement taking form. After reviewing this form I add some additional questions to the interview schedule. Through our conversation I realized that I needed to revise the question “How did the statement giving process seem to impact survivors?” Zoe said she felt uncomfortable trying to speak to the survivor’s state of mind. This in fact was not what my question was aiming at. I wanted to know how the commissioners experienced and understood the survivors affect during the truth-telling process and if the participant gave any verbal indications of how they experienced the TRC process. I revised this question accordingly.
There were technical and linguistic limitations that I discovered talking with Usman. It was very difficult at points for me to understand him because of the phone connection and his rapid speech and accent. Calling via Skype using a headset I could not audio record the conversation and replay it to transcribe these difficult parts. Therefore, some of the richness of the interview has been lost. I transcribed the interview as he was speaking and asked many clarifying questions to make sure I was understanding him and capturing his meaning accurately. I was also able to verify my interview notes for accuracy with him via e-mail. In the future, I will try to use a computer with built in speakers that will allow me to audio record the interviews. I may also enlist some African colleagues of mine who speak Krio to assist me with future interviews. These learnings will help me to capture the fullness of future interviews with contacts in Sierra Leone and other parts of Africa.

From my interviews and context analysis of Sierra Leone’s statement taking form three different frameworks for the TRC emerged: legal, historical and healing. The statement takers and survivors were caught in the tension of these different missions that the TRC set out to fulfill. Both Usman and Zoe felt that storytelling was the most beneficial aspect of the TRC even though participants related their stories without much emotion. More emotion came out when participants were asked how the traumatic incident effected their present life and what recommendations they had for the TRC. The TRC’s lack of reparations was considered the greatest deterrent to further healing for participants. The statement takers who received the participant’s stories experienced caregivers’ fatigue. There wasn’t enough support available for them or the survivors sharing their stories with the commission.

The TRC used a *legal human rights framework*. This was evident not only from the interviews I conducted, but also from the statement taking form that Zoe provided me with. The
The purpose of the statement taking process was to create an “impartial historical record of violations and abuses of human rights and international humanitarian law related to the armed conflict in Sierra Leone (Sierra Leone’s Statement Taking Form).” Usman in his interview echoed this purpose statement almost precisely, which shows how much this idea pervaded the TRC. The commission asked for persons to only make statements that fell under the category of human rights violations as defined by international humanitarian law (Sierra Leone’s Statement Taking Form). Zoe provided additional details about the statement takers training. Their training was conducted by the UN mission human rights and law division who explained the mission of the TRC and how a human rights violation is defined. The statement takers were supposed to discover details like who witnessed the incident in order to verify the survivors account. Additionally, they were supposed to solicit enough information so they could identify the perpetrators. The TRC’s mission was to establish (a historical record, accurate account of) who did what to whom and the nature of the violations. The statement takers questions regarding the survivors’ lives after the incident were presented, in a legal framework, as mental and physical damages suffered in order to determine what types of recommendations to make for victim compensation.

The TRC had historical value because truth telling helped to uncover, according to Usman, the causes of the war and what kind of atrocities took place. The underlying assumption was that creating a precise historical record of what happened during the war would prevent future violence/wars from breaking out.

The statement takers had difficult job; they were caught in the tension of getting the information needed for the report and to be empathetic listeners. They were supposed to listen without probing too much or leading and at the same time get detailed information to create an
accurate record of events. Another challenge was that they were supposed to take enough time to listen to each person’s story, and also collect enough statements within a limited time from a given area in order to create an accurate picture of what had happened during the war. In the end statement takers were able to cover all areas of the country; except the ones too remote to gain access to in a reasonable timeframe (for example, some chiefdoms which were only accessible by boat). One of the most beneficial aspects of the TRC, according to Zoe, was how many people were reached by statement takers and were able to give their statement. Some of these people lived in remote places and could not have reached the district capitals where the hearings were held. For some this was there first time telling their story. Usman Fornah stated “It relieved pain in their mind.” The TRC provided an important opportunity for people to let out their feelings.

Interestingly, during the statement taking, which was conducted mostly one on one, participants spoke dispassionately. Usman explained this phenomenon by saying Sierra Leonean’s “are quick to forget what happened to them.” Zoe understood the participants relating atrocities in quiet emotionless voices as a defense mechanism. The participants “did not want to go back there.” Sierra Leonean’s in addition to their capacity to forget the past expressed their ability to forgive their perpetrators.

Statement givers usually became more emotionally engaged in the statement taking process when they were asked if they had any recommendations for the commission. Perpetrators in some cases asked the government and country to forgive them for what they had done. Some would cry. Some people would talk about their losses and asked the government to help them or a group of survivors who were similarly effected. The recommendations, unlike the narratives, Zoe conjectured were about situations participants were currently phasing. It brought the participant back into the present and there was a lot of emotion around these hard realities.
Many people wanted to have the opportunity to tell their story before the commission; however, few people were given the opportunity to do so because of the short time frame for the TRC mandate. During the public hearings participants were more emotional while telling their story. Some people would repeat one part of their story over and over again shouting and then gradually calm down. Psychologists would call this type of phenomenon desensitization and name this as an indicator of trauma healing. Other participants would sometimes sigh with relief or cry and let out their feelings. Usman felt that these were signs that public truth telling was therapeutic for some. An additional benefit of the public hearing was that the participants could see the quiet tears of those who were listening and sense their empathy and support. Unfortunately, the TRC had no resources to help the participants walk further through the healing process and rarely were referrals made to any other organizations.

Usman and Zoe’s evaluation of the TRC was greatly tempered by survivor’s disappointment that the TRC was unable to provide reparations. Usman stated repeatedly that survivors had tremendous expectations of receiving reparations from the government in return for their truth telling. This was a huge misconception, and the statement takers had to say repeatedly that they would only be able to make recommendations for government reparations in the TRC’s final report. The lack of reparations was perceived by Usman as inhibiting survivors from moving on with their lives. He said that if the government helped survivors improve their life circumstances, providing social welfare, or helping with their children’s education then they would be able to move beyond their suffering. The TRC was unable with its short mandate to work toward reconciliation.

Usman and Zoe both highly valued the opportunity that they had to work with the TRC. They also spoke to the impact of truth telling on the statement takers. Usman commended the
statement takers for being able to carry out their job without mentally breaking down. Their jobs put them under tremendous strain they had to travel extensively and listen continuously to traumatic stories. Zoe reported that the foreign commission staff in Freetown generally suffered “some type of physical reaction a breakdown of sorts like dizziness or difficulty concentrating…There was no way to process what was going on at the time.” Research and investigator staff in Freetown became like family as they tried as best they could to support one another. Statement takers (local staff) probably had the same kinds of reactions but it is hard to know, because Sierra Leoneans are very reluctant to talk about physical or psychological problems they experience. The statement takers received minimal training on how their work may effect them and how to deal with it. They tried to deal with compassion fatigue as best they could.

**Implications**

How survivors experienced truth telling cannot be divorced from the reparations issue. These interviews confirmed survivor’s had tremendous expectations for reparations from the government. Some came to the TRC angry that the government had not done more to stop the war. Participants generally expected that the government would give them something in exchange for truth-telling. Usman acknowledged that in order for survivors to heal they needed reparations. The benefit of truth telling alone was not enough. It is important to realize that catharsis occurred infrequently in the statement taking phase and only 5% of those who gave statements had the opportunity to give public statements where more emotion came out.

The interviews and statement taking forms also confirm that the TRC was built around a legal framework. The TRC’s legal framework may have set out an expectation of reparations. In a court when a survivor comes forward to tell their story it is with the expectation that they will
receive some tangible benefit that will help them improve their lives. A legal framework implies justice. Many were disappointed because they did not feel that they were given justice. The legal frame also created a difficult situation for statement takers who were supposed to be both empathetic listeners and get all of the legally necessary details to confirm the occurrence of an incident. Can a TRC both accomplish its evidentiary task to provide an accurate and impartial record about the past and bring about healing for individuals who come forward to testify? Maybe different bodies are necessary to accomplish these different tasks. Also it should be further explored how storytelling could be done in a way that creates a greater network of support for both those telling the story and those receiving their stories. Perhaps the TRC would still be able to accomplish its legal obligations and provide a greater measure of healing if questions were asked in a more appreciative inquiry format drawing out the participant’s resilience and their hope for the future for themselves and their nation.

Usman and Zoe at times gave divergent answers. Some contributing factors could have been their different experiences, given that they held positions at different levels within the TRC and that one was a local national and the other a foreign commission staff worker. At this point, it is somewhat hard to predict what subsequent interviews may reveal about the impact of statement taking on statement takers and survivors.

References


Session II: Panel C
Identity and Conflict

“Relative Functional Insecurity: Re-examining Ethnicity, Identity, and Nationalism”
Alison Hall, Nova Southeastern University

“State Terror and Perceptions of National Belonging: Violence against the ‘Enemy’ Within”
Robin Cooper, Nova Southeastern University

“Getting to the Roots of Islamophobia”
Reem Alzaim, University of Massachusetts Boston

“Identity as Position: Core Concepts in Conflict Analysis”
Rhian McCoy, George Mason University

“Identity’s Dichotomous Roles: The Case of Northern Ireland”
Jonathan Winegar-Mendez, University of Massachusetts Boston

Alison Hall
Relative Functional Insecurity: Re-examining Ethnicity, Identity, and Nationalism

ABSTRACT

Notions of ethnicity, identity, and nationalism are socially constructed vehicles designed to create avenues of inclusion and exclusion so that individuals may divine and fulfil a purpose in their lives. This paper offers the explicative concept of Relative Functional Insecurity - an individual’s innate response/resistance to exclusion and isolation – as a lens through which to analyse current theories of ethnicity, identity, and nationalism. Given that the quest for self-determination is founded upon, any or all three of these notions, this examination will yield insight on the successes and failure of self determination movements in recent history.

INTRODUCTION

Humans are social beings. Our biology confirms this. We have vocal chords to facilitate the creation of sound and vibrations against the eardrum enable us to hear that sound; we are designed to communicate with each other. We have reproductive organs so that we may procreate and continue the species. All our senses combine to facilitate interaction with each other. As a result, as the study of human history suggests, we have almost always existed in collectives. Though the arrangements and sizes of these collectives have changed over time, the concept of communal living has remained unchanged. As this process has evolved, the determination of who ought to be included in these collectives has also changed over time. As collectives have grown, so has the need to create a process of excluding those who appear to be different than the majority in the collective. It is through this practice, I believe, that the first notions of identity formation and the human need for a sense of belonging are developed. Given
that the world as we know it is one of binary opposition, what has also developed is human resistance to exclusion and the attendant sense of insecurity which such exclusion yields. If the individual can find no one with whom to identify and no place to satisfy this need to belong, this denies him a sense of purpose and creates, what I term, Relative Functional Insecurity. This is an innate response to a perceived lack of purpose in life and is driven when an individual experiences a sense of total isolation. It compels a search for a collective with which to identify; one which creates a sense of belonging. Once internalised, the individual does all in his power to maintain attributes of this collective. That being said, it must be understood that these creations of identity and belonging are not static or reified but fluid and dynamic. What remains unchanged is the need to have an identity and a sense of belonging, not those which have been constructed.

The need for belonging, for identity then, is driven by an insecurity of purpose - reference the turn to Islam by young people in the Middle East – Egypt. The traditional paths to security of purpose – fulfilling one’s role in life: education so you can have a job, a job so that you have enough money to provide for a family, and a family so that you have social respect, have been slowly whittled away. These means of identity formation and a security of purpose have failed them. They have to find another way to fulfil these needs. Therefore, they turn to Islam, turn to another ideology; something to believe in; something to define who they are; something to guide them, help make the “right” choices that will guarantee a socially accepted and acceptable space. If marriage is seen to be the path to adulthood and social acceptance in Arab (and other societies) and the absence of marriage means social exclusion; it suggests that social exclusion is inimical to human nature. Religion, like notions of ethnicity and nationalism are socially constructed vehicles of inclusion. Relative Functional Insecurity – the response/resistance to exclusion - is,
therefore, a fundamental reason for the conflict caused when these artificially created categorisations are challenged. The purpose of this paper is to discuss various theories of ethnicity, identity, and nationalism and to show how Relative Functional Insecurity is manifested in the conflicts of self determination.

ETHNICITY

The notion of ethnicity is conceptually interesting. The first question that comes to mind when examining this is: What purpose is served by the social creation of this idea of demarcation of inhabits of the Earth when, as Barth (1969) has argued, there is no *a priori* existence to any group so defined? A part of the answer to this question, lies, I believe, in individuals’ needs to establish a sense of self and create a feeling of belonging to a whole larger than themselves. Humans are social beings and have a need for affiliation and attachment. This drives the formation of categorizations based on attributes of sameness which will satisfy this basic emotional need.

Another part of the answer, I think, lies in a need which is a corollary to the previous, which is the human need to have a distinct sense of purpose. This is neither a contradiction nor are these needs mutually exclusive. Both needs influence the individual’s sense of self and creation of identity. Jenkins (1997) explains ethnicity as not something that people have or to which they belong but are “complex repertoires which people experience, use, learn and do in their daily lives, within which they construct an ongoing sense of themselves…” (1997: 14). Therefore, the formation of a group based on socially determined similarities, effectively creates distinction among groups which fulfils human need for both affiliation and distinction.

Yet another part of the answer lies in the needs of academics and scholars to create methodologies to analyse and explain human and social development and behaviour. Jenkins
explains that the tribal concept served to separate “civilised” society from the Other-tribal society as well as provide scholars with a model for comparing these types of societies. Here is the genesis of the “We/They” or the “Other” phenomenon (Jenkins, 1997: 17).

ETHNICITY

We are accidents of history and geography. The notion of identity can arguably fall into three major categories – religious, national or ethnic. Religious, national and ethnic traditions are socially created and can change over time depending on the needs of the people served by this tradition and those who hold power. Tradition and culture is often borrowed from other peoples and assimilated to create a new tradition that is often represented as being always in existence. Paradoxically, as the world becomes more globalized and interdependent, entreating the need for homogeneity, peoples are desperately holding on to that which makes them unique and special.

Identity which is created under the umbrella of culture, ethnicity, and nationalism is often reified and subsequently used to justify aggression against the Other. The reasons for this are myriad – usually to satisfy certain geopolitical strategic interests as well as to strengthen certain neo-colonialist economic ambitions.

Certain oppressive regimes use cultural and ethnic identities to nefarious ends; to bolster their tyranny by playing world powers off each other. They do this by exploiting the strategic and national interests of these world powers.

NATIONALISM

Given identity is a socially constructed classification, i.e. we have no innate sense of any ‘type’ of individual; we can extend this notion to the conceptualisation of nationalism and the creation of national identity. Hall (in Lemert, 2004; 602-609) explains that a nationalist’s identity it is often perpetuated by myths about tradition and primordialism. Society, as it is structured,
enables the perpetuations of such notions which will almost invariably cast the Other as not only evil or inferior but threatening as well. However, not everyone buys into such ideas of stereotyping; therefore, there must be an explanation for this ‘anomaly’.

In his treatise on the history of nationalism, Ben Israel argues that the core of nationalism is based on varying emphases on the notions of sovereignty and ethnic continuity. The differences in nationalist movements are based on the historical context in which they occur (Ben Israel, 1992: 369). Gellner (1983), who also wrote about nationalism and the nation-state, explains that the concept of nationalism is utilitarian – in that, it has been used as countries have become more industrialised to maintain social communication and uniformity. As collectives increase in size, the distribution of power within that society is constantly renegotiated. Nationalism is therefore used by those in power as a way to maintain or achieve that power by setting the bases for inclusion in that collective (nation). By virtue of this process of selective inclusion, the state is given, by those in power, a persona to which allegiance must be sworn. Nationalism is therefore allegiance to a created concept of identity.

SELF DETERMINATION

The existential tension between the rights of (ethnic) minorities to resist oppression by the majority regime through self rule and the rights of that majority to resist national fragmentation shows no foreseeable sign of relief. Article 1 of the United Nations Covenant on Economic, Cultural, and Social Rights states that, “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development”. Regardless of this declaration, this definition of self determination is still contested and has applied to some peoples and not others. Peoples in Africa and the Caribbean were granted this right during the era of decolonisation in the 1960s.
Current movements for the right to self-determination have not met with equal success. Tibetans, Kurds, and Kasmiris (among several others) are examples of peoples who have not been granted the right to self-governance. The prevailing argument in the international community as to why these peoples are not afforded the same rights as the former European colonies is that there is no true definition of self determination. As a result, world leaders are exercising caution when crafting foreign policy to support (or not support) such movements (Carley 1997: 1). Why then did decolonisation succeed where current quests for self-determination which began even before decolonisation (e.g. Tibet) fail? One answer lies in pure economics. Decolonisation was primarily economic, Europeans colonialists no longer wanted to bear the burden of maintaining their colonies. They were only too happy to divest themselves of troublesome ‘non performing assets’. So when asked, they were only too happy to accede to the nationalist goals of the former colonies. In addition, some colonies already had a well developed autonomous political process driven by race and class divisions.

Currently, the political and economic climate does not support the rights of some groups govern themselves and to have control of their own destiny. There is one contemporary ethnic group, however, which has challenged the status quo. In February 2008, ethnic Albanians in Kosovo unilaterally declared independence from Serbia. As of the time of the writing of this paper, 34 countries, including the United States, have recognised the new state of Kosovo. This eventuality gives credence to the idea that the endorsement of the international community is fundamental to the success of present day secession movements and that the argument against such support - that self-determination is ill defined – is disingenuous. The sovereignty dilemma which plagues the global community regarding this issue was not evidenced in the case of Kosovo.
ETHNICITY, IDENTITY, NATIONALISM, AND SELF DETERMINATION AS A DERIVATIVE OF RELATIVE FUNCTIONAL INSECURITY

The preceding discussed theories of ethnicity, identity and nationalism and demonstrated the inter-relation of these socially constructed vehicles of inclusion. Also discussed was the idea that though the quest for self-determination based on any or all of these notions is accepted as a fundamental right of all peoples, not all peoples are allowed this right. Interestingly, nationalism based on ethnicity and/or identity is not a pressing issue for all ethnic minorities or protectorates of neo-colonial masters. The people of the Cayman Islands, for example, are still very content to be ruled by the British. Another anomaly is that former British colonies in the Caribbean, with similar culture and ethnicity find extreme difficulty in forging a common Caribbean identity. They are more closely aligned with their former metropole than they are with each other.

This Caribbean identity problem has been heavily discussed by several Caribbean scholars. In his introduction to Caribbean Nationalism, editor Ruben Gowricharn highlights what I believe to the greatest difficulty if forging a Caribbean identity – the Africans who were brought to the region during the Slave Trade were form several different parts of Africa, not only that several different and often hostile tribes. Cultural and ideological differences were also very prominent among these slaves. It is therefore not difficult to understand the why it would be extraordinarily challenging to create a unitary identity in the face of such diversity. The factors of shared circumstance and shared purpose were apparently insufficient to generate feelings of oneness. Although some unity was forged, there was no bonding to create a new community or identity. Differences in race, religion, social values, socio-economic status obviated the need or desire to identify as one (2006: 4).
The concept of Relative Functional Insecurity – innate response/resistance to exclusion sheds clear light on many of these anomalies.

What may be concluded from the above discussion is, as Petersson argues, that the nation-state which speaks with a unified voice is being replaced by nationalities within states; the idea of an assimilated melting pot has given way to cleavage to cultural identification. If this is true, and I do not doubt that it is, intra-state conflict or inter-group conflict within states can become more likely – as any cursory look at international news stories will show. At the same time globalisation can be seen as a threat to identity, especially to weaker groups who fear extinction of traditional values and patterns of behaviour (Petersson, 2003). The threat comes, therefore, from within and without.

What is also clear is that the effects of globalisation are constantly creating a fluid reality for the world’s inhabitants. Transnational migration has created communities of national and ethnic Diasporas because the need for belonging and the fear of exclusion transcends geography. No longer are many people willing to be assimilated into a new culture and thus lose their sense of self. In addition, the wave of anti-immigration fervour which has seized the world has increased the qualifications necessary for inclusion into any new ‘collective’. People are therefore engaged in multiple levels of resistance to this loss their ability to derive purpose from their community. Relative Functional Insecurity is explicative of this current trend which shows no immediate sign of reversal.

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Citizens of nations typically look to their governments and militaries to protect them from harm from enemies outside the state. The social phenomenon known as state terror throws this expectation completely on its head. As defined by Sluka (2000, p. 2), “state terror refers to the use or threat of violence by the state or its agents or supporters, particularly against civilian individuals and populations, as a means of political intimidation and control (i.e., a means of repression)”. In this paper I will explore how perceptions of national belonging played a role in the exercise and justification of state terror in Guatemala and India in recent decades.

Although nations are often perceived as requiring a shared culture (Gellner 1983, p. 38) and as being made up of a “fraternity” of similar and likeminded people (Anderson 1983, p. 16), these notions of culture and of the nation are clearly simplistic. Dru Gladney (1998, p. 1) argues that even the notion of an ethnic majority within a nation is a socially constructed concept. Nevertheless, even in the most apparently democratic and multicultural nations, the notion of the nation-state is linked to belief in a “national ethnos” (Appadurai 2006, p. 3).

Today’s strong identification with ethnicity, along with substantial migration around the world, contributes to uncertainty and anxiety within states. This anxiety, Appadurai (2006, p. 5) argues, relates in part to “how many of ‘them’ are now among
us?” Nationalist anxiety is also tied to concerns about the cost of providing state-supported goods such as housing, health care, and safety to growing numbers of “them”. When anxiety among the political elite is sufficiently raised, “majoritarian” and “predatory” identities are formed in which racial and political discourse and propaganda are used to justify state-action against minorities (Appadurai 2006, p. 52). In the most famous example of this form of state terror, the Holocaust, such propaganda was used purposefully to cause non-Jewish Germans to see German Jews as “non-Germans and anti-Germans” (Appadurai 2006, p. 54). Today, discourse related to suspicions of the national loyalty of ethnic minorities fosters fear that these minorities are not just different but are potential traitors. Framed in such a way, citizens of a state can be led to believe that state officials and military officers are not harming or killing real members of the nation, but people who do not really belong and who wish the nation harm.

Where Appadurai’s theory falls short, in my opinion, is in his argument that it is when the ethnic minority is very small in number that the state feels compelled to take action to eliminate their perceived threat to an otherwise national ethnic purity. Certainly, the millions of Jews murdered in the Holocaust illustrate that Jews were not small in number. Likewise, in the case of Mayas in Guatemala and Sikhs in India, the minorities who suffered state terror were large in number. There was no realistic possibility of total extermination, nor do I believe that elimination of the community was the goal of the state. The state desired control.

Mayan communities in Guatemala suffered oppressive and discriminatory treatment both during and after the colonial era. Following decades of repressive military rule, in the 1970s a segment within the Mayan population began fighting for greater
rights. This effort was met with a counterinsurgency war that lasted from the mid-1970s to the mid-1990s (Warren, 2000, p. 297). During Guatemala’s civil war an estimated 100,000 civilians were killed. The army was identified as responsible for 93% of the violence; the guerrillas were identified as responsible for 3% of the violence, with responsibility for the remaining 4% undetermined. The verb “to disappear” was developed in Guatemala, and 50 percent of all of Latin America’s disappeared persons were Guatemalan (Afflitto, 2000, p. 116).

What motivated such horrors of harm and death within the state? Afflitto (2000, p. 115) proposes, “The very nature and function of state-sponsored terrorism is to inhibit the growth and development of political movements opposed to the state and its national projects.” While often analysis of state terror attributes the violence to ethnic hatred, the circumstances on the ground evidence a concern for state control rather than ethnic dominance. This also proved to be the case in the state terror campaign inflicted upon the Sikhs in India. In this example, it was not only the desire for control but also concern for preservation of national boundaries that motivated the government to perpetrate terror upon its own citizens.

The largest concentration of the Sikh population in India has lived in the Punjab region along with other cultural groups. At the time of partition in 1947, when India and Pakistan became separate states, the Sikhs were not given a territory of their own as they were not perceived as being tied to a specific geographical region that was exclusively their own (Pettigrew, 2006, p. 89). Historically, members of the Sikh community were fully integrated into Indian society, as military officers, lawyers, judges, government officials, as well as farmers (Pettigrew, 2000, p. 205). In the early 1980s, a Sikh preacher
began speaking about the rights of Sikh to their own territory. In 1984, Indian military forces attacked the most prominent Sikh temple complex and began a pattern of state violence against Sikhs. As in Guatemala, the state terror included countless disappearances and incidents of torture and murder (Pettigrew, 2006, p. 91). Mahmood (2000, p. 72) observes that so many murdered Sikhs were thrown into Indian rivers that they clogged the waterways. This sudden, extreme violence was shocking and incomprehensible to the Sikh community.

The fact that the state terrorized its own citizens in Guatemala and India is undeniable. What is perhaps less obvious is the role of ingroup terror within the targeted communities. Tragically, terrorism was a social phenomenon that also took place within each of the ethnic minority communities in question. Accusations of collaboration with the military led to torture and murder of Mayas by Mayan guerrillas (Warren, 2000, p. 297). In the Sikh example, state forces would become familiar with local village enmities and rivalries and then use that information to persuade Sikhs to betray their neighbors (2006, p. 95). Thus, people had to fear not only state forces but also their own neighbors in this cycle of ingroup terror within state terror.

Perceptions of national belonging are clearly relevant in the exercise of state terror. Yet there is more to the issue of national belonging than ethnic difference alone. It is true that the targeted communities were not members of the presumed ethnic majority in these cases. It was not so much ethnic hatred that led to the use of state terror, however. Rather, it was fear on the part of the political elite in each country for the territorial integrity and endurance of the nation that led to the use of violence upon state citizens. Citizens of India and Guatemala who had peacefully existed in their
villages and had looked to the government to support and protect them, must have experienced the uncanny of utterly incomprehensible terror. Likewise, ingroup terror within the minority communities surely also creates the experience of uncanny trauma (Gampel 2000, p. 50). One of the many tragic aspects of state terror is that this feeling of the uncanny leaves a lingering distrust—what Robben and Suarez-Orozco (2000, p. 47) refer to as “indigestible trauma”—which is destructive to the very national unity the state seeks preserve and which has the potential to contribute to further outbreaks of conflict.

References


Getting to the Roots of Islamophobia

Frustration, anger, confusion and fear ironically connect Muslims and non-Muslims in the post September 11th world. Non – Muslims, particularly in the West, feel such emotions because of the tragedy that hit the great American nation, which was isolated from any type of invasion for several decades. Fueling the fire of hatred are countless authorities in the Western academic and political world blatantly claiming Islam is on a colliding course against the West (i.e. Samuel Huntington, Gilles Kepel, and Bernard Lewis to name a few). To these so-called authorities on Islam, the religion is incompatible with Western values and democracy, as well as incapable of adapting to the modern world. With biased voices heralding the sound stage in the media, it is no wonder the American public and policy makers misunderstand Islam. On the other hand, the frustration of the global Muslim community stems from decades of humiliation, terror and neurosis from emotional and physical violence inflicted upon them by the European colonists and then from ruthless despots who took over from the Europeans. Even though there are people who are angry and react violently in the Muslim world, this does not mean Islam calls for such reactions and it also does not exemplify the whole Muslim world as a monolithic entity. By choosing to report with harsh language and negative images, the media only makes things worse. Incomplete and biased reporting only fuels more blind hatred and prejudice, escalating Islamophobia in the West.

Islamophobia is a generalized blind hatred and fear of anything pertaining to Islam and its followers (Muslims). President Bush’s ‘War on Terror’ swept all Muslims
into the enemy category with his ‘you are with us or against us’. His popularity increased
with the American public for he vowed to get revenge from the catastrophe of 9/11.
Consequently, the ones to pay for the innocent lives lost were not the perpetrators but the
global Muslim community (ummah). Muslims in the developing world perceived the
‘war on terror’ as a ‘violent expression of the rapacious, insatiable, and minatory engine
of American imperialism.’ (Akbar Ahmed) Any allies of the USA vowed to help the
cause of the war by detaining, torturing, and kidnapping Islamists they deemed to be
terrorists; more often than not with no evidence and not excluding women and children.
In the West, Muslim Americans are being racially profiled, denied employment if they
look Muslim (headscarf or beard), verbally abused with racial slurs, physically attacked,
places of worship are under scrutiny by the FBI, Muslim men are continuously taken
away and detained in isolation with no access to lawyers or family for indefinite time
periods, Muslim charities are shut down for alleged terrorist connections, etc. Muslim
American civil liberties are sacrificed for the sake of national security. With such
mistreatment towards Muslims, misunderstanding between both Muslims and non-
Muslims will continue if change doesn’t occur soon.

In terms of policy recommendations and improvements there is much that can be
done, especially by the West. With global power comes responsibility. No long-term
strategies, with the Muslim world, seem to be in effect. A prime example of a failure of
Western foreign policy is the Iraq War (2003). Instead of bringing democracy and
upholding human rights, military occupation is occurring, insecurity for the Iraqi
civilians, and countless human rights violations (i.e. Abu Gharib prison). The realist
military strategy is counterproductive in world peace, only fueling blind hatred and
frustration for all peoples involved. Since, Muslim states and peoples are a real part of the world the West cannot deal with them short handedly. It is more than critical and essential to bridge any gaps of understanding and form policies that reflect working relations between nations. Realists who follow the Huntington strategy for policy are pursuing a hard line stance, not believing in dialogue. Such an outlook will only dim any positive prospects of reconciliation and not permit any chance of understanding to occur between Islam and the West. Contrary to realists, one liberal recommendation would be to listen to Muslims and attempt to understand Islam. Scholars who are not biased understand there is a difference between religion and culture; religion is not a monolithic entity meaning one must not fall into the trap of stereotyping all Muslims to be one way or another; Islam is a diverse and thriving religion subject to interpretation with much discourse among Muslims.

Imperative for the Western public is a change in their media sources. Post 9/11 polls illustrate when Americans never had any interaction with a Muslim they were more prone to dislike or to look down upon Muslims (more prone to Islamophobic remarks or beliefs); when Americans interact with a Muslim they see that the Islam portrayed in the media is not what the average Muslim practices or even what Islam is really all about. Even more so, if an American wanted to learn about Islam, unfortunately mainstream American bookstores do not even hold unbiased books. Authors like Robert Spencer whose main mission is to vilify Prophet Muhammad (peace be upon him) and portray Islam as a fanatical violent religion only fuel the fires of blind hatred and ignorance. When various store managers were asked why they do not hold objective books to educate the public about Islam the answer was simply put in terms of capital – a book that will
sell and make the most money is what they stock. If this is what the average person has in terms of educational options then there’s a long way to go to rid the West of any misunderstandings connected to Islam. Muslim authors also need to be given a chance on American bookshelves; Muslim activists continuously come across Americans yearning to learn more and hear more from the Muslim world but figure there are not any out there.

A typical question American people ask is ‘where are the Muslims? Why doesn’t anyone speak against Al Qaeda?’ Ironically, Muslims are speaking but we are silenced. The Western media focuses on conflict not on any dialogue between Muslims and non-Muslims, rarely is any positive footage connecting to the Muslim world ever given any light. There are many intellectuals in both the Muslim and non-Muslim trying to dispel myths and misconceptions surrounding the most misunderstood religion in the world. Furthermore, education is two fold when it comes to Islam. One aspect about Islam that all Muslims have a duty to do is dawah – which means raising awareness about Islam, in other words educating others about Islam. Dawah is not missionary but educational in nature. A Muslim is supposed to be able to know enough about their own religion to be able to answer questions either from other Muslims or non-Muslims. A key in being able to do dawah is to verify one’s knowledge – go back to the sources of Islam – the Qur’an and the Sunnah (tradition of the Prophet Muhammad (peace be upon him)). With over 1.6 billion Muslims in the world, it is more than imperative to educate. Understanding Islam is more than crucial since thought and analysis are taken over by bias and prejudice. An informed society on all levels can occur by building bridges of understanding by embracing differences; not othering people of different religions, backgrounds, etc. By
educating both Muslims and non Muslims about what Islam is really about – from the basics to Islamic history and the impact/connection of the Islamic civilization with the Western civilization peaceful coexistence is more than possible.
Identity as Position: Core Concepts in Conflict Analysis

The increasing incidence of global conflicts characterized as “identity”\textsuperscript{78} conflicts necessitates new analytic and practical methods for the conflict resolution field. Identity is fundamentally political, revealing values and priorities and generating power through group affiliation. However, identity is a “slippery” article - notional, socially constructed, and ever-changing. Though we might describe identity as “imagined”, identities are enormously real to us, and take on particular salience when under threat.

This reification poses interesting philosophical questions to the analyst and is problematic in traditional empirical research. One approach to identity analysis begins with positioning theory. This study describes the major themes in positioning theory necessary to make the corollary connection to identity creation. The political nature of identity as revealed through positioning suggests a point of departure for identity analysis. Additionally, positioning as a manifestation of discourse is highly contextual – in identity analysis, primary consideration must go to cultural relativism.

Positioning theory is rooted in the theory of social constructionism which asserts that our reality is in fact a construct of our interactions as experienced through a network of affiliations. Conversations, institutional practices and all forms of discourse are the

mechanisms through which we assign “rights, duties, and obligations”\textsuperscript{79} in a positioning system. Positions are by definition relational\textsuperscript{80} and describe a kind of implicit or explicit power differential between parties in a relationship, which is manifest in hierarchy of designated roles. This power hierarchy is what makes positions inherently political.

Positioning is a dynamic process. Positioning shifts make the positioning system particularly interesting and useful to the conflict resolution analyst and practitioner. Conflict resolution experts are engineers of change and must necessarily understand these shifts in order to affect more equitable power balance or advocacy for the unempowered. Harré and Van Langenhove describe first, second and third order positioning as mechanisms of position challenging over time. For example, an initial dominant positioning\textsuperscript{81} can force involuntary positioning of an Other in a first order positioning. A second order positioning occurs when the Other assigned to the inferior role challenges Party (and the normative order itself) in a self-repositioning. The roles assigned carry expectations of “proper” action in a normative order to maintain the stability of the establishment. The “essential feature of ritual”, for example is “that second order positioning is impossible”\textsuperscript{82}; if the rights, duties and obligations of parties are reassigned, the ritual has been broken.

The power differential created by positioning is key to establishing positioning theory’s link to identity. Power, which can be gained through expert competency in the dominant discourse of the normative order\textsuperscript{83}, is always relational. It is demonstrated by


\textsuperscript{80} Ibid.

\textsuperscript{81} Ibid., 18.

\textsuperscript{82} Ibid.

the ability to influence or control an Other through dominant positioning. Indeed, the only less desired position than the lowest in the system, is existing outside of a normative order altogether. Banishment from the system implies the impossibility of challenging the positioning order and therefore deems a Party completely powerless.

The application of positioning power is a political act, associated with chosen, coerced, or circumstantial affiliations, decision-making processes and the ability to implement decisions. All acts, speech, and relationships are “political” by nature. Positioning theory reveals power structures – Parties’ relative ability to influence change - by determining Self placement within an established normative order. It exposes alliance and estrangement, strength and weakness, efficacy and impotence of Parties in relationship.

Implicitly or explicitly, positioning also exposes the key presuppositions (aspects of culture) at the core of a decision-making process. Group affiliations, orientation toward the Other, and approaches to logic intersect to create human identity. Perceptions of “Self” are created through these instruments as we identify with others who share similar values and cognitive processes or norms. It follows that identity is essentially and necessarily political, describing a capacity to affect change. Whether we discuss cultural, gender, national, professional or any other “type” of identity, we are always distinguishing a political characterization.

Discourse analysis is a useful methodology in framing positioning systems. Positions as created through acts of discourse are part of larger storylines which aggregate to “narratives” of identity. The semantics of discourse make its analysis truly a
hermeneutic study. While many positions are explicitly expressed in narrative, many are implicit and require a deeper understanding of specific linguistic symbols and cultural metaphors. Indeed much of the “power” of narrative comes from the unspoken. Transformational power of narrative equally lies in the implicit, which constitutes perhaps the larger part of social identity. Symbols and metaphors resonate with identity group members allowing them to adopt identity narrative as their own.

Political rhetoric is a particular case of discourse that warrants study because successful politicians are (almost by definition) most effective in harnessing positioning power through identity metaphor to gain dominance in a system. We might think of political speeches as one way conversations. However, as with all forms of discourse, a speech’s efficacy is dependent on its audience to have any meaning at all – in this way, a public address cannot be characterized as a unilateral act. It is reliant on the audience’s shared understanding of cultural symbols, metaphors, and narrative.

Labov discusses narrative analysis as an exercise in “practical hermeneutics”. It is the interpretation of discourse that provides its salience. The use of symbols, metaphors, and terms of art in oration is a subtle practice because of the multiple meanings these devices may support. Indeed, the strength of a symbol is that people can agree on supporting it even if they do not exactly agree on a precise interpretation. In this way, groups may galvanize toward a cause under a seemingly “fixed” ideal. The savvy politician is “able to speak with sensitivity to fluctuations in social atmosphere –

85 Ibid., 1.
and expect (mostly) to be routinely understood”\textsuperscript{88}. This is the definition of political competency - only a politician deeply rooted in the narrative of his people can effectively wield power through positioning.

Vocabulary and style are paramount in rhetorical credibility. Shotter cites Vico’s “necessity for eloquence”\textsuperscript{89} in civic discourse. Using the language dialect of the empowered, educated class is its own symbol of authority. Further, I suggest there is a limit to how educated a politician may sound without becoming undemocratic. A string of highly academic words can be perceived as out of touch, or at worst, deceptive. The political sphere, as any realm, has its own vernacular of power.

Paralinguistics, the use of silence, volume, inflection and speed in oration as well as body language (posture, gestures, eye contact, etc.), are also significant contributors to rhetorical efficacy. The use of paralanguage is exceedingly culturally specific and again most effective when used by those immersed in the target culture. The importance of cultural relativism in discourse and identity analysis cannot be overstated. A lack of cultural knowledge hinders an analyst’s ability to perceive positioning shifts in a system.

This conceptual exploration of identity represents the foundations of a process of conflict analysis which will be useful to security policy makers and others. It is potentially predictive in nature, as general patterns in positioning shifts are catalogued and anticipated in a specific conflict system. The goal of such a methodology is to provide insight into conflict evolution through the lens of identity, suggesting culturally appropriate options for intervention toward the prevention and mitigation of violent

\textsuperscript{88} Ibid., 53.
\textsuperscript{89} Ibid., 55.
conflict. This call for an identity focus in security policy highlights the importance of cultural relativism long ignored by realist theory embedded in policy making apparatus.
Identity’s Dichotomous Roles: The Case of Northern Ireland

Northern Ireland’s history has been marked with bloodshed, wars, and atrocities. The issue of identity has been one of the most omnipresent root causes of the conflict in Northern Ireland. Identity has been used throughout the centuries to disenfranchise, disillusion and de-legitimize Northern Ireland’s Irish-Catholic inhabitants. Additionally, the fundamental desire of the British-Protestants to hold onto their conception of identity has led them to regard any challenge to it as tantamount to surrender. The competing ethno-national-religious identities of the Irish-Catholics and the British-Protestants served to prolong the conflict, resulting in a situation which—until the 1990’s—seemed intractable.

The conflict in Northern Ireland has lasted the better part of four centuries, beginning with a colonization program that was inaugurated in the sixteenth century. Over the years there have been numerous rebellions and wars, such as the Irish Rebellions of 1641, 1789, and 1916, as well as the Anglo-Irish War lasting from 1919-1921. Each episode of violence carries with it certain memories or traumas that reinforce and add to the narratives of the Irish-Catholics and British-Protestants. The history of Northern Ireland contains places, events, phrases, and years—Drogheda, “the twelfth,” 1698, “no surrender,” 1916—which are instantly recognizable to members of each ethno-

1 For the purposes of this paper, the author uses Dean Pruitt and Sung Hee Kim’s definition of identity. Pruitt and Kim define identity as “An individual or a group’s conception of itself.” Dean G. Pruitt and Sung Hee Kim, Social Conflict: Escalation, Stalemate, and Settlement, (Boston: McGraw-Hill, 2004), 295. Additionally, in the context of Northern Ireland, the author delineates the concept of identity along ethno-national-religious lines.
national group, and are either venerated or reviled depending on one’s association. The violence carried on well into the twentieth century as paramilitary groups waged campaigns—“The Troubles” and “The Long War”—in furtherance of their objectives.

The causes of the conflict in Northern Ireland can be gleaned through careful attention to history. The competing ethno-national-religious identities were created and compounded by Northern Ireland’s history of colonization, discrimination, atrocities, and structural violence. The divisions that colonialism fostered and the subsequent oppression imposed on the Catholic community led to competing, and mutually exclusive, identity-narratives among the population. Thus, the mutually exclusive identities of Irish-Catholics and British-Protestants served to prolong the conflict. Mark Ross, in his work “Cultural Contestation in Ethnic Conflict,” illustrates this point when he writes: “In identity-rooted conflicts, group emotions link recent events to older, collective memories of unresolved losses in ways that make them difficult to settle.”

Violence and discrimination have been a staple of life in Northern Ireland throughout its history. Discrimination and disenfranchisement of the Catholic community—legitimized by the British-Protestant identity-narrative—has led to the escalation of violence, ultimately becoming the fundamental cause of “The Troubles.” Violence had begotten violence, and the conflict can be seen as a protracted series of conflict spirals. Atrocities committed in the past have become ingrained in each community’s narrative in the form of “chosen traumas.” These traumas are then handed down to the next generation, which serves to perpetuate the conflict and continue the

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3 For more information on the Conflict Spiral Model see Pruitt and Kim, *Social Conflict*, 96-99.
competing identity-narratives. This culture of violence and perpetual struggle creates a situation in which, “The conflict becomes such a central part of [the participants’] identity that giving it up is giving up a part of oneself.”\(^5\)

Numerous attempts were made over the years to resolve the conflict in Northern Ireland. Perhaps the most famous failed peace attempt was the Sunningdale Agreement of 1974.\(^6\) Kristen Williams and Neal Jesse, in their tract “Resolving Nationalist Conflicts,” describe the Sunningdale Agreement and note its advantages:

[Sunningdale] contained all of the provisions spelled out by the consociational theorists: power sharing, minority veto, legislative coalitions, and proportional representation of minority groups. In addition, the [Agreement] called for the creation of an all-Ireland institution, the Council of Ireland.\(^7\)

Unfortunately, Sunningdale was not to be, as Protestants viewed the concessions offered to Catholics as surrender. In the end, the agreement was not brought down by a paramilitary organization, but by “the Ulster Workers Council [who] incited strikes that led to the fall of the Assembly and the establishment of direct British rule of Northern Ireland.”\(^8\) As history would prove, Sunningdale’s fatal error lay in the fact that it was a top-down approach which, not only excluded many of the relevant parties, but also completely ignored the issue of identity.

The Belfast Agreement of 1998 was the culmination of a peace process that had spanned the decade, and it was the first “true” peace agreement in Northern Ireland’s bloody history. The Belfast Agreement was reached after months of deliberation and

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\(^6\) The full text of the Sunningdale Agreement can be found on the CAIN Conflict Archive: http://cain.ulst.ac.uk/events/sunningdale/agreement.htm.
\(^8\) Ibid.
negotiation among all of the parties involved in the Northern Ireland conflict—
paramilitary, political and governmental. The parties negotiating the Belfast Agreement
began it with a Declaration of Support, in which they acknowledged the “truly historic
opportunity for a new beginning”. Further, they recognized the importance of the past
when they wrote:

The tragedies of the past have left a deep and profoundly regrettable
legacy of suffering. We must never forget those who have died or been
injured, and their families. But we can best honour them through a fresh
start, in which we…dedicate ourselves to…reconciliation, tolerance, and
mutual trust.\textsuperscript{9}

The parties continue on to state that they “are committed to a partnership, equality and
mutual respect as the basis of relationships within Northern Ireland, between North and
South, and between these islands.”\textsuperscript{10} A simple study of the words used—equality,
reconciliation, tolerance, trust, partnership, respect, etc—reveal that this was a unique and
inspired moment in the history of Northern Ireland, when all parties were willing to hear
each other out in an environment of mutual pursuit of the same goal: peace.

The Agreement succeeded because it addressed the question of identity. Section
II-1 states that the British and Irish governments:

Recognize the birthright of all people of Northern Ireland to identify
themselves and be accepted as Irish or British, or both, as they may
choose, and accordingly conform that their right to hold both British and
Irish citizenship is accepted by both Governments.\textsuperscript{12}

This provision is perhaps one of the most important of the agreement, because it
legitimizes \textit{all} citizens. As Jonathan Tonge notes, in his text \textit{Northern Ireland: Conflict}

\textsuperscript{10} Ibid., Section I-2.
\textsuperscript{11} Ibid. Sections I-3.
\textsuperscript{12} Ibid., Section II-1.
and Change: “It is no longer possible to hold a ‘disloyal’ identity in Northern Ireland.”

Identity—long the tool for disenfranchising entire segments of the population—could no longer be used to de-legitimize ethno-national groups. Additionally, the main governments involved—Britain and Ireland—embraced a policy of self-determination for the people of Ireland. The Republic of Ireland gave up its constitutional claim on Northern Ireland and dedicated itself to the support of democratic change and self-determination, thus allaying the Unionist’s fears. Likewise, the British government agreed to “recognize the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland.”

The comprehensive, holistic, and concerted efforts of the Belfast Agreement marked a departure from past approaches and exemplified hope for the future. The success of the Agreement can be attributed, in large part, to its incorporation of identity. Through validating each ethno-national-religious group’s identity, the Agreement legitimized the concerns and traumas incumbent in their respective narratives. Williams and Jesse describe the political and security implications of identity when they write that “[I]nstitutions can establish trust and reduce the ethnic security dilemma by…promoting overlapping identities.” The Belfast Agreement serves as a definitive example of identity’s power to resolve conflict, rather than exacerbate it. The transformative use of identity—from conflict driver to reconciliation facilitator—enabled the parties to create an agreement that incorporated all ethno-nationalities and move forward together. Thus,

14 Ibid., Section II-7.
15 Ibid., Section II-1.
16 Williams and Jesse, “Resolving Nationalist Conflicts,” 571.
Northern Ireland was left with a government that empowered all parties, who in turn had a vested interest in seeing it succeed.

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Session II: Panel D
International Standards, Organizations, & Law

“The Enforcement of Mediation Settlement Agreements in P.R. China”
Jiaqi Liang, University of Missouri Columbia

“A Comparative Look at the Hybrid Courts and Tribunals”
Alexander Starr, Yale University

“Fences and Good Neighbors: A Comparative Analysis of Human Rights Standards Applicable to the Mexican Border Wall Using the Framework from the ICJ West Bank Advisory Opinion”
Sandra Jones, Acadia University

“The Applicability of anti-SLAPP Statutes to Arbitration”
Nicholas Raichart, Pepperdine University
The Enforcement of Mediation Settlement Agreements in P.R. China

China is said to be the birthplace of conciliation and the Chinese tradition of conciliation\(^1\) is called as “the Oriental Experience”\(^2\). However there exist the concerns about the enforcement of mediation settlement agreements in China, resulting from both the implicit factor—clash of culture and misunderstanding of negotiation style, and the explicit factor—crisis of trust and deficiency of legal system. As to these two factors, different countermeasures are needed.

The outstanding advantages of mediation include the parties’ enjoyment of great autonomy, the power to take control of mediation direction and to have the final say in the resolution decision. The absence of any adjudicative power or any other authority may be the most attractive aspect of mediation as well as the greatest concern to the parties. Despite the voluntariness, the execution and the enforcement of the settlement agreement remain uncertain since the agreement is not like an arbitral award or a court judgment which have the force of compulsory enforceability. If one of the parties acts in bad faith by taking advantage of the mediation settlement agreement as a contract without compulsory enforceability, the intervention of the court is eventually inevitable.

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\(^1\)“The terms ‘conciliation’ sometimes is used interchangeably with ‘mediation’, particularly internationally. Often, however, it is meant to refer to a less formal process (eg., where the neutral acts as a ‘go-between’) or to a less active role for the neutral.” See Leonard L. Riskin, James E. Westbrook, Chris Guthrie, Timothy J. Heinsz, Richard C. Reuben & Jennifer K. Robbennolt, Dispute Resolution and Lawyers 15-16 (3rd ed., Thomson/West 2005) (1987).

Everything goes back to the starting point. As mentioned above, risk of denial to execute the mediation settlement agreement is still one of the concerns in the mind of the committing party. Meanwhile, in principle, most countries are prone to recognize, review and enforce mediation agreements similar to the way conventional contracts are treated. However, in some circumstances the road to success turns out tougher than we take for granted.

“The difficulty of ~~~~ enforcing a legal document across multiple legal and government jurisdictions”³ unveils the dilemma and risk of enforcing mediation settlement agreements in international setting. As to the international mediation settlement agreement of which one party backs out, when the enforcement involves foreign legal courts, the mission is more onerous, both time and cost consuming, if not impossible. Additionally the fact that even in a domestic dispute, the enforcement of a breached mediation settlement agreement cannot escape from the intervention of the courts is also undesirable. So far, no consensus in the form of an international treaty or convention has been reached with respect to the recognition and enforcement of international mediation settlement agreements.⁴ Issue of recognizing and enforcing mediation settlement agreements can only be handled on a national basis. This lack of consensus stands in comparison with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention). Indeed, “international arbitration has been widely embraced due in part to the vital opportunity to

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³ Griffin & Daggatt, the Global Negotiator, See Eileen Carroll & Karl Mackie, International Mediation—the Art of Business Diplomacy 85 (Kluwer Law International 2000).
⁴ See id..
enforce domestic arbitral awards in foreign courts.”5 “After all, it is the prospect of being held accountable through an enforceable dispute resolution outcome that provides the necessary incentive for parties to abide by their contractual obligations.”6

In the context of China, besides the legislative deficiency, in China some unexpected barriers to block the enforcement of mediation settlement agreements still lie ahead on the road to the triumph of complete dispute resolution. China has its own stories.

A. Implicit Factor-- Longstanding Negotiation Style of the Chinese

“In contrast to the Western development of negotiation, the Chinese system of negotiation has shown remarkable consistency in its development with no observation of big jumps. To this day the Chinese rely on negotiation techniques that are years old.”7 The other party to a mediation settlement agreement with a Chinese party ought to pay special attention to the enforcement issue on the grounds that the negotiation style of the Chinese, to certain degree, is incompatible with that of other negotiators in the world. Therefore, the issue of commitment obedience is affected by several variants of China’s longstanding negotiation style. First, The Chinese have a holistic way of thinking “while Americans think sequentially and individually, breaking up complex negotiation tasks into a series of small issues: price, quantity, warranty, delivery, and so forth”8. The Chinese are inclined to view the agreement as a package rather than a combination of specific components. In this regard, they aim at developing a detailed agreement and

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6 Yeoh, Supra note 4, at 259.

7 Urs Martin Lauchli, Cross-Cultural Negotiations, with a Special Focus on ADR with the Chinese, 26 WM. MITCHELL L. REV. 1045, 1048-1049 (2000).

8 John L. Graham & N. Mark Lam, the Chinese Negotiation, HARV. BUS. REV. Oct. 2003, at 82, 89.
specific arrangements under a broadly agreed framework, not working every detailed issue out step by step to reach an agreement covering as many scenarios as possible. This negotiation style is characterized as “first general principles and only then the details”\(^9\).

Another important characteristic of Chinese negotiation style is \textit{flexibility}, which is linked closely to the two other features: its holistic aspect and the renegotiation. Chinese negotiators embody a strange combination of obstinacy and flexibility.\(^10\) Chinese negotiators are persistent with the generally agreed principles, and when their long-term objectives and goals are challenged, they act stubbornly.\(^11\) However the Chinese are reasonable, flexible, and pragmatic realists when working out the details under a generally agreed framework, describing that “everything will be possible when [they] get to the concrete arrangements”\(^12\). Additionally, the Chinese are considerate of mutual interests, though there is a risk of uncertainty regarding how the further arrangements are arrived at.

The third notable feature in Chinese negotiation style is \textit{renegotiation} and \textit{continuous negotiation}. As the empirical research shows, “negotiation with China almost always extends to the post-negotiation stage”.\(^13\) In contrast to the American perception that “the negotiation process is properly leading to consummation, when an agreement is reached that will be binding on all parties and provide a given period of fixed and

\begin{footnotesize}
\begin{enumerate}
\item\footnote{Lucian W. Pye, Chinese Negotiation Style: Commercial Approaches and Cultural Principles 49 (Quorum Books 1992).}
\item\footnote{See \textit{id}, at 78.}
\item\footnote{See \textit{id}, at 79.}
\item\footnote{See \textit{id}, at 80.}
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predictable behavior”\(^\text{14}\)\(^\text{14}\), the Chinese are less likely to think that “any formalized contract will end the process of negotiations”\(^\text{15}\)\(^\text{15}\). The Chinese people like haggling and bargaining over their deals, even if they have made a preliminary promise or commitment. The Chinese believe that “the best compromises are derived only through the ritual back-and-forth of haggling”\(^\text{16}\)\(^\text{16}\). This practice is rooted in one of the Chinese’ behavioral philosophies---flexibility and adaptability. “The basic Chinese mentality of contracting is problem solving based on the changing situations instead of contracts.”\(^\text{17}\)\(^\text{17}\). Even while an agreement has been reached, the Chinese are prone to view it less binding because they would like to renegotiate and re-decide. “The Chinese too are patient but persistent in their pursuits and willing to renegotiate contracts to achieve their long-term objectives. The contract does not signal the last word on anything.”\(^\text{18}\)\(^\text{18}\)

\textbf{B. Explicit Factor--Crisis of Trust}

More accessible dispute resolution provided by legal system and a fading influence of Confucianism as culture based on which acceptable compromise was established results in “a change in particular behaviour and expectation”\(^\text{19}\)\(^\text{19}\). “Traditional Chinese mediation appears not to flourish as well in urban Chinese communities because fundamentally, the cultural norms are different: economic ties replace personal ties, and commercial values rank higher than social values.”\(^\text{20}\)\(^\text{20}\) China as a morality-binding community which had been lasting for several thousand years is declining. Given that commercial areas where most of economic activities occur are less bound to traditional

\(14\) Pye, \textit{Supra} note 62, at 88.
\(15\) See id.
\(16\) Graham et al., \textit{Supra} note 61, at 81.
\(17\) Ghauri et al., \textit{Supra} note 73, at 18.
\(19\) See id., at 3.
\(20\) See id..
philosophical values, it is reasonable to predict that they would be less likely to regard the social sanctions as a fearful force to make them keep promises. Because of the imperfect legal sanction system, the wrongdoers pay few costs for their malfeasance. In contrast to well-developed arbitration, limited research and data concerning modern commercial mediations in China are available. It is difficult to get access to information regarding current situation of the enforcement of mediation settlement agreements in China. But some reports could reveal this concern.

C. Some Guides on Enforcing a Mediation Settlement Agreement in China

Given the deficiency of legal system of mediation, along with seeking the settlement agreement enforced in court under the conventional contract law, with respect to the settlement agreement reached in an independent institutional mediation process, the existing expedited procedure for its enforcement is to enter into an arbitral clause to appoint a sole arbitrator to render an arbitral award based on the content of the settlement agreement. Then the court would start the arbitral award enforcing procedure under the Civil Procedure Law. Additionally, the parties can turn to a notary agency for a document with compulsory enforceability if the legal requirements are met. Thus the court will enforce the settlement agreement directly under the compulsory enforcement procedure without entering the formal proceeding.

When encountering the enforcement issue, the first and foremost rule is to diagnose whether it results from the implicit factor—misunderstanding of the culture, or the explicit factor—bad faith in the contract. To deal with different situations, different measures should be taken into consideration. Therefore, not only can the fruit of a

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21 See the subsection of People’s Mediation in Part Three.
mediation settlement agreement be safeguarded but a long-term good relationship can be preserved.
A Comparative Look at the Hybrid Courts and Tribunals

According to the Office of the United Nations High Commissioner for Human Rights, "hybrid courts are defined as courts of mixed composition and jurisdiction, encompassing both national and international aspects, usually operating within the jurisdiction where the crimes occurred". Analytically, the relationship between hybrid and other international courts can be described along a sliding scale of relative independence or dependence from the influence of the "conflict state's" domestic politics. Consistent with the literature on international courts and tribunals this model draws upon distinctions used by Posner and Yoo (2005) to describe judicial independence. It includes subject matter jurisdiction, temporal and spatial jurisdiction, proportion of international to domestic justices, and the extent of Chapter VII authority. These hybrid courts and tribunals are all less independent than the international ad hoc tribunals created for Rwanda and the former Yugoslavia in the early 1990s.

It is these hybrid courts, specifically those in Cambodia and Lebanon, that my paper will focus on and attempt to analyze in a systematic fashion. To that end the model borrows heavily from the Anne Marie-Slaughter's work in the liberal theory and legalization paradigm which disaggregates the state into, "aggregations of distinct

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institutions with separate roles and capacities".\textsuperscript{24} Another key aspect of liberal theory for hybrid courts is the paradigm's emphasis on what Slaughter calls "vertical networks" where states, "delegate their sovereignty to an institution above them with real power—a court or a regulatory commission".\textsuperscript{25} However, the model also accepts that actors act instrumentally out of rational self-interest, an assumption that is more in keeping with realists such as Richard Posner, John Yoo, and Jack Goldsmith who are highly critical of international law's ability to act independently of conventional power politics.\textsuperscript{26}

I argue that hybrid tribunals can be best understood as partnerships between a particular sub-state political faction in the conflict state and at least one member of the five permanent members of the UN Security Council. Crucially the ally on the Security Council must want to establish a tribunal, and importantly, as Gary Bass has observed, illiberal authoritarian states such as Russia and China do not seek to create tribunals.\textsuperscript{27} Thus my first hypothesis is that there must be a faction in the conflict state who stands to benefit from the tribunal acting in concert with an ally who is a permanent member of the Security Council in order for a hybrid tribunal to be established.

The second aspect of hybrid tribunals that this paper seeks to explain is their relative independence. The second hypothesis is that the political faction in the conflict state supportive of the tribunal will want it to be relatively independent, and thus farther out of the conflict state's influence, if its domestic hold on power is precarious or if it is in the opposition. However, if the faction is firmly in power then it is more likely to favor a dependent hybrid tribunal where it can manipulate the tribunal and limit the influence of foreign actors. This hypothesis is derived from the liberal theory concepts of Anne Marie

\textsuperscript{25} Slaughter, 2004, 13.
Slaughter's vertical networks mentioned above.

To illustrate the model I will examine the tribunal and court in Lebanon and Cambodia respectively. The UN Security Council issued resolution 1757 in May 2007 calling for the creation of the Special Tribunal for Lebanon (STL) under Chapter VII of the UN Charter after a protracted failure on the part of the Lebanese Parliament to vote on the Statute of the tribunal. The governing March 14 Coalition was strongly supported by France and the United States, two permanent members of the Security Council. On a domestic level, the March 14 Coalition was, for a variety of reasons, in a weak domestic position when Resolution 1757 was passed. Thus, the governing coalition was willing to allow the Security Council to establish the tribunal unilaterally by Resolution 1757, without the consent of the Lebanese government. The STL is therefore binding upon Lebanon under Chapter VII of the UN Charter. Also, while the temporal jurisdiction of the STL was initially limited only to the assassination of the former Prime Minister and his associates on February 14, 2005, the March 14 Coalition favored extending it further to all assassinations in Lebanon between October 2004 and December 12, 2005, thereby making the tribunal more independent.\(^28\) To the extent that the STL is not as independent as other hybrid courts, that can be explained by objections on the part of Russia and China, who did not favor extending the Statute of the Tribunal to include international crimes or compel other states to cooperate under Chapter VII.\(^29\)

The framework can also apply to other hybrid tribunals and courts and the case of Cambodia and the Extraordinary Chambers in the Courts of Cambodia (ECCC). First, throughout the 1990s China opposed the court. However by 1999, Britain, France, the

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United States, and Russia all firmly favored the tribunal and China finally relented in
2001. 30 Second, Prime Minister Hun Sen and his Cambodian People's Party (CPP) were
firmly in power in Cambodia by the late 1990s following the collapse of the Khmer
Rouge and the fall of Hun Sen's rival Prime Minister Ranariddh, and thus had little
incentive to delegate authority to the tribunal. 31 This explains both the protracted period
of negotiations between the UN and Cambodia over the tribunal and its relative
dependent character. Importantly, the ECCC's jurisdiction is limited only to crimes
committed by senior Khmer Rouge leaders between April 17 1975 and January 6, 1979,
despite a plethora of crimes committed before and after by the Khmer Rouge and other
groups such as the CPP. 32 Another key provision limiting the independence of the court
is that Cambodian justices outnumber international justices in both chambers of the court
and are selected by the Cambodian "Supreme Council of Magistracy". 33

Therefore, the data on the hybrid tribunals in Lebanon and Cambodia support
both hypotheses discussed earlier. In conclusion, hybrid tribunals are likely to be
established only with the backing of a liberal democratic Permanent Member of the
Security Council and in cooperation with a sub-state political faction in the conflict state.
Furthermore, the sub-state political faction delegates a measure of the state's sovereignty
to the tribunal. How much sovereignty, or how much independence, the faction is
willingly to delegate is a function of its domestic political standing in relation to its rivals.
A faction firmly in power is likely to try to keep the tribunal relatively dependent and
vice versa for a weak faction.

33 Menzel, 2007, 217.
The controversies over the effectiveness of the United States-Mexico border wall are vast and surround complex social issues such as globalization, terrorism, sovereignty and civil and economic rights. While separation walls are not entirely unusual, such as the peace lines in Northern Ireland, or The Berlin Wall, they are rarely popular and are often seen as avenues towards further segregation, disagreement and conflict. As Claudia Sadowski Smith noted in regards to the separation fences along the Mexican Border, “In their solidity, these obstacles resemble the former long-time division of East and West – The Berlin Wall, which U.S. foreign policy perceived as a major obstacle to the worldwide spread of freedom and democracy.”

The first major examination of the legality of separation walls occurred in 2004 when the International Court of Justice issued a controversial advisory opinion *Legal Consequences of the Construction of a Wall in Occupied Palestinian Territory*, that declared the Israeli-Palestinian West Bank wall illegal under several humanitarian and human rights law obligations. While the case was primarily based on the fact that Israel is an occupying force in Palestine, the jurisprudence is generic enough that it can lend itself to an examination of the legality of separation walls erected during a time of peace between two states.

In 2003 the UN Security Council approved the creation of a “Performance Based Roadmap to a Permanent Two-State Solution to the Israeli - Palestinian Conflict.” While the plan laid out a course for the negotiation of peace it did not specifically address the West Bank Wall. In July of 2004, the ICJ issued an advisory opinion declaring the wall “contrary to international law” and found that “states are under an obligation not to render aid or assistance in maintaining the situation created by such a construction.”

The heart of the opinion centered around the “confiscation and destruction of Palestinian land and resources, the disruption of the lives of thousands of protected civilians and the de facto annexation of large areas of territories,” as well as the “devastating impact of the projected wall on the Palestinian population.” The court focused heavily on a test of necessity, positing that the security needs of Israel could not justify derogation from their human rights obligations.

While the ICJ opinion centers on the status of the conflict between Palestine and Israel there was a significant discussion of human rights standards which appear, prima facie, to be applicable to other separations such as the Mexican Border Wall. Foremost is the right to self-determination, which the court intertwined with freedom of movement and land rights. The second argument revolves around the concept of necessity and proportionality, regarding a state’s obligation to ensure that their restriction of human

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35 Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, No. 131, (Int'l. Court of Justice 2004, July 9), para 162,159.

36 Ibid, para 1.
37 Ibid, para 1.

38 Self-determination is the concept that all people have the right to determine their own political status, and freely pursue their economic, social and cultural development without interference or subjugation by another group of people.
rights are a necessary and proportionate response to their security problems. This summary will focus on later argument.

The arguments regarding proportionality and necessity are difficult to establish because they require the extension of human rights protections to non-citizens. This application, however, is strongly codified in the treaties applicable to the wall, particularly the *International Covenant on Civil and Political Rights* (1966) and the *International Covenant on Economic and Social Rights* (1996). Those treaties indicate that the rights recognized within are applicable without “distinction of any kind” and this assertion is also supported by several UN General Assembly decisions.

Given that protections are awarded to non-citizens, arguments can be made that the border wall has negatively impacted the human rights of illegal aliens. One of the largest concerns is the arrest of immigrants and their treatment while in detention. These problems are multifaceted and include allegations of abuse, long or indefinite detentions without counsel, harassment, and deportation of unaccompanied minors across the border. Moreover, the implementation of the Patriot Act allows for indefinite detention of illegal aliens who are suspected of terrorism.

The increased militarization of the border raises the question of necessity as troops have very specific rules of engagement and are being used to combat what is solely criminal activity. The emergence of militias, whom advocates argue are operating outside of the law, and without interference by the U.S. government, represent a clear threat to migrants who may be harmed, or even killed by exuberant members.

Further illuminating the question of necessity are the results of studies which indicate the implementation of the border wall has led to an increase in migrant deaths,
which advocates believe violates the right to life as enshrined in customary law. This argument is historically difficult to apply because illegal immigrants are willingly putting themselves in danger, although advocates argue that the economic policies of NAFTA have created a new class of “economic refugees” who are forced by desperation to risk entry in the U.S. Moreover, the ACLU argues that the willingness of illegal aliens to risk their lives is irrelevant, as the U.S. has a responsibility to limit the potential loss of life, and under the basic international law concepts of good faith\textsuperscript{39} and the abuse of rights doctrine\textsuperscript{40}, the U.S. is required to “to exercise its legitimate rights, including its border patrol policies, in a manner that does not undermine the fundamental rights of others.”\textsuperscript{41}

While the U.S. has instituted many border safety programs, the ACLU has argued that the programs are insufficient and not an overall remedy.

If given a superficial comparison to the ICJ opinion, it appears that the border wall may not be a necessary response to illegal immigration given the disproportionate effect it seems to have on human rights along the border. Upon analysis, however, this argument becomes weaker when it is considered that a causal relationship cannot always be established between human rights conditions and the border wall itself. Detention issues, for example, are more related to procedural problems within the Department of Homeland Security. Problems with militias on the border are the responsibility of local law enforcement, but are not distinctly caused by the wall.

\textsuperscript{39} The concept that States should deal fairly and honestly with others
\textsuperscript{40} The abuse of rights doctrine indicates that a state may be liable for harm caused by actions they normally have a right to pursue if one of the following items are met: 1. The motive is to cause harm 2. The act is exercised without serious judicial protection 3. The act exercised is against moral rules, good faith, or fairness 4. The act is exercised in a manner other than the one it was granted for
\textsuperscript{41} Victor Nicolas Sanchez et al. V. United States, Case 65/99, Report 104/05, Inter-American Court, OEA/Ser.L/V/II.124 Doc.5 (2005), para 32.
The right to life analysis increases in complexity when considering migrant deaths. While the border wall has pushed immigration into areas where death is certain, it has not been definitively established if the legal responsibility lies with the person knowingly taking the risk, or with the state. Seemingly the responsibility for deaths would lie with the U.S. government if personnel from the Border Patrol or the U.S. military were knowingly and maliciously acting in a manner which has caused deaths, but so far that has not been proven.

Violence against migrants, of course, needs to be addressed. The lack of a concrete legal remedy for illegal aliens to redress issues of violence, presents a serious problem. Currently court cases involving migrant harassment have been brought to the courts on behalf of petitioners, but very few have been successful because the victims are not legal residents. This forces illegal immigrants into a proverbial legal “blackhole” where international law is the only source of protection, but is the slowest and most difficult legal remedy to apply.

While the border wall in itself may not be the causal factor of human rights failures along the border; there is strong evidence that it is a symptom of a larger problem of misdirected or inefficient immigration policies, which taken together may represent a failure by the U.S. to meet its human rights obligations under international law. Given these larger issues, it should be expected that the legality of the Mexican Border Wall should be sufficiently tested in both domestic and international courts in the future.
Introduction

Consider the following hypothetical:

*John was an employee of ACME corporation, which produces polymers for the aerospace industry. When he was hired, he signed an employment contract containing an agreement to submit to binding arbitration any dispute “arising out of, or relating to the scope of employment.” Ten years later he resigned and subsequently testified in public town hall meetings about massive oversight within ACME’s environmental controls that had caused widespread pollution. Subsequently ACME submitted a claim for arbitration, asking for injunctive relief and asserting defamation and various tort claims worth tens of thousands of dollars. John, shrinking at the threat of such damages and unable to front the expenses necessary to defend himself, declined to further comment on any of the company’s actions -- much to the chagrin of concerned community members. The arbitral panel eventually found ACME’s complaint to be without merit, and awarded it nothing.*

While arbitration is widely touted for its versatility, affordability, and efficiency, some question its ability to preserve key democratic touchstones -- due process, right to petition, and public civic participation -- within its privately administered framework.¹ They so posit because of the privatized nature of these proceedings, which do not necessarily transport all features from public judicial forums.² Such due process concerns are traditionally addressed within the context of contract law, and both federal

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² Id. at 954, 965.
and state governments place them firmly within the right to contract.\textsuperscript{3} That is, as long as established principles of contract are met, courts will generally uphold arbitration clauses and trust that individual rights are protected therein.\textsuperscript{4}

However, there is a question as to the applicability of certain statutory procedural safeguards -- designed to both limit the abuse of and allow access to the judicial process -- to arbitration.\textsuperscript{5} Commentators and courts alike have recognized the “chilling” effect of meritless lawsuits filed merely to intimidate their targets into submission. These are referred to as “Strategic Lawsuits Against Public Participation” or “SLAPPs.”\textsuperscript{6} In response, many states have drafted legislation, codified as “anti-SLAPP” statutes, to provide for quick, effective dismissal of such claims.\textsuperscript{7} By so doing, fundamental rights of free speech and petition are preserved for those who would otherwise be silenced.

The question remains, however, as to the reach of these statutory protections into private arbitrations.\textsuperscript{8} Specifically, does arbitration offer “bully” plaintiffs safe harbor against anti-SLAPP laws, conversely stripping unsophisticated targets of this statutory shield? Is there such a thing as a “SAAPP” – a “Strategic Arbitration Against Public Participation?”

\textsuperscript{4} Id.
\textsuperscript{5} This is because, “constitutional due process, maximized at trial...applies[] with slightly less force in the arbitration context because of the unique process needs of arbitration.” By emphasizing process over result, arbitration achieves a high degree of flexibility, but this “very informality that is [its] strength also creates [its] greatest potential for mischief.” 47 UCLA L. Rev. at 1054.
\textsuperscript{6} See George W. Pring, SLAPPs: Strategic Lawsuits Against Public Participation, 7 Pace Envtl. L. Rev. 3, 4 (1989).
This paper seeks to answer this question within the context of various state anti-SLAPP statutory schemes and will offer ideas of how arbitration might be included under the purview of these statutes.

Existing anti-SLAPP statutes and the need for dialogue

Typically, state anti-SLAPP statutes require some variant of a basic two-prong test before an affected defendant can successfully dismiss a case. First, the target-defendant must try to assert a free speech or petition right (we’ll call this the “constitutional rights” prong). Second, these rights must be threatened by the plaintiff via a lawsuit, claim, or action (“lawsuit” prong). Though terms may differ, it is clear that most jurisdictions with anti-SLAPP laws require these threats to take some form of “judicial proceeding.” Washington courts, for example, hold that neither motions for sanctions for frivolous lawsuits nor requests for temporary restraining orders are “lawsuits” for purposes of anti-SLAPP. Georgia courts similarly construe their statutes as protecting only against “abusive litigation.” Conspicuously missing from most case law, however, is any discussion as to whether arbitration qualifies as a “judicial proceeding.”

California courts have provided some insight into this question. Sheppard v. Lightpost Museum Fund (2006) held that a lower court cannot grant an anti-SLAPP motion to “strike an arbitration claim filed only in an agreed arbitral forum and not

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9 This often arises when defendants are publicly critical of or wish to testify against those whom they contract with, such as an employer, who then brings a defamation or related claim.
10 See generally id.
asserted...in any complaint, cross-complaint or petition filed in court.”\textsuperscript{13} The Court of Appeal stated that the statute’s clear language did not authorize a trial court to strike the arbitration claim because arbitration is not considered a “judicial proceeding.”\textsuperscript{14}

Such characterization, by any court, should warrant suspicion. True, arbitrations do not take place in formal courtrooms or employ juries, but rather make use of proprietary rather than statutory rules of procedure. However, both arbitration and litigation are, at their core, vehicles for resolving conflict. Sharing this purpose, they are also both susceptible to abuse; both can, and are, used as weapons to create, rather than resolve, conflict. Limiting anti-SLAPP to litigation ignores the increasing use of arbitration as an alternative conflict resolution forum and thus protects constitutional rights only from lawsuits filed in courts. Meanwhile, individuals bound to arbitration contracts are unable to express their rights without fear of being bullied into private arbitral proceedings to face large and sophisticated opponents.

**Extending statutory protections to arbitration**

A dialogue must be opened to consider the reach of statutory protections into the world of private arbitration. Cloaking arbitration under the guise of contract does little to protect against constitutional threats. To this end, two things should happen.

First, state courts must be prepared to address the issue, and must be consistent in their treatment of arbitration. For example, the California courts consider arbitrations “official proceedings” in terms determining the “constitutional rights” prong, but not the “lawsuit” prong.\textsuperscript{15} Additionally, those same courts extend some statutory protections to arbitration – for example, testimonial privileges to statements made in both arbitration


\textsuperscript{14} Id. at 323.

\textsuperscript{15} See Ribas v. Clark, 38 Cal.3d 355 (1985).
and at trial – while denying them in other situations, namely regarding anti-SLAPP.\textsuperscript{16} This is problematic because generally, for alternative dispute resolution ("ADR") processes to be effective at solving conflict, they must afford participants the same statutory rights and constitutional protections traditional litigants enjoy; parties would otherwise tend to avoid their use altogether.

Second, private arbitrators should be educated on anti-SLAPP laws and be prepared to hear and decide motions brought under such statutes. Courts nationwide are largely silent as to an arbitrator’s authority to employ anti-SLAPP principles. However, due to the great deference currently given arbitrators, courts would likely take no issue with giving them power to entertain anti-SLAPP motions. This fact is bolstered when considering that parties asserting an anti-SLAPP motion in arbitration would presumably do so not to avoid an arbitral forum in favor of litigation, but to avoid contesting a claim in the first place.

Conclusion

John, our ex-ACME employee, would rightly be subject to arbitration according to the terms of the employment contract. But what if ACME did in fact cause widespread damage and John was merely trying to speak for the public good? What if there was no merit to ACME’s claim, but John was nonetheless bound to arbitrate? Under current law, he has no remedy and must redirect his efforts “away from public issues toward private self-defense.”\textsuperscript{17}

Such an incongruous result may unfortunately become the norm rather than the exception. Both the use of arbitration and the anti-SLAPP movement continue to grow in

\textsuperscript{16} See Moore v. Conliffe, 7 Cal.4th 634,637 (1994)
popularity, yet questions will inevitably arise as to arbitration’s place within these statutes. Leaving these questions unanswered would ultimately neglect the need for protection against strategic and harassing use of judicial channels – whether those channels are public or private.
Session III: Panel A
Democracy, Decentralization and Divided Societies

“The Long-Short Way: A Conflict Analysis of the Cyprus Question”
Scott Spiegler, University of Massachusetts Boston

“Understanding the Political Dimension of the Lebanese Ethnic Strife as Framework for Conflict Resolution”
Benedetta Berti, Tufts University

“Somalia Redux: New Visions for a Renewed Nation”
Chloe Berwind-Dart, University of Massachusetts Boston

“The Quest for ZOPA and Third-Party Role in the Decentralization Process within Fragile Societies”
Noel Twagiramungu, Tufts University

Uganda Peace Talks: The Negotiation Under-Commitment Problem”
Kim Hyesung, Tufts University
The Long-Short Way¹: A Conflict Analysis of the Cyprus Question

I Prologue

The purpose of this paper is to undertake a conflict analysis of the "Cyprus Question". This paper considers the Greek role² in the conflict and certain aspects of its historical relationship with Turkey that have blocked its ability to participate as a negotiating partner³. The take-away for the reader can be found in the words of Sascha Sheehan: “You have to get the right diagnosis, or your resolution won’t properly address the salient features of the conflict.”

As of the writing of this paper, Cyprus remains one of the most complex, intervention-resistant conflicts on the global agenda.⁴ Cyprus fits the definition of what Middle East scholar Edward Azar calls a protracted social conflict⁵ that has resisted

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¹ The inspiration for the title comes from two, independent sources. The first is the title of a book by Rabbi Adin Steinsaltz and the second is from the work of conflict resolution academic/practitioner, Jay Rothman. Engineers know that project failure is mitigated when they invest the time to generate comprehensive requirements and design solutions that target those requirements. In the same vein, Steinsaltz claims one must not sacrifice expediency for efficiency in building a meaningful, spiritual practice. Likewise, Rothman suggests spending a substantial amount of time up front analyzing and defining a problem can considerably shorten the time required to work out a solution that lasts. Rothman terms this commitment to interventions informed by analysis- the “Long-Short” Way.

² In referring to the Greek role, I mean to say both the role of Greece and the way in which Greece’s relationship with Turkey has impacted the actions of Greek-Cypriots.

³ Another factor that dictated the decision to focus on Greece’s contribution to perpetuating the conflict is the availability of Greek scholarship on the conflict and the limited availability of Turkish contributions to the academic conversation. The ubiquity of the Greek “voice” over the Turkish “voice” is a microcosm of the conflict itself. Nadim Rouhana (2004) argues that domination of the high-power group over the low-power group reinforces the power asymmetry; hence a complete analysis of this conflict would necessitate the inclusion of the Turkish narrative.

⁴ “The conflict has resisted with tenacity the efforts of many nations to bring about a solution. It frustrates diplomats, irritates those who believe we have made progress in studying techniques of negotiation.” …Norma Salem, Cyprus: A Regional Conflict and its Resolution, Ottowa: St.Martin’s Press, 1992, p.4

intervention since its independence from Great Britain in 1960. International mediation has been the predominant choice of intervention in Cyprus. Track-3 diplomacy and bi-communal activities have also been tried. Despite best efforts, no attempts at mediation have substantially moved the conflict forward and provided the necessary conditions for ripeness. All it has accomplished is the precipitation of a mutually hurting stalemate, but not hurting enough to get the parties to successfully negotiate at the bargaining table.

II Why is Cyprus such a Refractory Conflict?

Religion scholar, Richard Rubenstein observes that processes useful in resolving disputes when a normative consensus exists are not likely to be useful where there is no normative consensus. Where normative consensus exists, traditional methods like mediation can bring about effective resolution. Parties share values and a sense of social reality, so break downs in the process can be repaired within a mutually-understood framework. The normative dissensus in Cyprus has rendered conventional practice ineffective.

Further, tried interventions have failed, because chosen interventions did not adequately target the sources of conflict. The inadequacy stemmed from a lack of investment, as we shall see, in conflict analysis prior to selecting a resolution intervention. Prior to World War II, the predominant unit of analysis in international conflict was the nation-state. Mediation had a strong record of success in interstate

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6 Azar observes, “the critical factor in protracted social conflict… such as [persists] in Cyprus… is the prolonged and often violent struggle by communal groups for such basic needs as security, recognition and acceptance, fair access to political institutions and economic participation.”
7 William Zartman
8 Zartman 2001
9 2003
10 Sascha Sheehan
conflicts with instrumental features\footnote{I.e., the kinds of tangible items that can be placed on a bargaining table, items which are observable, tangible and bounded.}. In the New World Order that emerged following the Cold War, intrastate conflict began to dominate the international landscape, and these “newly noticed”\footnote{Rothman, 1991} conflicts were driven by expressive issues of identity\footnote{Symbolic issues that “derive from existential and underlying psychocultural concerns that are perceived as threatened or frustrated” - Jay Rothman, Resolving Identity-Based Conflicts in Nations, Organizations and Communities, Jossey-Bass Publishers, 1997.}. Developmental psychologist, Erik Erikson proposes that identity connotes both a consistent sameness within oneself… [and] a persistent sharing of some kind essential character with others\footnote{1956:57. Identity can also be understood as the complex of all the attributes that characterize a particular individual or social group.}. Expanding on Erikson, psychoanalyst Vamik Volkan says that large-group identity (i.e. Turkish or Greek identity) refers to the subjective experience of millions of people who are linked by a persistent sense of sameness while sharing some characteristics with others in foreign groups\footnote{Vamik D. Volkan and Norman Itzkowitz, Cultures under Siege: Collective Violence and Trauma, Modern Greek and Turkish identities and the psychodynamics of Greek-Turkish relations, 2000}. Large-group identities are constructed based on collective characteristics like race, religion and ethnicity- to name a few. One quality that contributes to conflict is primary identity. Primary identity refers to the significance or primacy of that identity to the group. In Cyprus, the ethnic component of the disputants, as evidence by the label, Greek-Cypriots and Turkish-Cypriots, is the most defining aspect of their identity.\footnote{The failure of practitioners in Cyprus to notice the identity-issues underlying the material ones and treat Cyprus like a conventional, intrastate conflict with material features resulted in a costly misdiagnosis.}

John Burton’s Theory of Basic Human Needs informs us that human beings have basic human needs (like the need for identity, security, self-determination, recognition, etc.) that are non-negotiable and must be satisfied if they are to be able to manage and resolve conflict in efficacious ways. The satisfaction of those needs may look different
from person to person and culture to culture, but the underlying needs are common to all human beings. So too, large groups have parallel, non-negotiable needs.

Imposing negotiation on an identity-based conflict can make things worse, because negotiation often seeks to get parties to compromise and make concessions. As a result, parties in identity-based conflicts may resist the compromise and concessions sought in the bargaining process for fear that conciliatory gestures may be interpreted by other as potentially validating their opponents identity concerns. Not only did mediation fail to bring resolution, but also its application to an identity-based conflict served to further exacerbate the instrumental concerns 17.

III How did identity issues get left out of the picture?

Looking at how practitioners in Cyprus framed the conflict historically yields insight. If we extend the metaphor of a frame, we notice that frames give boundary and focus to the image that is framed. How one frames the conflict (i.e., what one chooses to focus on) determines what one sees and how one deals with the problem. If one frames the conflict in material terms, it is reasonable to exploit mediation, because there the assumption is that a resolution is the preferred outcome and a mutually-satisfying outcome is possible. If one frames the conflict as having identity-based features, an intervention must be chosen that addresses issues of identity, in addition to whatever instrumental issues that require resolution 18.

17 Rothman, 1997
18 It is often the case that conflicts based in identity issues will also contain material issues as well
Volkan introduces chosen trauma as a window into deep-seated fears and concerns that large groups carry in inter-group conflict. In conflict, chosen traumas can be reactivated, and- like clicking on a hyperlink- its victims are transported in time right back to the symbolic moment of trauma. This large-group baggage takes disputants out of the present moment and keeps them dwelling on past hurt.

Let’s return to the frame. If one frames the inception of the conflict in Cyprus as August 16, 1960, it is entirely possible to see the conflict as instrumental in nature. Two ethnic groups exist on one island clamoring for power, land and resources. Volkan suggests that one must frame the inception of the conflict back 1,000 years to understand how bargaining with Turkey today threatens Greece’s historical needs for dignity, security and control.

Volkan broadens our historical horizon by letting us know that in 1071, Seljuk Turks defeat Byzantine forces in eastern Anatolia. This incident demarcates the beginning of Turkish expansion in Byzantine territory. The Greek loss of Constantinople in 1453 inflicted tremendous shame and humiliation on the glory of Greece. This Greek catastrophe marked the end of Greek domination in Asia Minor and became emblazoned on Greek conscience as a chosen trauma. In negotiating with Turkey, this chosen trauma for Greeks reactivates this trauma and redirects the conflict back to 1453 rather than to

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19 Chosen trauma refers to the shared mental representation of a past historical event during which a large group suffered losses and humiliation at the hands of an enemy group. Subsequent generations are given tasks such as mourning losses and reversing humiliation. [Victims] choose… to psychologize and mythologize what has occurred and define its identity by referring to that event- Vamik D. Volkan and Norman Itzkowitz, Cultures under Siege: Collective Violence and Trauma, Modern Greek and Turkish identities and the psychodynamics of Greek-Turkish relations, 2000

20 Chosen trauma is a powerful influence in conflict, which many Boston locals experience in the rivalry between the Boston Red Sox and the N.Y. Yankees around the “Curse of the Bambino”. The mythology of Red Sox Nation vs. the Evil Empire is ripe with imagery of “us and them”, “right and wrong”, “we’ll get them next year!” Subsequent incarnations of the Red Sox are shouldered with the burden of reversing the curse, reversing the humiliation of countless Boston defeats at the hands of their NY nemesis
present matters at hand\textsuperscript{21}. Given this regression to deep-seated trauma, one can see- as suggested above- how imposing mediation to deal with material issues in Cyprus can be premature and ineffective and how attempting to resolve material issues in conflicts with identity-based features may feel to both parties like legitimizing the other’s identity issues, which the disputants have not been ready to do.

**IV What might be steps towards fresh air?**

The title of this paper, the Long-Short Way, connotes a commitment to conflict resolutions informed by thorough comprehensive analyses of the problem that is driving the conflict. Rothman graphically contrasts this orientation with its opposite, the Short-Long Way.

\[
\text{Problem Definition} \rightarrow \text{Solution Seeking} \\
\text{Problem Definition} \rightarrow \text{Solution Seeking} \text{22}
\]

**Figure 1: Investing Time Up Front to Ensure Greater Efficacy**

Jay Rothman’s *ARIA* Framework is an attempt at providing a mechanism to ensure that sufficient time is taken to generate a comprehensive, problem definition leading to an effective solution. The label ARIA is an acronym for: Antagonism, Resonance, Invention, and Action. The ARIA framework describes a dialogue and reconciliation

\textsuperscript{21} To cope with the enormity of this humiliation, the loss of Constantinople was projected on a cosmological scale as Divine punishment for Christian sin. Further, this event occurred on a Tuesday, which has been considered for centuries an inauspicious day for Christians. The shock even precipitated rumors of a new Crusade to recover formerly-Christian lands and caused one observer to speculate that the Sultan who led Turkish forces was a Trojan

\textsuperscript{22} This schematic is intended to show a stretching of the amount of time invested in problem analysis and definition as compared to the time invested in finding a solution to the problems. In short, well-defined, well-understood problems generate conditions for finding more efficacious solutions more quickly (i.e., if you know what you are looking for, you are more likely to find it). In contrast, loosely-defined, more poorly-understood problems generate conditions for solutions that are more likely to be ineffective and lead to increase time costs due to a lack of preparation
process which can "foster harmony and resonance from adversaries' full and honest
ingression of the deeply felt human motivations that lie beneath their conflict."\(^{23}\)

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**Figure 2: The ARIA Framework**

**Adversarial Framing**
Focuses on the tangible what of the conflict.
Is defined in US vs. THEM terms, the
resources at stake, and the opposing solutions
sought. Results in **ANTIAGONISM**

**Agenda Setting**
Addresses the why and who of the conflict
and how the cooperation through the tangible
what of solutions. Consolidated into plans for
**ACTION**

**Reflective Reframing**
Focuses on the why and the who of the
conflict— the identity needs of all sides,
leading to **RESONANCE**

**Inventing**
Focuses on the how of cooperatively
resolving the conflict and its core causes
through integrative solutions, resulting in creative **INVENTION**

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V Summary

In summary, Cyprus’ resistance to intervention has been a result of poor conflict
definition, which has led to the prescription of interventions that didn’t target the source
of the conflict (The Short-Long Way). The identity components of conflict often remain
undiscovered by material issues when insufficient effort is put forth in analyzing the
conflict and defining the problem to be solved. In Cyprus, the non-negotiable issues of
large group identity come to light when viewed through the lens of Volkan’s Theory of
Chosen Trauma. Volkan suggests that reviewing history with a wider-angle lens

\(^{23}\) Jay Rothman, Resolving Identity-Based Conflicts in Nations, Organizations and Communities, Jossey-Bass Publishers, 1997, p.18
identifies a Greek calamity, the loss of Constantinople, which persists in a dormant fashion in the collective consciousness of modern Greek-Cypriots. With this awareness, we are in a position to appreciate why, when one of these buried landmines gets stepped on (prior to or during negotiations) and reactivates old identity-based injuries, Greek-Cypriots are unable to remain present at the bargaining table and get stuck on perceived injustices from the past.

Once we invest the effort in a proper conflict analysis (the Long-Short way), we are in a position to recognize potential, identity-based sources of the conflict. Knowing that there are expressive elements in a conflict gives us good cause to search for an intervention that targets both the expressive as well as the instrumental ones. Rothman’s ARIA framework is a tool to frame the conflict whose output is a clear problem definition leading to solutions that target both non-negotiable and negotiation aspects of the problem in Cyprus.
Outbursts of ethnic and religious violence within Lebanon have been a recurrent pattern in the country’s history. Despite the numerous settlements and ad hoc agreements signed in the aftermath of the civil war (1975-1990), Lebanon has never achieved a stable resolution of its sectarian conflicts and a subsequent normalization of inter-community relations. Recently, in May 2008, sectarian violence again spun out of control—causing additional distress on the already paralyzed political system, and thus further reducing the de facto governability of the country.

Under these circumstances, effectively addressing the ethnic and religious conflict and the confessional dynamics within Lebanon represents the most urgent and complex political challenge faced by local policymakers. In fact, the costs of the prolonged internal crisis have been extremely detrimental both internally, as well as in terms of regional stability.

The purpose of the research is hence to analyze the current ethnic and religious strife through the lens of the shortcomings of the existing political arrangements; and more specifically by pointing out the absence of a nation building strategy and a unitary political project as primary obstacles in shifting from temporary and unstable peace settlements to a more permanent conflict resolution framework. Finally, the study stresses
the role of political reforms to both increase the degree of internal cohesion of the political system and to make it more representative, emphasizing the impact of these changes on existing sectarian dynamics, and underlying the value of political reforms as conflict resolution tool.

**The Legacy of Taif**

The Taif Agreement (officially known as the Document of National Accord)\(^{187}\) was the platform that allowed Lebanon to transition out of the bloody civil war that raged in the country from 1975 to 1990. The main goal of Taif was to stop the bloodshed and to prepare the ground for a subsequent normalization of the Lebanese political life. Among Taif’s priorities was the “Abolition of Political Sectarianism,\(^ {188}\)” which had dragged the country into the bloody sectarian conflict in the first place.

However, in practice, Taif ratified the confessional political system and the 1943 National Pact\(^ {189}\) that first set the confessional system into place. Therefore, motivated by the need to achieve a prompt end of the hostilities, the Agreement had the unintended effect of further entrenching the confessional system in Lebanese politics. Similarly, Taif did not stress the importance of starting a national reconciliation process to address the main outstanding issues between the different ethnic-religious communities. Moreover, in its implementation phase, the agreement was never followed by a serious nation-building

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\(^ {188}\) Ibid.

\(^ {189}\) The National Pact of 1943 laid the basis for the current multi-confessional/sectarian political system as it assigned to the main sectarian groups present is Lebanon a fixed quota of seats in the Chamber of Deputies. See William Cleveland, A History of the Modern Middle East, 2nd Edition (Boulder, CO: Westview Press, 2000)
project to foster national unity and initiate the process to move politics from a confessional to a national basis.

There are several reasons as to why the implementation phase of the Taif Agreement was never able to become a platform for a more comprehensive resolution of the conflict, at both the cultural, societal, and political level. Among the main reasons, were the constitutional limits and contradictions of the agreement *per se*. Additionally, the simultaneous Syrian and Israeli occupations of the country constituted a substantial obstacle in the political development of Lebanon, and prevented it from moving toward being a stronger, more independent, and more unified country.

*The Limits of Confessional Politics*

In the aftermath of Taif and during the Syrian “tutelage,” the absence of a nation-building project and of a nation-based—instead of a community-based—notion of politics only enhanced the weakness of the national political system as well as the limits of confessional politics. As a result, in the post-Syrian occupation phase starting in 2005, Lebanon has been struggling to move beyond these conceptual and institutional obstacles entrenched within its political system.

The first and most serious limit of Lebanese confessional politics is that it both reproduces and enhances societal divisions and conflict dynamics. The Lebanese social structure is already highly fragmented and divided, and it is prone to produce conflict along sectarian lines. Therefore, the political system, by reproducing and institutionalizing the sectarian divisions of its society, tends to become another arena for sectarian conflicts to develop and play out—instead of a venue to address and solve such
conflicts based on a national reconciliation platform. A second consequence of replicating sectarian dynamics occurring at the societal level within the political system is that any political dispute is automatically treated as a sectarian one, dangerously merging and blurring the two concepts. In this sense, the system is self-reinforcing.

Furthermore, lacking a national political identity and vision, most political parties act on a community and often reciprocally antagonizing-basis, and they invest enormous political capital on preserving both their own political power as well as the current balance of power vis-à-vis the other sectarian groups/political blocks. As a result, they tend to be resistant to change—only strengthening the static tendency of confessional politics. Additionally, the involved parties’ reluctance to move beyond confessional politics in the institutional arena is matched by similar distrust at the societal and community level. As a result, due to the lack of a common political project and reciprocal trust, the political power of each community needs to be at least partially backed by the groups’ armed and military strength—thus creating an ongoing internal security dilemma.

In fact, although the Taif agreement achieved the disarmament of the existing armed groups (with the exception of Hezbollah), it never fully addressed the root causes behind the existence of such militias, and—therefore—it never permanently eliminated the perceived necessity to back a group’s political power with armed force. Under these circumstances, the system cyclically produces political crisis that, once all

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190 The stated goal of the Taif Agreement was to disarm all militias, to strengthen the Lebanese Armed Forces and to make them “united, prepared, and trained in order that they may be able to shoulder their national responsibilities in confronting Israeli aggression.” (Taif Agreement, http://www.mideastinfo.com/documents/taif.htm). However, in practice, Hizballah was left out of the disarmament process because the group was filling in for the Lebanese Army in playing the role of “resistance” against the Israeli presence in the country. See Naim Qassem, Hizbullah: The Story from Within, (Saqi Books, 2005) and Judith P. Harik,, Hezbollah: the changing face of terrorism, (London; New York: I.B. Tauris, 2004)
political means are exhausted, escalates into armed confrontations (albeit minor or brief ones). The last example of this trend occurred in May 2008, when a stalemate in the political arena led Hezbollah to escalate the confrontation from the political to the military level, rising in arms in the streets of the capital. On that occasion, self-organized as well as more structured armed groups from other sectarian groups engaged in a fight with the Shia militants, showing the resilience of the armed confrontation model within Lebanon.  

*Political Reforms as a Conflict Resolution Tool*

Internal political reforms to improve the existing power sharing and minority rights arrangements can be a tool to effectively address some of the root causes of the repeated episodes of internal violence as well as to resolve the ongoing political crisis. Reforming the electoral law to make it more transparent and increase the checks and balances on the electoral process can be a useful tool to make the political system both more representative and accountable. The effect of reforming the politico-institutional framework can also improve the degree of legitimacy and authority of the government,

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191 The May 2008 events are the culmination of the political crisis that had begun in December 2006 between the ruling coalition and the Hizballah-led opposition. The predicament initiated over the failure to create a national unity government between the majority coalition—the March 14 Alliance—and the opposition parties. This lack of agreement led to the resignation of the opposition Ministries from PM Fouad Saniora’s Cabinet in November 2006 and to a long-standing boycott, causing the de facto paralysis of the Lebanese government and deeply impairing its decision-making process. The crisis escalated from peaceful protests to armed confrontation in May 2008, after the March 14 government attempted to remove from his post of security chief at the Hariri International Airport, alleged Hezbollah sympathizer Wafic Shkeir and to shut down the organization’s communication network. Hezbollah read these acts as a war declaration and on May 7 2008 the organization sent his gunman to seize parts of West Beirut—the Sunni area where most supporters of Rafik Hariri’s Future Movement are located. The seizure of Beirut led to a series of bloody engagements between the different sectarian groups, leading to the worst episodes of violence since the civil war. (“Hezbollah militants take over West Beirut,” CNN, May 9, 2008 (available from: http://edition.cnn.com/2008/WORLD/meast/05/09/beirut.violence/index.html))
thus increasing its concrete ability to both solve political disputes within the political arena, preventing their escalation, and to exercise more concrete control over Lebanon.

However, at the same time, while working to increase the level of efficiency of the confessional system, it is crucial to begin the process to gradually move beyond it, thus finally implementing the goals set in the Taif Agreement. In this sense, it appears crucial to promote a national reconciliation dialogue and to work towards the integration of the different sectarian groups at the societal, political, and economic level. Among the means that can be used to achieve this result, it is crucial to support the growth of a local civil society to work on national political issues on a non-sectarian basis.
Chloe Berwind-Dart

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Somalia Redux: New Visions for a Renewed Nation

Introduction

It is easy to imagine the bitter irony with which Somali citizens might have received Ahmedou Ould-Abdallah’s recent rejection of a “business as usual” approach to Somalia by the United Nations. Eighteen years and fifteen peace conferences after state collapse, the Special Representative to Somalia instead urges “simultaneous political and security action” in “solidarity to the Somali people.”1 Amidst the swirl of international actors and rival internal factions, everyday citizens are frequently overlooked. Somali specialist Ken Menkhaus bleakly observes, “the security of the Somali people themselves—the targets of so much of the violence in Somalia—is largely absent from the calculations of external actors.”2 Yet two of the more propitious movements toward peace and stability since Somalia’s collapse have been civilian led or enabled.3 ‘Business as usual’ is killing Somalia’s citizens, who are perhaps its best hope for peace.

Somalia’s plight has been so protracted and productive engagement by global powers remains so minimal, that calling for unconventional or “next generation” conflict

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3 This is a reference to the Mogadishu Security and Stabilization Plan (MSSP) and to the Islamic Courts Union movement toppled in 2006. I return to these initiatives in a subsequent section of this paper.
resolution tactics would seem an exercise in stating the obvious. I believe that it is. This short paper imagines what solidarity with Somalis might look like, and posits that the most promising and prudent way forward is decentralized, citizen-driven peacemaking and reconstruction efforts aided by a judicious and circumscribed role for international powers.

A Primer to Business As Usual

Regional and international powers consistently employ top-down approaches to brokering peace, emboldening what Ken Menkhaus has termed an “entire class of failed [Somali] political leaders.”4 Worse yet, the means by which even well-intentioned powers have engaged Somalia’s elite have turned peacemaking into a morbid punch line. International Crisis Group (ICG), prominent human rights activist John Prendergast, the United States Institute of Peace (USIP), Human Rights Watch (HRW), Menkhaus and many others have faulted the UN, US, European Union (EU), and African Union (AU) for orchestrating peace talks that repeatedly fail to tackle the substantive issues, for allowing foreign and especially regional powers to frame negotiations, for failing to move beyond the merely nominal inclusion of civil society and traditional leaders, and, of course, for routinely empowering warlords and faction leaders of dubious popular representation.5

Somalia and the US: a Tangled History

The US bears special notice as a party that has contributed, however inadvertently, to both Somalia’s troubles and its own. The humanitarian crisis in Somalia has worsened considerably thanks in large part to ineffective US strategies regarding the threat of terrorism, culminating in 2006 with the US-backed Ethiopian overthrow of the Islamic Courts Union (ICU).\(^6\) The ICU had restored partial peace to greater Mogadishu and won widespread civilian support, but both the US and Ethiopia alleged that the group included terrorists or their sympathizers.\(^7\) Ethiopian forces routed the ICU and remain in Somalia today. Considered proxies for the US in the minds of a growing number of Somalis, Ethiopian presence sparks deep hostility toward both countries.\(^8\)

Scholars and journalists alike point to clear links between US engagement on the one hand and increased human misery, instability and violence on the other.\(^9\) US counter-terrorism policy has galvanized the radicalization of Somalia’s Islamist movements and some of its civilians. As Nicholas Kristof asserts just days ago, “America’s own strategic interests have also been gravely damaged.”\(^10\) It is little wonder that Menkhaus stresses that “shocked, desperate, and furious” Mogadishu residents blame “the group of actors

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\(^7\) Ibid.


they hold immediately responsible for the disaster—Ethiopia, the TFG, and the United States government.”

Solidarity: Somali Self-Determination & Next Generation Peacemaking

In Somalia’s bewildering milieu, it would seem axiomatic that any comprehensive peace effort must meet the interests, and connect with the wisdom, of everyday people. Somalia’s citizens as well as its civic, business and traditional leaders proffer a direct link to this knowledge and to these needs and concerns. Many Somalis in diaspora call for just such a populist approach, some alleging that “without external influence, the Somali war wouldn’t last a year. The people want peace.” Such claims simplify matters considerably, but the reality is this: it was popular support that enabled rise of the ICU, just as it was everyday citizens who proved the necessary muscle behind a promising if ultimately abortive initiative toward conflict reduction back in 2005. The grass-roots movement, called the Mogadishu Security and Stabilization Plan (MSSP), inspired civic and business leaders to pool resources to and speak out against warlords and the Mogadishu insecurity apparatus. The MSSP offers a compelling glimpse at what even a spontaneous civic initiative can accomplish.

The historical record is clear: Somalis will accept nothing short of self-determination. “We must dig our own well” is one civil society leader’s characterization. The socio-political space for self-determination has yet to be created, but supporting civilian ownership of the peacemaking process, the reconstruction of

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14 Asha Hagi Elmi Amin, as featured by the Hunt Alternative Funds website, accessed via http://www.huntalternatives.org/pages/7377_asha_hagi_elmi.cfm.
infrastructure, and the continued growth of the legitimate economy seems a wise start. To that end, the following reflections and suggestions are directed first toward broad security concerns and second toward bolstering Somalia’s war-weary populace:

- **Expedite Ethiopian Withdrawal.** Ethiopia has again agreed to begin troop withdrawal upon the arrival of “sufficient” UN peacekeeping forces. If UNISOM can speed the deployment of peacekeepers, Ethiopian withdrawal may be moved up.

- **Make the protection of civilians paramount.** Ken Menkhaus rightly points out that the UN must make clear that its forces have arrived to protect the peace, and Somali citizens particularly. Failing that, they will be viewed as partisan, the way AU forces are currently seen, risking violent rejection by an already aggrieved population tired of foreign interference.

- **Model accountability.** TFG security forces hinder the delivery of humanitarian relief supplies to desperate citizens, citing fears that such aid is supporting the anti-TFG insurgency. TFG forces are also accused of harassment and rape. The US and UN must hold TFG security forces publicly responsible for crimes committed against Somali citizens.

- **An archipelago model of governance.** Efforts to recreate a national government must cease, at least in the near term. The collapsed TFG is a manifest failure of a

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unity government. At this time, centralizing authority is patently impracticable and even undesirable, as a USIP fact-finding mission led by David Smock and Hussein Adam noted in 1998. Heading that mission’s analysis, the UN should instead support localized governance through loose, power-sharing authority structures.

- **Infrastructure, infrastructure, infrastructure.** Once southern Somalia is stabilized, the UNDP must turn set its sites toward assisting citizen groups in rebuilding Somalia’s infrastructure: dismantling road blocks, refurbishing hospitals, re-constructing schools and mosques, and repairing extensive damage to the once picturesque Mogadishu.

- **Guns for jobs without guns.** Local leaders operating within the confines of clan membership or specific regions are more likely to be trusted with disarmament. The offer of a fair wage and regular hours minus the dangers of militia life may not entice every armed fighter, but it will induce some to lay down their weapons for bricks, mortar, and the security of a steady job.

- **Support local peacemakers and women’s groups.** Asha Hagi Elmi Amin is an award-winning peace activist, a parliamentarian, and a 2005 Nobel Peace Prize nominee. The launch of her career, however, began with the modest founding of

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18 Ibid.
non-profit to support women and children. Supporting NGOs like hers is a force multiplier. Additionally, her network of colleagues and professional partners is one means of tapping into Somalia’s legitimate civil society sector.

- **Ask questions, promote ownership.** The 1998 USIP mission resembles efforts made by CDA Collaborative Learning Projects of Cambridge, MA. Preliminary findings from CDA’s Listening Project indicate that opportunities for citizen input and planning increase local commitment to, and cooperation with, aid and other intervention projects. International donors working in Somalia are well-served in partnering with organizations like CDA.

- **Where training and tradition meet.** The State Department’s Bureau of Educational and Cultural Affairs is funding a training exchange for young Nigerian conflict resolution professionals led by Professor Darren Kew of the University of Massachusetts at Boston. It is already proving an effective model for offering cutting edge training to those who know conflict communities best. Programs like this can be replicated in the Somali context, where traditional conflict resolution methodologies can be married to the latest knowledge the field has to offer (or simply augmented by it).

- **Work with Islam.** The UN must build relationships with Islamic charities and non-violent Islamist groups generally, both of which could prove critical allies. The broader scholarship of Mohammed Ayoob of Michigan State University

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concerns with Menkhaus’ more tailored analysis of the Somali context: alienating political Islam is shortsighted and counterproductive.  

- **Broadcast the voice of the ‘transformed.’** Former combatants or conflict profiteers have potentially inspiring stories to tell of social reform. These personal narratives invite others to follow their lead in renouncing violence and embracing reconstruction and coexistence.

- **Early warning.** Somalia is home to some of the best cell phone service in the world. Early warning systems – pre-determined protocols among a network of individuals – can be enacted with little more than a neighborhood watch and a small phone-tree. Just one or two individuals trusted beyond the limits of clan membership can link alerts from disparate groups watching signs of a return to violence. Minus cross-clan communication, early warning systems are useful at the “neighborhood watch” level.

**Conclusion**

The signing of the fifteenth peace agreement this past summer is a forceful reminder that neither negotiating peace “at the top” nor rebuilding a national government is working. The next generation of peacemaking and reconstruction strategies must buck unsuccessful precedents and question conventional thinking. Absent substantial revision, peacemaking efforts remain inauspicious indeed.

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INTRODUCTION

There has been over the last decade a contradictory debate about post-cold war optimism with which the donor community posits decentralization as a major step towards the ultimate goal of “enlarging people’s choices and enhancing human capabilities and freedoms” (Sen, 1999) in societies confronted with or emerging from social deterioration and political turmoil. The paper seeks to weigh in this debate by positing decentralization in conflict-driven societies as warfare, a continuation of war by other means. The central argument is that decentralization is likely to help the powers-that-be to get stronger inside the country and more legitimate in the outsiders’ eyes but leaves the conflict-affected populations more vulnerable to state-sponsored deprivation.
and disempowerment practices. I shall argue that this paradox of decentralization lies in donors’ policies to focus on the government’s political will (Usaid, 2000) and the partnership-based problem-solving approach as if both major stakeholders (the state and its citizens) are equally powerful, let alone have the same interests and needs in the decentralization process.

To challenge core decentralization pillars ranging from ‘‘local ownership’’ and ‘‘popular participation’’ to ‘‘partnership’’ and ‘‘accountability’’, the paper suggests, with evidence from Rwanda, to look at decentralization from a conflict-sensitive perspective and to question the nature and extent of the zone of possible agreement (ZOPA) between the central government and its citizens and to examine the role that the third community can play as a third party.

DECENTRALIZATION IN CONTEXT: The case of post-genocide Rwanda

Background

Considered from a donor perspective, Rwanda is a country full of contradictions. Having been until the 1994 genocide ‘‘a worthy recipient of Western development aid’’ (Pottier, 2002:117), it is now best known as both a symbol of the West’s aid failure in the recent past (Uvin, 1998) and a highly controversial model of post-conflict success story.

In terms of political reforms, Rwanda is at best considered ‘‘a typical example of decentralization from above’’ (Kauzya, 2007:10), at worst, one of the most increasing authoritarian regimes in the world (Uvin, 2007).

The plight of decentralization

Anno 1997: The Government launches a Decentralization policy ‘‘premised on
promoting participatory democracy, empowering grass-roots communities for socio-economic development, and reconciliation.’’ As the population are distrustful and reluctant to embrace this process, a great deal of attention is devoted to ‘‘intensive sensitization of the population on their understanding and contribution to the success of the decentralization’’ (Kauzya, 2007).

Anno 2005: donor-recommended evaluation studies conclude that no tangible result is seen in a number of key services (Republic of Rwanda, 2005c & 2006). In response, the Government comes up with a Decentralized Governance Reform Policy which unilaterally reduces the number of ‘‘local governments’’ from 12 Provinces subdivided into 106 Districts to 4 macro-entities with no historical or geographic referential identity.

TOWARDS A NEW LOOK AT DECENTRALIZATION: A conflict-sensitive perspective

It has become a pattern in the conflict resolution literature to use as springboards two seminal works: Getting to YES (Fisher et al. 1991) and Barriers to Conflict Resolution (Arrow et al., 1995).

Getting to YES
Fisher and his colleagues list 4 at-the-table-steps and 3 away-from-the table principles which are meant to help parties reach ‘‘wise agreements amicably and efficiently’’ (Fisher et al. 1991:183). Those are:
(i) Separate the people from the problem
(ii) Focus on interest, not positions
(iii) invent options for mutual gain
(iv) insist on using objective criteria
(v) BATNA (best alternatives to negotiated agreement)
(vi) maintaining good relationship
(vii) Commitment

When it comes to decentralization, however, those steps and principles have little
chance to apply in a context where the “conflicting parties”, namely, Powerful State v. powerless society have unequal powers and conflicting, if not mutually exclusive interests.

**Barriers to negotiation**

According to Arrow and his colleagues, there are three general categories of barriers to conflict resolution: (i) tactical and strategic barriers to creating and claiming value, (ii) psychological barriers rooted in systematic biases in assimilating and construing information, and (iii) organizational, institutional, and other structural barriers.

Applied to decentralization, all those barriers are omnipresent and can be hardly avoided because of the asymmetric power phenomenon.

**Alternative solutions: the principle-agent dilemma and the third party role**

In terms of alternatives, it is generally assumed that local elites including civil society actors can represent laypeople’s interests and that through “stick and carrot” strategies (known as conditionality), the donor community can push the powers-that-be to give voice and space to the powerless and their representatives. However, this optimism is contracted by the principle-agent dilemma on one hand, and the “complicity” role of donors known under the euphemism of neutrality or apolitical objectivity. This observation obliges us to consider another variable: Can be there any zone of possible agreement?

**THE QUEST FOR ZOPA: Ownership, participation and partnership reconsidered**

The overall problem of decentralization is that donors’ policies, while claiming to promote ownership and participation, focus on the government’s political will and the partnership-based problem-solving approach as if both major stakeholders (the state and
its citizens) are equally powerful, let alone have the same interests and needs in the decentralization process. In this context, decentralization is to be depicted as a bargain within, not a zone of possible agreement (Zopa), but a zone of no possible agreement (NOPA). It is a bargain, to use a grey literature terminology, embedded in the "oppression story" (Barush et al. 1998) where prevail "participation as tyranny" (cooke & Uthari et al. 2001) and "the impractical consensual domination" (Robinson,1996) as depicted in the Wolf-sheep fable.

**THE WAY FORWARD?: Moving from Oppression to Transformation scenario**

As a way forward, I suggest 4 workable avenues to explore:

(i) **Negotiation as the exogenous variable** (Cohen,1999): consider not only how external phenomena affect negotiation, but also how the fact of negotiation affects external phenomena (creativity, perseverance and a great many plans B work!).

(ii) **The impact of agency on negotiation** (Salacuse,1999; Zartman & Rubin,2002): From a power dynamics point of view, matter the most the agent’s personal relationship with the principal, the unavailability of other suitable agents and the agent’s ability to use his or her own network to influence the principal—and the negotiation process. Civil society can make good use of this strategy.

(iii) **The art of "mediating dangerously"** (Cloke,2001): This requires the mediator to take risks and to stand up for the truth and the just causes. The donor community should try this option.

(iv) **Transformative mediation: empowerment and recognition** (Bush & Folger, 1994): Against the oppression story—a theory according to which mediation allows the stronger party to "divide and conquer" the weak and also allows mediators enormous amounts of power to manipulate the outcome in the way they wish-- the "transformation story" assumes that parties transform themselves and society as a whole by defining problems and goals in their own terms and by recognizing each other’s needs, interests and perspectives. All being said, one has to recognise that like any donor-driven institutional reform in a fragile society like Rwanda, decentralization is not "a technical or administrative problem to be solved by the center but rather as a highly political process." (Boone,2003).

Therefore, to get rid of the oppression story specter, needed is a creative space for
mediation through which the poor and the powerless can make their voice heard and in which donors are willing to take up the critical role of transformative mediators.

References

The long awaited peace agreement between the government of Uganda and the Lord’s Resistance Army (LRA) was not signed on April 10 because Joseph Kony, the rebel leader of the LRA, failed to show up at Ri-Kwangba to sign it. Two known reasons for Kony’s failure to show up are (1) that he needs clarification about the mechanisms of the Accountability and Reconciliation Agreements. (Gettleman, 2008) and (2) he wants guarantees for his safety and financial security (Gettleman, 2008). The Northern Ugandans have been yearning for a peace agreement to end the 22-year civil war, but it has not yet been achieved despite the 21 months of intense negotiations.

Although there have been ups and downs over the long negotiation period caused by conflicts in their positions, both parties have committed themselves to peace, leaving positive expectations about the signing of the final agreement (Vuni, 2008). In addition, strong support and commitment from the international community (Vuni, 2008) have strengthened confidence in the successful outcome of the peace talks. Then, what went wrong, leading the peace talks to a stalemate, if not an outright failure?

At first, Kony’s failure to show up to sign the final agreement on April 10 may seem hard to understand, but there were always indications that an easy solution was not in the cards: From the beginning of the peace talks until the day on which the final agreement was supposed to be signed, the bottom line position of each party has never changed. The LRA delegation has insisted that Kony would only sign the final agreement
when the International Criminal Court (ICC) warrants for his arrest were canceled, whereas Museveni has repeatedly stated that the Ugandan government would shield Kony from international arrest only if he signs the final agreement (Resolve Uganda, 2008). That is, although both parties have repeatedly asserted that they want peace and they want this peace deal to be signed, neither has changed their most important position on “the sequence of actions.”

Having a firm position on the sequence of actions (i.e., which should be done first), I would argue, was so vital to both parties because of the present information asymmetry and commitment problems: A different sequence of actions could result in great loss to them. In other words, Kony was not able to change his position because there was no guarantee that the government of Uganda, i.e. President Museveni, would actually shield Kony and his top deputies from ICC arrest once Kony signs the agreement (Lewis, 2008). On the other hand, President Museveni was not able to sign the final peace agreement and persuade the ICC to lift indictments for Kony without making Kony sign first because there was a great chance that Kony would mobilize again.

This paper formally presents an argument that the failure of Joseph Kony to sign the final peace agreements of the Juba Peace Talks is a result of commitment problems, where mutually preferable bargains are unattainable because one or more states have an incentive to renege on the terms. A simple Bayesian game is discussed to capture commitment problems.

To present formally let $X$ denote the payoffs from achieving peace to each player, and $a$ equal additional benefits or incentives that Kony would gain by signing the final agreements (i.e. financial and personal security Kony requested after not showing up on
April 10). Second, let –Y denote the payoffs to each player in the case of ongoing war. Third, let B indicate the payoffs, representing the most preferred or best outcome, which Kony gets in the outcome of “Museveni loses,” and that Museveni gets in the outcome of “Kony’s arrest.” Fourth, let –W denote the payoffs, representing the least preferred or worst outcome, that Kony gets in the event of his arrest, “Kony’s arrest,” and that Museveni gets in the event of “Museveni loses.” Fifth, let c denote the cost of violating the agreements to Museveni (i.e. not shielding Kony from the ICC’s indictment as specified in the agreements), which could possibly include a loss of reputation as a leader who is not trustworthy. Sixth, let d be the benefits from the military alliance in punishing the LRA militarily in the event the LRA violates the agreements by continuing the use of force. Lastly, let -R denote the cost to the LRA as a result of military punishment from the alliance force in the event of its violating the agreements by continuing the use of force.

In addition, each payoff representation is assumed to satisfy the following preference ordering:

1. W > Y
2. B > X
3. R > W
4. X, Y, B, W, a, c, and d > 0
<Figure 1> Bayesian Game Representation by Determinants

<table>
<thead>
<tr>
<th>Kony</th>
<th>Museveni (Credible)</th>
<th></th>
<th>Museveni (Not Credible)</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>Lift</td>
<td>Do Not Lift</td>
</tr>
<tr>
<td></td>
<td></td>
<td>X+a, X</td>
<td>X, X-c</td>
</tr>
<tr>
<td>Disarm</td>
<td></td>
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</table>

The expected payoffs to Kony when he disarms and when he chooses to fight, respectively, are as follows:

\[
E(D) = (X+a)p + (-W)(1-p) = (X+W+a)p-W
\]

\[
E(F) = (-R)p + (-Y)(1-p) = (Y-R)p-Y
\]

Kony will decide to disarm if his expected payoff from, disarm, i.e. \(E(D)\), is greater than his payoff from fight, i.e. \(E(F)\). In other words, if \(p > \frac{(W-Y)/(X+a+R+W-Y)}{1}\), Kony will choose to sign the final peace agreements and disarm.

Now that we have decomposed Kony’s payoffs into determinants of his expected benefits associated with each of his strategy (i.e. disarm vs. fight), we find the following lessons:

**Finding 1**

_The greater the distrust of credibility \((1-p)\), the greater the relative expected benefit from ongoing war compared to the expected benefit from signing the final agreements. Therefore, this makes signing the final peace agreements more difficult._

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\(1\) \(E(D) > E(F)\)

\(\Rightarrow (X+W+a)p-W > (Y-R)p-Y\)

\(\Rightarrow (X+W+a+R-Y)p > W-Y\)

\(\Rightarrow (X+a+R+W-Y)p > W-Y\)

\(\Rightarrow p > \frac{(W-Y)/(X+a+R+W-Y)}{1}\)
Finding 2

The greater the incremental benefits from the peace agreements in addition to benefits from achieving peace, a, the greater the expected benefit from signing the final agreements compared to choosing to fight; therefore, the more likely he is to sign the final peace agreements.

Finding 3

The greater the perceived benefits from the peace period, X, the greater the expected benefit from signing the final agreements, compared to choosing to fight. Therefore, Kony is more likely to sign the final peace agreements.

Finding 4

The greater the costs of punishment in the failure of compliance to the agreements, R, the greater the expected benefit from signing the final agreements compared to choosing to fight. Therefore, Kony is more likely to sign the final peace agreements.

Finding 5

The greater the difference between the costs of being arrested and costs of ongoing war, W-Y, the greater the certainty that President Museveni’s credibility is required to ensure the relative expected benefit from signing the final agreements compared to choosing to fight, therefore making it more difficult to sign the final peace agreements.²

² Recall that E(D)>E(F) if \(p>(W-Y)/(X+a+R+W-Y)\). Note that as W-Y gets larger, the right-hand side approaches 1.
The model results may suggest the factors that can lead Kony to sign the final agreements:

First, more credible security package and livelihood guarantee, such as a third country asylum option (Prendergast, 2007, p. 3), rather than the local court and ‘mato oput’ option, will increase additional benefits from signing peace talks, and hence increase the likelihood of Kony’s signing the final peace agreements.

Second, the international community, especially the US and EU, should commit more to the peace talks as credible third parties in order to increase credibility of implementation of the peace talks, therefore encouraging Kony to sign the final agreements.

Third, a credible military alliance will increase Kony’s costs if he fails to comply with the agreements, R, and also increase perceived benefits resulting from the peace period, X.
Session III: Panel B
Leadership Development

“Self-Knowledge – The New Secret Weapon”
Andrew Malionek, University of Aberdeen

“Preparing Students for Leadership in a Diverse Democracy”
Terry Morrow, Nova Southeastern University

“Photography & Visual Literacy in Reconciliation & Peacebuilding”
Kyle Dietrich, Harvard University
To solve a conflict of any kind involves a preliminary understanding of its causes. For many of the problems we deal with on a daily basis have roots that extend far throughout history. To use an analogy, think of conflict as a vine that has invaded your garden causing your vegetables and flowers to compete for the same life sustaining nutrients found in the soil. Simply cutting these vines or physically pulling them out of the ground will, at the surface, make it appear that the problem has been taken care of. However, invisible to the human eye, at least for the time being, the roots of the vine continue to spread underground eventually breaking through the surface soil once again causing the same turmoil. To get rid of this nuisance once and for all you have to attack the root. We must dig deeper beyond the surface level of the soil in order to solve, transform, negotiate and analyze conflict. We must begin at the beginning, find the point of origin and begin nurturing the garden back to good health. The problem is not only painstakingly slow but it is also difficult to be able to dig up all of the roots. But if we were able to do this, and it is not impossible to imagine that it can be done, then we will be able to see a change in the beauty and the life of the garden, which is the human race.

Understanding the causes as the first step in conflict negotiation is not new. It is a quite obvious place to start. If the new Prime Minister of Israel wants to continue peace talks with the Palestinians then an understanding of past failures in negotiations as well as
past success stories must be acquired. If it is not then the hope for peace in the Middle
East will take even longer to see the day of light.

Possibly the point of origin is the same in all conflicts. And if the point of origin
is isolated and identified as an important beginning point by all parties involved then the
road to peace, whether it is in the Middle East or in the Human Resources Department of
a local law firm, can be clearly identified and followed.

The point of origin is more philosophical, religious and even psychological than it
is political, economic, ethnic or social. Bernard Lonergan, a Jesuit theologian and
philosopher, wrote of one thing in his book *Insight* that binds all of humanity. His answer
is very Aristotelian - All human beings desire to know. From this statement there are two
things that need to be identified as key components. First, what is a human being and
secondly, what do we desire to know?

Lonergan writes that all human beings do four things when attempting to
understand reality. These four things are experiencing, understanding, judging and
reasoning. We experience sensory data, we then ask “What is it?” so as to try to
understand what it is we sensed, we ask, “Is it so?” in order to judge the experience to be
this or that or not this or not that and lastly we reason to make connections among our
experiences that help us understand the world. Since we all do these four things,
Lonergan believes, we can define the human being as a “knower.” We have an innate
desire to discover and know the truth or meaning of something. In this way, we share
something in common with our adversaries. This commonality alone can spark a
successful negotiation process. We should point out that those individuals with physical
handicaps that limit their ability to sense the real world can still discover and know the
truth or meaning of things, however, longer the process. This is what links human beings
together. We search for truth. We desire knowledge of reality, of the political times we
live in, of the cultural differences that exist between people and of the religious
motivations behind acts of violence.

By helping those involved in negotiations arrive at the realization of this most
important link common ground can now be found. This will help develop talks that use a
common language identifying all sides with each other in terms of their struggles,
achievements, bereavements and moments of praise. The term “truth” may seem more
like an obstacle to the peace process than a crucial element since it usually is subjectively
understood. But Lonergan disagrees and believes the truth or meaning to be the same for
all. This he calls “being.” Being is all things and is in all things. Being is one. Being is
not man-made. It is not to be understood as essence since there are as many essences as
there are physical objects. Being is the meaning of an object and is intellectually
abstracted by the individual. If being is correctly attained than there is no reason for
disagreement. Arguments arise when a person incorrectly understands meaning. It is the
same for all in every situation, under all circumstances, in all parts of the world and in
every age. Everyone potentially can agree on the meaning of things. This will create a
foundation that is solid and stable with common stories of struggle and triumph. Dialogue
can help the learning process that can potentially help lead to a peaceful agreement.
Being, in many religions, is similarly understood although named differently.

So there are two things that if considered could help speed up the peace or
negotiation process. First, identify the similarities between parties. This identification
will help one empathize with the other. Use common language and agree on the meaning
of things through dialogue and many hours of debating. Conflict theorists say an
individual should put himself in the other person’s shoes to better understand the pains
that cause his frustration. Use personal examples that help the other side understand this
commonality. Secondly, if on a philosophical level, meaning is said to be intellectually
attained and not mentally created, then the idea that there is something greater than the
human race is presented. This will further the dialogue that “we are all in this together.”
We are all struggling to make sense of the world, of our sufferings and of our joys.
Individuals may begin to see similarities between themselves and others if these things
are taken into consideration.

Educating others of the importance of self-knowledge in the negotiating process is
important. This approach depends on both sides agreeing to terms, agreeing that truth or
meaning is the same for all humans, willingness to speak with each other and so on. It is a
long process. But perseverance will pay off. Such a religious, philosophical and
psychological dialogue would do wonders in settling disagreements. I would like to see
how this theory plays out in the private sector. I am convinced that it will do wonders
with international conflicts that currently exist and that loom on the horizon. I am aware
of such discussions presently being done in the conflict in the Middle East namely by
Compassionate Listening based in California. The proof, although present in small
groups of people, hopefully will spread and influence others of the commonality that
bends all human beings together regardless of race or religion.
Introduction: A Diverse Democracy

The role of higher education in preparing students to succeed in a diverse democracy is increasingly a topic of discussion among educators, administrators, politicians and academics. (Hurtado, Engberg, and Ponjuan, 2003; Hurtado, 2003; Nagda, 2006; Kuh, 2001; Hu and Kuh, 2003; Light, 2001; Chang, 1998; Astin, 1996) It is for this reason that I have chosen to discuss this issue in the context of building bridges that facilitate the leadership capacity among the next generation of leaders. Higher education is not just a place to train the minds of our world’s most intellectually talented and achievement-oriented individuals, college campuses are unique containers where students of varying cultures, religions, nationalities, political ideologies and socioeconomic levels, during a major period of their development, gather together to learn and interact.

The U.S. population is becoming increasingly heterogeneous, with accompanying debates about whether democracy in the U.S. can survive group-based social and political demands. (Fredrickson, 1999) In the past, it was society’s privileged who came together to debate and decide on issues for the common good. These individuals were usually similar in ethnicity, gender, and social class. This hierarchical approach to democracy, which some might deem oligarchy, that worked in the past has begun to falter. In the
past, immigrants or others whose perspectives or “ways of knowing” did not fit into the
decisions made by those with a voice were expected to adapt to hegemonic norms.

American values such as equality, liberty, justice and freedom have unfolded,
particularly in the last century, to empower many who had not previously had a voice or
opportunity for upward mobility. It was only in the last century that women and blacks
were able to vote. Whereas in the past, individuals were expected to learn English and
adapt to the masculine or Caucasian hegemonic societal traditions; nowadays individuals
have more social latitude to choose whether or not to follow America’s traditional
cultural current. While this is an important positive step, it is clear that the one-way
assimilation, the muting of differences and the suppression of cultural identity, will no
longer go unchallenged. (Fredrickson, 1999) (Reese & Brandt, 2002)

A similar trend is occurring in U.S. colleges and universities. Recent changes in
higher education have followed globalization, demographic shifts, and the movement of
higher education from being an elite system to being one of open access. (Trow, 1974,
Kuh, 2001) As a result, universities offer a wonderful laboratory for preparing students
to enter a changing democratic landscape.

The Leadership Terrain

Susan Morse, author of “Smart Communities: How Citizens and Local Leaders
Can Use Strategic Thinking to Build a Brighter Future” and president of the Pew
Partnership for Civic Change, notes that community leaders are often limited in their
views of problems in their communities. She points out that community activists are
beginning to realize that the skills needed by civic leaders are changing. The ability to act
cooperatively across differences, identify and use resources strategically, and “understand
the complexity and interrelationship of issues and challenges” are increasingly important. (Morse, 2006)

Similarly, Ronald Heifetz (1995) points out the increasing complexity of issues leaders encounter. He defines three types of leadership situations that require varying levels of technical or adaptive skills. Type I and II situations are fairly cut and dry and those with the necessary technical knowledge require little outside input. With Type III situations, the solution is unclear and multifaceted. As a result, leaders in Type III situations must rely primarily on a collaborative, illicitive approach.

Many of our public policy issues today are Type III issues. Quality education for our children relies on such factors as competent and caring teachers, sufficient funding, parental involvement, healthy home environments, safe communities, research and implementation of best practices, and ubiquitous opportunities for early childhood education. As a result, parents, students, teachers, administrators, police, researchers, police, policy makers and social workers must be engaged in the conversation. A large portion of the populace has a stake in the success of our schools and everyone has a unique perspective with which they can provide meaningful insights in defining the problems and crafting solutions.

We must begin to develop and utilize strategic models and pathways for cultivating cooperation. Systemic realities and synergistic opportunities cry out for interdisciplinary and intercultural perspectives. One such model is deliberative dialogue. While there are a multitude of pathways for preparing students to lead in a diverse democracy, this facilitated problem-solving tool can be utilized to engage students in addressing relevant, pressing issues in a way that promotes critical thinking, cultivates
emotional intelligence, and facilitates collaborative problem-solving of complex issues across divergent viewpoints.

**Deliberative Dialogue**

Deliberative dialogue is a tool that has been used to increase the effectiveness of democracy, empower people to solve their shared problems, promote justice, dispel stereotypes, build relationships, and cultivate collaborative action. The deliberative dialogue model is a marriage of two concepts. The first, dialogue – with a focus toward constructive communication and a mutual exchange of ideas and empathy – brings people together to share their beliefs, values and experiences. The second, deliberation, describes they way the dialogue will arise. Deliberation involves critical thinking and reasoned arguments. Individuals who participate in deliberative dialogue will bring “themselves” to the table to discuss a particular issue. As opposed to some pathways for democracy that seem somewhat austere, this model is based on personal experience, expertise, and actual community needs. Deliberative dialogue is personal and relevant.

Unlike some models, this approach provides a pathway for all members of the community to participate. There is no special knowledge required, it is relatively inexpensive to implement and free to participants, and its success is predicated on the diversity of the voices in attendance. Influence becomes a matter or one’s willingness to bring personal experiences, knowledge, and values to the table. Some may hold more structural power but may not have the relational influence or personal experiences that will help clarify root issues. One individual may understand the issue from the view of a migrant worker, while another may understand it as a health care administrator. Both will likely leave the experience with a more multi-faceted perspective as a result of viewing
the issue through the worldview of the other, and will likely contribute to the collective outcomes of the deliberation. Essentially, deliberative dialogue levels the playing field and gives everyone the opportunity for leadership and influence.

Through deliberative dialogue, participants gain insight into the multicultural realities of their peers. According to Banks (2008,1) “Multicultural education assumes that race, ethnicity, culture, religion and social class are salient parts of the U.S. and other Western nations. Diversity enriches a nation and increases the way in which its citizens can perceive and solve problems.” Providing opportunities for students to engage deeply and meaningfully across difference is an important role of higher education today.

Conclusion

Deliberative dialogue is being utilized in many communities to resolve issues and challenges and is an effective approach to leadership and, I posit, a valuable tool for leadership development. Further research will explore the outcomes associated with students who participate in deliberative dialogue to address community issues. I expect to find outcomes such as increased perspective-taking, insight regarding the complexity of community issues, the importance or collaboration and inclusion of diverse voices, moral development, and increases in emotional intelligence and propensity for community engagement.

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Photography & Visual Literacy in Reconciliation & Peacebuilding

Our approach is rooted in the belief that visual literacy and visual inclusion are essential cultural and social rights. Unfortunately, many groups around the world are systematically excluded from the production of their own image. This is perhaps most pronounced among young people. As the number of conflict images in the media continues to grow, the need for an inclusive visual discourse becomes apparent. In this light, we tailor our photography and leadership workshops to encourage young participants to think globally and act locally to defend human rights, social justice, and non-violence in their communities. As a result, youth begin to transform themselves from subjects to creators and visual spokespersons of their own reality and history.

This innovative approach to promoting tolerance, cooperation, and self-expression challenges the global trends of exclusion and discord. Peace in Focus belongs to and supports a growing network that links young leaders collectively working for positive change. Our approach enables youth to break down social divisions by providing creative leadership training, encouraging healthy relationships, and coordinating resources that support youth peace initiatives.

Photography is a powerful tool for social change, as images influence our perceptions of history and identity. Therefore, art, and photography in particular, can enable communities to creatively capture and shape the dynamics that define their lives.
Photography is instant, relatively inexpensive, simple to learn, and easy to share; it reveals details about the subject and its creator that bring into focus a framework to better understand and communicate the human condition. Photographs can serve as a catalyst for dialogue and discussion. Whether you're a veteran photographer or a novice, photography gives an immediate and lasting sensation of creation. Just as there are different styles of painting, there are different ways to take a picture. Whether candid, staged, still, or abstract, a photograph conveys a unique and captivating story. We believe that peace makes a powerful frame.

The field of photojournalism is not new. However, like many fields, it has largely been developed and defined by Westerners and elites. In order to enable all people to play a part in defining their social history, they must have a variety of tools to document and shape their lives, their stories, and their vision. As such, Peace in Focus is committed to developing Grassroots Peace Photojournalism in the communities where we work.

Our approach is "Grassroots" in the sense that we partner with local organizations, photographers, and educators to ensure that workshops are conducted in conjunction with local community development and peacebuilding efforts. We believe it's essential that participants represent the diversity of the local community so that an indigenous narrative can emerge from our workshops. This approach runs counter to traditional photojournalism in which most photographers have been outsiders in the communities they cover. While their work has been incredibly valuable in shedding light on world events, too often the page is turned before locals take ownership of the images and stories that define their society. The time has arrived for the tools to be transferred
and the responsibilities shared so that an organic and "Grassroots" process of creation can emerge.

"Peace Photojournalism" implies that photography is not a passive art form and therefore needs a guiding principle. Our guiding principle is peace. We believe photography has the potential to both document reality and to shape it. In order for this to happen, we must begin to change the way we perceive our surroundings and ourselves. Only then will our reality also begin to change.
Session III: Panel C
Mediation Practice

“An Examination of Active and Passive Mediation Strategies”
John Giles, University of Massachusetts Boston

“Yes We Can (Mediate This Dispute): Towards an Account of Constructive Cultural Resources”
Zeke Reich, Harvard University

“Reframing Stuck: Embracing the Mystical in Mediation”
Brian Christopher, Boston College

“From One Novice to Another: Advice for New Mediators”
Jessica Landry, University of Massachusetts Boston
In this paper I intend explore how the course of a mediated settlement is likely to be affected by whether the mediator takes an active role in shaping the course of the negotiation or a more passive role. When a mediator is called upon to mediate a dispute, he or she has a number of skills and strategies to call upon to help move the dispute toward resolution. Some of these strategies are passive in that they don’t try to take control of the negotiations and instead yield control of both the substance and direction of the negotiation to the parties in dispute. Other strategies involve the mediator taking some degree of control over the process and sometimes over the parties themselves. Understanding how this dynamic is likely to affect the outcome of mediation can help in crafting better settlements to conflict.

It can be observed that nearly all conflict originates because one or more parties have either done something, or failed to do something. This action or inaction on the part on one party then leads to an imbalance in the relationship which creates conflict. The meaningful resolution of that conflict then requires either some compensatory action or cessation of action by the affected parties. The practice of mediation follows a similar pattern of action and inaction, give and take, to attempt to restore balance to an unbalanced relationship. The techniques used by the mediator tend to fall somewhere on this continuum from passive to active.
By passive strategies on the part of the mediator, I am referring to techniques which put the disputants in control of the conversation. Techniques such as the act of asking open ended questions and empathetic listening to the disputants’ responses encourage the parties to define the issues and possible solutions in their own terms. A settlement arrived at in this way would, by necessity, come from the disputants themselves and thus would seem more likely to result in a superior and probably more durable settlement. However, if the parties in dispute were able to arrive at such a settlement on their own they likely would have done so and would not be in mediation to begin with. So some degree of action or intervention on the part of the mediator is usually necessary in order to move a dispute toward settlement.

The active strategies which a mediator takes can be subtle, such as the arrangement of seating in the room, or overt, such as insisting that one party remain quiet while the other is speaking. They can be process oriented, such as arranging for private caucuses, or substance oriented, such as actively moving the conversation away from peripheral or irrelevant issues. The far end of this spectrum would include strategies in which the mediator suggests possible settlement options or influences the parties to accept a given settlement.

Other strategies available to a mediator lie somewhere along this continuum. Asking questions or reframing parties’ statements can be either passive or active, depending on context and intention. They can be used either to elicit information from the participants in a non-directive manner or they can be crafted to encourage the participants to think about the issues in a particular way. In doing any of these things, the
mediator has entered into the complex dynamic of the conflict and his or her actions have the potential to change both the dynamic and direction of the conflict.

The question then for the practice of mediation becomes to what extent do we allow the parties to control the substance of the negotiations, at the risk of allowing the conflict to persist or even escalate, and at what point do we impose our own will on the situation in order to move it toward settlement. As with most complex questions in the dispute resolution field, the answer is that it depends on the situation. A common example of this sort of dilemma is in the situation of a highly emotional or insulting outburst by one side of a dispute. It could be that one party feels a need to express their anger and have that heard and understood by the other party, in which case the mediator might be advised to take a passive stance and allow that expression to play itself out. However if anger is met with more anger the danger becomes that constructive conversation will cease and the conflict may get worse rather than better, so some sort of intervention on the part of the mediator may be necessary.

The danger inherent in intervening in the conversation is that in doing so we take control away from the disputants and risk losing the self directed nature of mediation which is one of its primary strengths as an alternative dispute resolution model. Also if we intervene on one side of the dispute and not the other we risk being perceived as biased rather than neutral. However in practice this sometimes becomes necessary. Even if all we do is to ask one party to remain quiet and listen while the other speaks then we have taken control of the dynamic of the conflict, and must be mindful of how our actions will be perceived and how they are likely to affect the eventual outcome. Again context becomes an important consideration. If the parties are moving toward resolution on their
own, then we can take a more passive stance. If they have become intransigent, then we may need to intervene.

One important factor to consider is the potential consequences not reaching a settlement. In a case of violent conflict, the potential consequences of a prolonged conflict mean than there is greater motivation to push for some settlement and so a more active stance might be called for. Alternately in a case of divorce the consequences of prolonging the settlement are probably not as dire, and the worst have probably already occurred. Since the issues involved in dissolving a marriage are very specific to the individuals at the table, the resolution of those issues is more likely to be durable and acceptable to all parties if it comes from the parties’ own definitions of their needs rather than one which is seen to be imposed from without. So a more passive stance on the part of the mediator might be more effective.

Another important dynamic that needs to be considered in choosing an active or passive strategy is that in choosing one direction we may cause the parties to react in the opposite manner. If a mediator takes a passive stance, then any progress toward resolution must come from the active participation of the parties. However, if the parties remain passive or intransigent then some active participation on the part of the mediator is called for. If a mediator becomes too active in pushing toward a resolution, then the parties may resign themselves to that solution rather than actively search for another, possibly superior, solution.

For this reason, perhaps the best advice for a how a mediator might use this framework in practice would be to begin a session using passive receptive techniques such as empathetic listening, and then to gradually include increasingly active techniques
as required by the situation, and thus through skillful use of the right technique at the right time help to bring the conflict to the best possible resolution.

For a further exploration of these ideas and their origins in Taoist philosophy go to

http://www.beyondthefold.com/TaoOfMediation.html
Mainstream dispute resolution often treats "culture" as an obstacle to be overcome through cross-cultural understanding (e.g. Menkel-Meadow et al. 2005: 382ff), but not enough work has been done to show how conflict interveners can put culture to productive use. I aim to suggest one possible strategy by sketching an account of "constructive cultural resources."

For initial insight, we begin with the claim of interreligious peacebuilders that religions are not only potentially destructive forces but also resources that can help an intervener transform a conflict.¹ Marc Gopin (2000: 208) recommends a "prosocial hermeneutic" of every religion that foregrounds its positive values and resources for reconciliation. For example, Gopin makes a comprehensive list of Jewish concepts on the theme of forgiveness, like teshuva or “repentance” (2002: 117-129).

Gopin claims that prosocial religious resources can be used by a third-party intervener in a conflict situation among participants with religious identities. To understand his claim, we have to answer two questions: First, how are the resources to be used by the intervener? Second, what effect are they meant to have on participants?

Constructive religious resources are tools that the intervener uses "elastically." Developing these tools “will push the theological envelope...to suggest a model and stimulate many responses, with the full expectation that [some participants] will reject

some of the model and rework other parts” (2000: 195). Since interveners don’t know in advance whether a given concept will resonate with participants, they “must have the elasticity to go with the flow of the metaphors that emerge from the group encounter” (2002: 17). The idea is to have a “toolkit” with as many constructive concepts as possible.

These concepts can have two kinds of effects on participants; these effects are “nonrational” in that they go deeper than the cognitive content of what is being said (2002: 14). First, resources can promote connectedness among participants by reminding participants of deep values that they may hold in common. Second, they remind participants of the discrepancy between their current attitudes and their aspirational values, creating “a positive kind of cognitive dissonance” that can transform their perspective (2000: 175).

Gopin’s insights about religious resources yield an approach to the topic of culture. I use "culture" broadly to mean a fund of meanings, values, or practices that people identify with, and I conceive of people as having multiple layers of identity that connect them to multiple cultures. Personally I can report being connected to cultures like “New Yorker,” “secular/spiritual Jewish,” “artsy intellectual,” and “liberal,” and I find that each gives me resonant values and meanings. Any such culture can provide "constructive cultural resources" (CCRs) for a conflict intervener. Just as Gopin explores the prosocial resources of religions, so too can we search within a culture for its constructive meanings and values.²

² Further elaboration of this project is necessary: I envision taking theoretical bearings from the study of culture as “practices” (Bourdieu 1992) and especially from “interpretive” political theory (Walzer 1987, 1988; Sandel 1996: ix-x).
A conflict intervener can draw on any CCRs that might resonate with the cultural identities of conflict participants. As with religion, the intervener has a toolkit of CCRs to be used elastically, and if a CCR resonates with participants, it can have the nonrational effects of connecting them and provoking them towards their highest values. Even in situations where culture is often ignored, such as a local mediation with parties from roughly the same background, an intervener can still productively connect to the cultural identities of the participants.

To illustrate this approach, I will sketch one “prosocial hermeneutic” of the fund of meanings called “American culture.” I draw from a tradition of writing, clearly recognizable as “American,” that stretches from Emerson and Dewey to Robert Coles (1993) and Cornell West (1989) to, most recently, U.S. presidential candidate Barack Obama. To quote David Brooks (2008): "When I first heard [Obama’s] radically optimistic speech in Iowa, I have to confess my American soul was stirred. It seemed like the overture for a new yet quintessentially American campaign." I claim that just like religious values for Gopin’s participants, the "American quintessence" that stirs Brooks's soul can have a constructive effect on American conflict participants.

Brooks’s “American quintessence” is a metaphorical story with the themes of “courage” and “hope” and the message that individuals who face difficult, impersonal obstacles can succeed through hard work. As Brooks describes it: "Some problem threatens. The odds are against the forces of righteousness. But then people of good faith unite and walls come tumbling down." Focusing on one of Obama's most iconic speeches (2008), we can pick out four important elements of this story: individuation, a common obstacle, honesty about the challenge, and optimism contingent on effort.
First, Obama individuates his audience, suggesting not a collective but an "e pluribus unum" assortment of diverse individuals: "whether we are rich or poor; black or white; Latino or Asian; whether we hail from Iowa or New Hampshire, Nevada or South Carolina." He “overenumerates” in a way that feels jarring at first but soon becomes an inspiring cascade of inclusiveness. Second, Obama frames the issue in terms of a battle of many people against a shared, impersonal obstacle: “no matter what obstacles stand in our way, nothing can withstand the power of millions of voices calling for change.” By refraining from naming any specific opponents (like “Washington special interests” or “Republicans”), he suggests that the struggle will be unifying rather than divisive. Third, he is disarmingly honest about the difficulties being faced: "we know the battle ahead will be long." Others might fear that giving this reminder will just be depressing, but in Obama’s story the articulation of challenge is a crucial element. Finally, of course, the story ends in hope—but it is crucial to see that Obama’s optimism is contingent on our hard work. The message is that success is possible, not inevitable. Neither “we can’t” nor “nor we will,” but simply, powerfully, “yes we can.”

Obama’s story can be a CCR for conflicts in an American context. The conflict can potentially be framed as a story of discrete, diverse individuals (the participants) facing a common, impersonal obstacle (their disagreements), who confront very real challenges but remain optimistic and committed to the effort. The story itself is a metaphor for the participants’ path from conflict to harmony.

With the story in mind, the intervener can “go with the flow” of any story themes or elements that are raised by conflict participants. The intervener can also take practical steps to introduce the quintessence. For example, Obama’s "overenumerative" technique
could be effective to make each participant feel recognized as part of an "e pluribus unum": "All of us here—you, Dr Jones, who went to the Smith dry cleaners; you, Mr. Smith, who runs the dry cleaners...." The intervener might also frame disagreements as a "common obstacle," which in some cases might inspire a productive sense of collaboration (though note that in some contexts, calling disagreements "obstacles" might do violence to the real issues of the relationship). Finally, the intervener can raise themes of serious challenges and effort-based optimism in order to recognize participants’ fears but still inspire movement.

Further elaboration of “American” and other cultural themes may prove fruitful in generating more useful resources for the conflict intervener’s toolkit. At the same time, this project raises challenging questions about culture: Are we essentializing “American culture”? Don’t themes of hope and courage resonate with non-Americans too? Does this framework suggest that purportedly universal ADR techniques from the U.S. are really “American” CCRs? Space doesn’t permit answering these questions here: but I am optimistic that though the challenge is great, if we work hard to overcome it, we will find that we can.³

³ Haifa, Israel, August 2008. This paper was inspired by the teachings of Michelle LeBaron in the Caux Scholars Program in Caux, Switzerland, and subsequent experiences with the peacebuilding NGO Initiatives of Change. Special thanks to Jane Caflisch, Elizabeth Weatherford, and Michelle Sternthal for many inspirations and provocations along the way.
In his manuscript *Transforming the Peacebuilder*, Ronald Kraybill identifies a pattern common to many novice mediators. He speaks of the initial exhilaration of the conflict and the pride of having been called in as the expert; this gives way, however, to what Kraybill colorfully describes as the “oh, shit” moment in which the gravity of the situation and the recalcitrance of the parties paralyze him.\(^1\) Rather than indicating failure of the mediation process, however, these “stuck” moments can be understood as invitations to embrace the mystical. By reframing the experience in this way, the mediator is able to embrace the transformative potential of these moments and access new realms of possibility.

The particular emotions involved in feeling stuck may vary from person to person depending past experience and family upbringing. She might feel frustrated and disappointed because her long hours of training did not prove equal to the task. She may fear the failure of the process. She may even begin to doubt her own ability as a mediator. These emotions, if left unexamined, may lead a mediator to become self-critical and self-absorbed, as they focus exclusively on what she is doing wrong and how she can “fix” the conversation. This kind of self-absorption threatens to constrict the mediator’s creativity, for she is no longer open to taking the risk of creativity. The

\(^1\) Kraybill, Ronald. *Transforming the Peacebuilder*. Unpublished manuscript, 2006, pg. 49
“desperation to succeed,” as Kraybill puts it, blinds the mediator to the wisdom of the others at the table and closes her to new possibilities.²

The Christian mystical tradition provides a fruitful vocabulary for reframing these “stuck” moments and understanding the role of the mediator anew. Mystical experiences refer to an encounter with the Divine. “Contemplation” typically refers to the process by which that encounter occurs. Two classic sources – The Cloud of Unknowing, written anonymously as a manual for contemplatives in 14th century England, and the works of St. John of the Cross, a 16th century Spanish Carmelite monk best known for his articulation of the “dark night of the soul” – reveal four themes that illuminate the experience of “stuck.”

First, these works see mystical prayer as a process of purgation, that is, a process of being stripped of preconceived notions of God, self, and the world. John of the Cross refers to this purgative process as the “dark night.” The experience is dark because union with the Divine who is so completely other reveals a presence that cannot be grasped by human faculties.³ Initially, the darkness may lead a contemplative to believe that she is wasting her time in prayer – that nothing is happening – for there is little indication of God’s presence. This experience of apparent fruitlessness, however, weans the contemplative from the need for sensible evidence of Divine Presence. In this tradition of Christian mysticism, the path of the mystic lies in letting go of the need to understand, to control, to be the master.⁴

² Kraybill 50
⁴ Kavanaugh 124-125
Second, these works always present the Divine in terms of Mystery, transcending the limits of the mystic’s imagination and understanding. Both texts speak of experiencing the “I-Do-Not-Know-What” in the midst of darkness. The image of being enshrouded in a “cloud of unknowing” vividly expresses the human incapacity for grasping the Divine. Attempts to understand the Divine through the intellect and imagination are doomed to fail; rather, God can only be known in not knowing. This requires that the contemplative surrender to the limits of her intellect and imagination and acknowledge that infinite possibilities exist in the Mystery beyond.

Third, at the heart of each encounter with Mystery is a paradox: despite being incomprehensible, the Divine seeks to draw the human heart into relationship. Love is the only means by which the gulf separating the human and the divine can be bridged, but love implies that the relationship is not one of control or domination. Rather, love freely given and freely received preserves the integrity of both partners. Mystery draws the contemplative into ever deeper union, like two lovers who, as they come to know each other, realize that there is infinitely more to know.

Fourth, the encounter with Divine Mystery always leads to transformation. Divine love purifies the desires of the old self, whom John of the Cross describes as weary from pursuing her many appetites, yet missing the one thing her heart most deeply desires: union with God. The new self emerges in the darkness with a single-hearted focus on God, which frees her from the dizzying pursuit of things that do not deliver on

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6 *Cloud* 26
7 *Cloud* 27-28
8 Kavanaugh 117
9 Kavanaugh 71
their promises of happiness. Two virtues characterize the new self: The first is humility, “the true knowledge and feeling of oneself as one is,” with all one’s strengths and weaknesses. The second, charity, comes from humility and is a positive regard for every human, “for all alike seem kin to him, and none seems a stranger.”

Reframing “stuck” in these terms reveals new dimensions of the experience. Like the dark night of the soul, feeling stuck is a purgative experience. The mediator encounters the limits of her ability and her imagination. Her skills, though necessary, are insufficient. The realization of her ultimate inadequacy challenges her to relinquish the need for success and the esteem that comes with it. As her inner anxiety about “fixing” the conversation diminishes, it is replaced by a silent space from which she can be present and responsive to the others at the table.

Feeling stuck is an invitation to transcend oneself and enter into the irreducible mystery of the other. Kenneth Cloke describes mediation as “an opening through which we are able to glimpse the other, naked and divine.” Each party at the table is an “other” with a unique experience of the world and a sense of dignity, which he often feels has been injured in some way yet refuses to be diminished. This irreducible dignity is the mysterious source of one’s yearnings, narratives, and sense of worth. It is humanity “naked and divine,” and it calls out for recognition. Only the mediator who sets herself aside can approach this irreducible depth with a sense of reverence, instead of attempting to colonize it. Reverence fosters curiosity: she desires to connect with the narratives of

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10 Cloud 37
11 Cloud 49
each party, to empathize with loss, hurt and anger, as well as the sense of joy and empowerment.

Feeling stuck is the mediator’s call to humility: to experience herself and the parties as they are, in their dignity as well as their frailty. Humility is transformative: the mediator changes from “problem solver” to “contemplative,” and becomes sensitive to the Mystery within the other. Curiosity supplants the drive for success. Flexibility and gentleness replace the need to protect the ego. New realms of possibility open up as the mediator becomes free to explore the creativity and wisdom present at the table.

By adopting the mind of a contemplative in the midst of feeling “stuck” the mediator is better able to access the transformative potential of such moments. In recent years, scholars and practitioners have begun to articulate the need for an expanded discourse of mediation, one that is better able to deal with the profoundly subjective aspects of the experience than the language of interests and settlements. The language of mysticism seems particularly well-suited for this, as it speaks to the deepest longings of the human heart, the encounter with otherness, transcendence and transformation. Appreciating the contemplative moments of mediation may help the mediator avoid the trap of self-absorption and find new sources for empathy and curiosity.

This paper is for new mediators, written near the end of my four-month long internship as a mediator of small claims cases. Throughout the internship I kept the following advice in mind: all mediators make mistakes—the skill lies in recognizing when we’ve made a mistake, and in knowing what to do to fix it. In this paper I will consider the small claims court cases in which I was either a co-mediator or as an observer, describe common missteps, and suggest how other new mediators can recognize and avoid similar trouble spots.

While doing research for this paper, I noticed that there is a fair amount of literature in the field regarding the evaluation of mediators, written by experienced practitioners and theorists for the assessment of training programs, or for use as a rubric for hiring mediators into a program. My search was perhaps not completely exhaustive, but I did not come across anything written by a new mediator, for new mediators. I think this approach is useful because as a new mediator I can relate to the uncertainty, fear, confusion, and lack of self-confidence that daunts us. My observations are based on careful note taking while observing other mediations, and during my own post-mediation debriefs with fellow interns and our court supervisor. The “mistakes” that I describe here are errors that I have both made and observed other new mediators make during our training program.
Mistake #1: Getting stuck in the details

One problem that our group of mediators struggled with throughout the internship was figuring out exactly how to sit down with two (or more) strangers and orient us to their situation expediently and adequately. It can be like listening to the story of someone else’s dream: muddled, lacking in chronology, populated with characters that are not apparent. Because the details of what happened are so important to the parties, they will focus on these in their attempt to convince us that they are right. It is important to understand the main facts of the case so that we can help the parties negotiate a relevant settlement. However, we must be able to gauge when too much exploration of the details is taking up valuable time better spent on crucial reframing of the stories we are told.

Why New Mediators Make this Mistake. When we are unconfident about which tool to try first, it can be tempting to take a side trip into one party’s world while we try to get a foothold. It can be easy to get nervous at this very early stage, and think, “These people expect me to help them, and if I don’t remember everything they’re telling me right now, they’ll lose confidence in me.”

How to Realize this Mistake and Fix It. We should make our questions count towards the goal of informed investigation (Honoroff et al, 1990). We should try not to worry about the fact pattern, but rather concentrate on listening for the themes in what is said. If it suddenly seems to matter that we know what month the roommate moved in or the date of the first invoice, then we can ask—no penalty. The danger lies in assuming that this sort of information will be important and wasting our questions on areas that will yield no insight into how to help the parties move closer together. The technique lies in placing (for the parties) the result of our examination of the details into its proper context
by zooming out and summarizing the main issues, especially in private session. We can summarize what we’re hearing as a way of verifying the facts, thus serving a dual purpose.

**Mistake #2: Not reflecting enough on parties’ feelings for fear of appearing biased**

Johnson et al (2003) suggest that the “deeper challenge for mediators is to go beyond the expression of empathy to actually feel it,” which if followed can make a novice uneasy about becoming and then appearing biased to the parties.

**Why New Mediators Make this Mistake.** This nuance is perhaps the most difficult for new mediators because we are nervous about the mandate to be neutral—perhaps the first time in our lives that this has ever been asked of us so seriously. This error often goes hand in hand with forgetting that both parties feel victimized in some way, and aggrieved.

**How to Realize this Mistake and Fix It.** Follow a default plan that recognizes there are generally opportune times to let the parties know we have heard their expression of emotion and can empathize with their situation. Remember to end each joint session with reframing and reflecting so that one party can hear what we say to the other, and then begin each private session with a bit more reflecting.

As a new mediator, I know that I tend to neglect the importance of saying aloud what I try to convey through empathetic active listening. However, active listening doesn’t do it all, and doesn’t benefit the other party who needs to hear the first party’s perspective stated aloud: “It must have been very upsetting to come home from a great ski trip to find that your pipes had burst and ruined all your carpets.” I do not mean to underscore the risk of seeming biased and what that can do the parties’ ability to trust us,
however as a new mediator I got into more trouble as a result of too little reflecting than too much.

**Mistake #3: Failing to realize when venting is no longer cathartic**

The biggest clue that venting is not helpful is repetition, so we have to listen carefully. When excessive venting is not checked, the result can be a hijacking of the process, while the other party watches from the sidelines, or waits in the hall if the venting is happening in private session.

**Why New Mediators Make this Mistake.** Especially in the opening session, it can be easy to allow too much venting to go on when we are trying to understand the essential elements of a complex scenario; we stay with this person because they are willing to tell us what we think we need to know. There can also be the temptation to act like a therapist, especially in the private sessions, and with the party who was less dominate during the opening session. They need to have the chance to express themselves here, but the mediator should not overcompensate by allowing them to vent to excess at this point—it will probably not help them.

**How to Realize this Mistake and Fix It.** Watch out for *repetition*, as distinguished from an emotional level that is perhaps more intense than that with which you are normally comfortable. Observe the effect on the other party, and watch for signs that they are listening closely, or looking disinterested or even angry. If the complaining party seems to be getting into “emotional flooding” or seems so upset that they cannot stop, you need to help them focus on anything else but the past pain.

**Conclusion**
A common element in my suggestions on how to fix or avoid the mistakes I put forth here is the need to watch parties carefully for cues. When we new mediators are anxious about saying the right thing at the right moment, it is easy for us to focus inward and forget to pay attention to the subtle clues the parties give us. This skill will also hopefully improve as we become more comfortable with our role in the mediation process.

References


Session III: Panel D
Human Rights, Intervention, & Violent Conflict

“Rape: Is it a New Weapon of War?”
Phedra Remarais, Nova Southeastern University

“The Price of Oil: How the U.S.-Saudi Partnership Sacrifices Human Rights”
Brandon Boylan, University of Pittsburgh

“Morality of Humanitarian Intervention”
Mutsuko Sugita, George Mason University

“Bosnia-Herzegovina: An Intervention Without Justice”
Patricia Morris, Wellesley College
Phedra Remarais

Nova Southeastern University

Rape: Is it a New Weapon of War?

Abstract.

In the last two decades there has been increased reporting of the occurrence of rape at a massive scale during wars and other conflicts, reported both in academic fields and in the general media. Is this increase in reporting a result of a more conscientious media and an enlightened society, or does it reflect an actual growth trend in the use of rape as a means of war? The paper will attempt to answer this question and to investigate whether the recent occurrences of rape during violent conflicts are significantly different from the events of rape in older wars, such as World Wars. This discussion of rape as a weapon offers a differentiation of this phenomenon from isolated cases of rape during conflicts that could be more appropriately described as opportunistic acts of violence by individual soldiers. The differentiation is critical in order to ensure that the correct phenomenon is being observed in the course of analysis.

Through a review of cases such as the massive rapes during the war in the former Yugoslavia and the rape of Chinese women by Japanese soldiers during World War II, the paper examines how rape has been used in wars across historical and geographical contexts. The purpose is to highlight any distinctive characteristics that this phenomenon has, which could explain its apparent upsurge in recent years. I propose that a correlation may exist between the apparent growth trend in the phenomenon of “rape as a weapon” and the equally positive trend in happenings of ethnic-based conflicts around the world.
Notwithstanding the reason for an increase in the strategic use of rape in war, it is critical that the international community recognize that martial rape has many of the same characteristics and consequences of other acts currently accepted as war crimes. A continued lazed approach by the international community when addressing the problem of rape in wars presents a significant challenge for international conflict resolution.

Although rape has been a constant in society both in times of peace and in times of war, social norms have always forced the truth about rape into the shadows. Throughout history, rape has at times been buried in the veil of complacency and silence, and other times bolstered by outright misrepresentation. It is noteworthy that rape in war has been emphasized in the last few decades. Modern media has placed rape in the public psyche through live pictures, films, and eyewitness accounts. Nevertheless, there appears to be a disturbing trend developing since the late twentieth century. In recent years, a disproportionate number of conflicts have included incidences of mass rape occurring at unprecedented levels. If not the consistency of occurrences, then the similarities in occurrences across conflicts should raise serious concerns for conflict resolution practitioners and scholars alike.

**Literature Review**

A review of the literature in respect to rape and other sexual violence during war presents perspectives based on similar assumptions. The universal premise underlying the literature, including this essay, is that concepts like “wartime rape”, “martial rape”, “rape as a weapon”, all refer to the systematic and strategic use of rape by military, paramilitary and other armed groups, against civilians of an adversary or against its own civilians. Rape in this form is planned and premeditated rather than opportunistic. In this form it is
perpetrated publicly by day, not just in the shadows of the night. Rape in this form is condoned and promoted by authority figures rather than condemned.

The literature offers various theories about martial rape. Feminist theories explain the phenomenon in terms of gender power imbalances. Rapes are perceived as violent acts by men against women to exert dominance. Theories of cultural pathology focus on patterns in historical and cultural context, which promote or give rise to the cruelty and baseness of martial rape. From this perspective, scholars and researchers look for evidence in the perpetrators’ environment from the prevalence of pornography, to the level of militarization of the society, to the adherence to patriarchal doctrine in the social order. A theory of strategic rape holds that mass wartime is a calculated and violent means of achieving military and political objectives (Gottschall, 2004). Biosocial theories maintain that socio-cultural factors alone do not explain the ubiquity of rape during conflicts and wars. Instead individuals like Randy Thornhill and Craig Palmer have concluded that the male sexual drive is a significant contributor and motivator for rape in war (Gottschall 2004).

**Historical Context**

Wartime rape is illustrated in pre-state societies such as those found in the Old Testament and those of Feudal Europe. When ancient warriors conquered enemy territory, the women were taken, raped and enslaved. The accepted role of women in society from ancient time through the early twentieth century was equated to the means of production (Neill, 2000). The woman was viewed as a commodity, hence during war and conquest the taking (or raping) of women was tantamount to taking ownership of
conquered land. In the historical context, the rape of women by invading forces was simply a consequence of defeat and a prize of victory.

One of the twentieth century’s most horrific massacres and gruesome case of mass rape was perpetrated in Nanking, China by Japanese soldiers during World War II. Although not definitive, estimates of rape occurrences during the invasion vary between twenty and eighty thousands. In her book “The Rape of Nanking”, Iris Chang (1997), describes horrific and barbaric acts of sexual violence committed against Chinese women, who included young girls, elderly and pregnant women. During the independence war of Bangladesh in 1971, the level of rape of Bengali women by Pakistani soldiers was so significant that the government of Bangladesh publicly declared the raped women, heroines of the war of independence. At a press conference in Geneva, missionaries reported that two hundred thousand Bengali women had been raped in a nine-month period (Brownmiller, 1975). The horrendous acts of rape committed in Nanking and Bangladesh rival, in scale and cruelty, the atrocities observed in later conflicts such as the conflict: in Rwanda between the Hutus and Tutsis; in the Balkans between the Serbs, Bosnians and Croats; in Mozambique during the civil war; and during the civil war in the Democratic Republic of Congo. Historical evidence disproves the idea that rape is a new tactic in the process of raging war. The increased visibility of rape during conflict seems more a result of advances in modern technology and modern media, rather than the emergence of a new phenomenon. Nevertheless, there has been a higher propensity towards the use of sexual violence in modern wars.

Today’s Conflicts
During wars women often make up the majority of the civilian population, as able-bodied men have gone to fight. The population left behind consists primarily of women, children and the elderly. Although the nature of war has not changed through history, the places in which war and group conflicts occur have changed in recent decades. It was the norm that most of wartime killings took place on battlefields, outside the city walls, away from farms and villages. Civilians came to harm only when military forces entered the conquered territories after victory. Arguably, the violence committed against civilians, particularly women since they are disproportionately represented, was as vile and as massive as that observed in recent conflicts. However, the significant difference observed in the last three decades or so, is that the villages and cities have themselves become the new battlefields. Entire conflicts now take place in the midst of civilian populations, causing civilians to become not only casualties of war but the targets of war tactics.

A significant percentage of conflicts since the late 1990s have been characterized as “dirty wars”. A dirty war is warfare where civilians are expressly targeted (Nordstrom, 1992). Consequently, women have become strategic targets of violence in the pursuit of the destruction of the enemy. As a group, women are not armed. For the most part, they have been socialized to surrender quickly. This makes them efficient targets. Through rape, one can destroy his enemy’s woman, family, community, his enemy’s social structure. Indeed through rape one destroys his enemy (Sideris 2000; Siefert 1992; Card 1996).

It is also the case that the composition of modern conflicts has changed. In the last few decades, most conflicts have occurred within states or between ethnic groups, as
opposed to more traditional wars between nation states. The security dilemma at play in intergroup and ethnic conflicts suggests that one’s own identity and survival is threatened by the other’s very existence (Kaufman, 1996). Hence, destruction of the enemy is not completely attained by killing the individual. The destruction of the other’s social identity and social group is also pursued. Rape attacks the other by damaging his social identity. I propose that the current prevalence of martial rape is closely related to its effectiveness at achieving the political and military goals of today’s conflicts: terror, ethnic cleansing, population displacement, and genocide.

_Wartime Rape & International Law_

“Article 5 - No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment” (United Nations, 1948). “Torture or inhuman treatment” and “willfully causing great suffering or serious injury to body or health”, constitute grave breaches of the Geneva Convention per Article 147 (Fisher 1996, p. 98). Based solely on its outward characteristics, it is evident that rape violates article 5 of the Universal Declaration of Human Rights and article 147 of the Fourth Geneva Convention.

Notwithstanding same, article 27 from this convention specifically addresses the issue of rape in war by stating: “women shall be especially protected against rape, enforced prostitution or any form of indecent assault” (Thomas & Ralph 1994, p. 8). In 2006, the executive director of the UN Population Fund, Thoray Obaid, said “Everybody in the world knows that sexual violence, especially in war situations, is wrong. But very little effort is being directed either to stop it or to provide support to women who are facing this kind of a crime in their own countries” (“Rape in war ‘a growing problem”, 2006).
What reasons explain the continued neglect to prosecute rape in war, despite the fact that wartime rape constitutes torture by definition and by application of international law?

There has been some positive movement towards prosecuting rape as a war crime. In response to the massive rapes committed in Bosnia in the 1990’s, the UN Security Council established an International Criminal Tribunal for the former Yugoslavia (ICTY) in 1993. The tribunal set great precedents: It accepted the testimony of rape victims and changed the legal meaning of sexual assault making it punishable as a war crime (Neill, 2000). Overall however, the prosecution of wartime rape by nation states and the international courts has been far and few between – a fact which contributes to a perverse culture of impunity in respect to martial rape. As a “grave breach” rape in war is subject to universal jurisdiction, but only when the rape is committed during an international conflict. Current humanitarian laws do not provide the international community with the authority to compel a nation state to account for crimes committed within its borders (Thomas & Ralph, 1994).

Conclusion

Existing beliefs that men have a natural tendency for violence, in combination with a belief in men’s natural sexual urges continue to plague society’s psyche. This flawed view of man’s nature could partially explain the reluctance of national and international witnesses to denounce wartime rape as an atrocity and to punish these acts and related sexual violence as offenses against humanity. Martial rape is a warfare strategy, as is ethnic cleansing. It is a weapon, like genocide – one that causes social and cultural annihilation. The terror and violence perpetrated in martial rape represents an affront not merely to the affected region’s peace, but also to international peace as a
whole. In order to reach the objective of making martial rape rare and unacceptable in the world, it is imperative that society reevaluate cultural norms and social institutions, which make the virtue of women an issue of social identity and male pride. Issues of public shame and honor subjugate women to a more vulnerable status in situations of conflict. The power of rape as a weapon of war is derived substantially from the fact that the degradation and violation of a woman’s body can be used to humiliate and demoralize an entire community. If we are to have an honest conversation about the current ills of modern society, if we are to pursue paths to peace among nations and peoples, then it is critical that we understand and address the factors generating the current escalation in the use of rape in war.

References


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The Price of Oil: How the U.S.-Saudi Partnership Sacrifices Human Rights

Saudi Arabia is one of the worst violators of human rights. Women, minorities, and dissidents face persecution while criminals confront severe corporal punishment under the Saudi interpretation of sharia law. Instead of directing the international community’s attention to such abuses, the United States chooses to condone the Kingdom’s domestic policies and even acquiesce to its demands. In this partnership, rights are exchanged for economic and military advantages. The best way for the United States to create the space to speak out against the Saudis’ behavior is to reduce its reliance on their Saudi oil.

Despite its agreement to international human rights treaties, like the United Nations Convention against Torture and the Arab Charter on Human Rights, Saudi Arabia perpetuates conflict by infringing on civil liberties. For example, the government views women as the inferior sex. Human Rights Watch (2008, 519) finds in particular that the Saudi system of male legal guardianship and enforced gender segregation denies women full participation in public life. Religious and political rights also suffer. Saudi law requires citizens to be Muslims and forbids public practice of religions other than Islam. Amnesty International (2008) uncovers that the government imprisons suspected members of religious opposition parties, called “misguided groups,” without trial or basic prisoner rights. Citing the government’s crackdown on political activists, Freedom House (2008) gives Saudi Arabia a political rights score of “7” – the worst score possible.
The Kingdom also ignores freedom of the press. Reporters without Borders (2007) ranks the Kingdom 148th out of 169 countries in terms of media freedom. In light of these data, it is perhaps no surprise that The Economist (2005) ranks Saudi Arabia 72 out of 111 on its quality-of-life index, placing the country in the bottom 35%. Islamic theocracy, monarchy, and patriarchy form the Saudi regime and it appears anyone outside this arrangement is subject to punishment.

The United States takes the lead in encouraging the spread of democracy throughout the world. So what does it have to say about this situation? Unfortunately, little. In a statement to the U.S. House of Representatives Subcommittee on International Organizations, Human Rights, and Oversight, Tom Malinowski (2007) claims, “For years, of course, the U.S. government simply exempted Saudi Arabia from its global democracy promotion efforts.” He adds that the “administration has been far more reluctant to speak publicly about Saudi Arabia’s problems than it has been about any other close ally in the Arab world, including Egypt.” Indeed this has been the case. The U.S. Department of State (2008) pays scant attention to the human rights situation in its country profile of Saudi Arabia – a mere two sentences. While discussing the importance of freedom in the Middle East at a press conference in the United Arab Emirates, President Bush (2008) berates Iran for its sponsorship of Hamas, yet ignores the fact that Saudi Arabia, too, supports the Palestinian terrorist organization. In the speech, he states that violent extremists “hate freedom . . . because it fosters religious tolerance,” yet overlooks religious intolerance in the Saudi Kingdom. He further scolds al-Qaeda, but fails to acknowledge that fifteen of the 9/11 hijackers were from Saudi Arabia, as is Osama bin Laden. Instead, he chooses to praise the Saudis for holding municipal
elections, even though they exclude women, and for joining the World Trade Organization, even though they violate its charter by boycotting Israel.

The United States not only fails to recognize these abuses, but chooses to comply with many Saudi demands. Middle East expert Daniel Pipes (2002/03) discusses several ways in which the United States acquiesces to Saudi customs. He points out that when President George H.W. Bush went to Saudi Arabia at Thanksgiving in 1990 to check in on the 400,000 troops stationed there to protect the Saudis from an Iraqi invasion, he was asked not to give a prayer at the Thanksgiving dinner. Bush complied and celebrated the feast on the U.S.S. Durham instead. Pipes also highlights that when Crown Prince Abdallah visited President George W. Bush in 2002 at his Crawford ranch, he asked that only men be allowed to work the airport ramp in Waco and communicate on the airport control system. The Department of State and the Federal Aviation Administration complied with both requests. Pipes further argues that U.S. military women based in Saudi Arabia must obey Saudi policies concerning females, including conservative dress and male-accompanied travel. Timothy N. Hunter (1996) also describes the ways in which the United States appeases the Saudis and why the Department of State chose to terminate his services as a Foreign Service Officer. He claims, “In December 1992, the U.S. Department of State assigned me to serve as an administrative attaché at the American Consulate General in Jeddah, Saudi Arabia. My activities there became controversial because I raised questions about restrictions on the human rights of Americans. On April 21, 1995, the Department of State terminated, without explanation, my appointment in the Foreign Service.” He emphasizes that these restrictions include breaches of religious freedom.
Why does the United States choose to disregard Saudi behavior? The most obvious reason is oil. Strong yet resilient oil diplomacy has underpinned U.S.-Saudi relations for decades. In fact, the U.S. Department of Energy (2008) reports that after Canada, the United States imports most of its oil from Saudi Arabia. As of May 2008, this amounts to 1.604 million barrels per day. The United States also relies on Saudi Arabia to purchase its defense weapons and equipment. The Stockholm International Peace Research Institute (SIPRI) provides data on arms transfers. According to SIPRI (2008a), Saudi Arabia was one of the top twelve customers of U.S. arms throughout the 1990s, and the second highest purchaser from 1996 through 1998. Moreover, SIPRI (2008b) reports that between 2001 and 2007, the United States ranked either first or second in terms of exporting the most arms to the Saudis. Saudi Arabia has been strategic for the U.S. military as well. The Council of Foreign Relations’ Sharon Otterman (2003) observes that after the first Persian Gulf conflict, “About 5,000 U.S. combat troops and air crews enforced the southern Iraqi ‘no-fly’ zone – where Iraqi aircraft were banned – and helped defend Saudi Arabia from at least seven Saudi military bases.” Though the U.S. military presence in Saudi Arabia has dwindled in the past few years, about 400 military personnel are still based there to train the Saudi National Guard. Finally, the United States is convinced that Saudi Arabia is a key ally in the War on Terrorism. The Saudi Embassy in Washington boasts that since 9/11, “Saudi Arabia has questioned more than 1,500 individuals, arrested hundreds of suspects, and succeeded in extraditing Al-Qaeda members from other countries to face justice.” The degree to which the Saudis have contributed to eradicating terrorism, however, is questionable.
In order for the United States to garner support for its rhetoric on democracy, it must stop its double standard policy toward the Saudis. This can only be done by decreasing its reliance on Saudi oil. Research on global warming and the energy crisis calls for increased investment in renewable fuels anyway. In the process, as the United States distances itself from the Kingdom’s oil supplies, it will create the room to intensify international pressure needed to change Saudi domestic policies. Until then, however, the U.S.-Saudi partnership will continue to sacrifice human rights.

References


Introduction

The disintegration of the Cold War structure brought a total change concerning the form of conflict; instead of international war, civil war tended to happen in unprecedented ways in the world. With such a dazzling change, in terms of human security, responsibility of the international community became much more extended and comprehensive. In order to cover the increasing need for humanitarian intervention, the International Commission on Intervention and State Sovereignty (ICISS) published the report entitled “Responsibility to Protect (R2P)” in 2001. Its detailed criteria grabbed enormous attention as an “emerging guiding principle” (ICISS, p15)\(^1\) of humanitarian intervention. However, in contrast to its disciplinary innovation, when meeting the international law in light of justifying the use of force and violating the sovereignty, the principle remains controversial and it is problematic at the point that the lack of explicit definitions in related-laws enables abuse of humanitarian intervention.

In this paper, I will analyze abuse of humanitarian intervention by exploring the case of air strike conducted by the NATO during the Bosnia War. Also further examination with the Kosovo Air Campaign, the Iraq War and the Somalia War will generalize the issue and provide clues to solve conflicts without unnecessary use of force.

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The NATO air strike

\textbf{a. The role of the Regional Organizations}

In the Charter of the United Nations, the role of the regional organization is stipulated in the Chapter VII entitled regional arrangements but without any explicit descriptions. First, the regional organization was described as undefined phrases such as the “regional arrangement and the regional agencies” (UNCIO, p3)\(^2\) in fear that the clear definition would create more complicated problems. Secondly, the Charter restrained any clear descriptions regarding conditions to authorize the enforcement action by using the language like “where appropriate.” (UN Chapter VIII)\(^3\) However, besides its ambiguity, it clearly depicted the further cooperation with the UN and the regional organizations. In other words, cooperative ties were dominantly promoted without substantial regulation that defines the actors’ roles. Consequently, the NATO brought multi-military agenda and decentralized royalty which after all generated the political friction and reached the stage of violence in the name of humanitarian intervention.

\textbf{b. The purpose of the intervention}

Within a framework of the UN Charter, humanitarian intervention defines its ultimate goals as maintaining international peace and security\(^4\) so the R2P sets having right intention as one of the criteria to intervene. Accordingly, at early stage of peacemaking, the UN Protection Force (UNPROFOR)\(^5\) strictly put their actions under the

\(^4\) Refer to the Chapter VII, Art. 39, 42, 43, 47, 51 and the Chapter IX, Art. 55, 56 in the UN Charter.
principle. However, the NATO’s entry into the war crooked the original intention for pacific settlement of the conflict. The NATO considered the Bosnian War the most desirable chance to define itself as military alliance by obtaining the successful experiences. For attaining the objective, the NATO, especially the US, significantly continued to take dominant action; firstly they enforced the other NATO allies to agree with the air strike in trade with dual-key operation\(^6\). But afterwards during the strike, they broke the traded deal. Post conflict situations in Bosnia put additional skepticism on justice of its military intervention; the conflict generated over two million refugees and displaced people, and little progress concerning the post-conflict nation building.

In order for brevity, I will examine the three cases from the following two aspects: First, how was the legitimacy of humanitarian intervention fully developed, especially in light of the impact of the obscure definitions? Secondly, how was the military intervention justified as the last resort?

**The NATO Kosovo air campaign**

For the NATO Kosovo air campaign, two major lessons from the Bosnia NATO air strike exactly coincide with its debatable aspects. Legitimacy of the intervention was measured dominantly by the NATO; they carried out the air campaign without the authority of the Security Council (SC) and declared its consistence with the Chapter VII in the UN Charter. In order to improve the legitimacy, they compared the crisis in Kosovo to the Holocaust by utilizing the words such as ethnic cleansing, genocide and appealed necessity of the military intervention. On the other hand, even though the official incite was to protect the Albanian people from the Serbian genocide, during the campaign, the military strike was focused on the Beograd, head quarters of the Serbs, not

\(^6\) Operations set any military actions under the authority of both the UN and the NATO officials.
by saving the Albanian people. Yugoslavia claimed that NATO attacks caused between 1,200 and 5,700 civilian casualties. Human Rights Watch counted a minimum of 488 civilian deaths.\(^7\)

**The Iraq war**

In the case of the Iraq war, again the invasion was the US dominant actions without the approval of the SC. In order to make its purpose justified, The US attempted to make its invasion as their means of self-defense. Officially, the US asserted that intervention was taken into places for the following reasons; Iraq possessed and was actively developing weapons of mass destruction that was a threat of the international peace and security. Also, the international community is responsible to protect the Iraqi people from Saddam Hussein’s repression. However, the above threats were more or less proved nonexistent by the UN monitoring and investigation arranged before the invasion. Also, “the former United Nations Secretary-General Kofi Annan has told the BBC the US-led invasion of Iraq was an illegal act that contravened the UN Charter.”\(^8\)

**The Somalia war**

Somalia war is frequently cited as one of the failure examples of its PKO along with the Bosnia NATO air strike.\(^9\) In the case of the Somalia War, incite of the intervention was originally legitimate; In 1992, with the worsening of the situation, SC approved the US to send twenty-eight thousand troops and use “all means necessary”

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(Resolution 794) for the operation. However, the disorganized partnership among the actors became a major setback which after all deteriorated the situation in Somalia and led the withdrawal of US-led troops before its completion. To touch on the legitimacy of the military actions as the last resort, it is debatable since the whole operation in Somalia was remote from success. Even after the execution of several military actions, periodic attacks on PKO continued and PKO experienced the armed conflicts against the local rebel.

**Conclusion**

Measuring the three conflicts made it clear that the role of the regional organizations or the non-UN actors appeared very divisive. Besides the legitimacy of intervention, which two of them except the Somalia failed to gain, the Non-UN actors in all three conflicts took excessive roles by taking advantage of the under-defined regulations. When it comes to legitimacy of the use of force, the all also stays controversial. Needless to say, the lack of cooperation between the UN and the non-UN actors, which creates multi-agendas and decentralized royalties, could never become efficient features.

All in all, it is imperative to define more particularly how and to what extent the UN and the other actors cooperate each other to carry out genuine humanitarian intervention for protecting international peace and security. At the same time, this should be properly regulated in the UN, the international law and the R2P all together without any contradictions among them. Other than that, it is critical that the regional organizations remain royal to the UN authority. As for the UN, they are obligated to

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streamline their own operations and establish the effective role sharing between the other actors. When any use of force is necessary, its purpose and consequences should be carefully examined comprehensively and thoroughly during its transitional period. For pursuing the better peaceful conflict resolution, the above processes would be one of the most decisive moments in contemplating value of humanitarian intervention.
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Bosnia-Herzegovina: An Intervention Without Justice

Bosnia-Herzegovina

Map No. 3729 Rev. 1 United Nations
August 1995 (colour)

Department of Public Information
Cartographic Section

Map from:
Bosnia-Herzegovina after the Dayton Agreement

Map from:
The Accords/The Dayton Accords

The short name of the General Framework Agreement for Peace in Bosnia-Herzegovina, initialed November 21, 1995 by representatives from all three ethnic groups at Dayton, Ohio.

Bosniak

Bosniaks are Bosnian Muslims or Muslims in this paper.

Bosnian Serb Army

A Bosnian army, led by General Ratko Mladic for the purpose of making much of Bosnia-Herzegovina Serb-only.

EU

European Union.

Genocide

“A conspiracy to exterminate national, religious or racial groups. The overt acts of such a conspiracy may consist of attacks against life, liberty or property of members of such groups merely because of their affiliation with such groups.”

Holbrooke, Richard

Assistant US Secretary of State under President Bill Clinton. He led the US peace talks in Dayton, Ohio in the summer of 1995.

Izetbegovic, Alija

Elected President of Bosnia-Herzegovina in 1990. Founded the Muslim Party of Democratic Action (SDA).

Karadzic, Radovan

Karadzic was the President of the Serbian Democratic Party. Indicted by the International Criminal Tribunal for the Former Yugoslavia for war crimes. Sent to the Hague July 2008.

Milosevic, Slobodan


Serb

“Serb” and “Bosnian Serb” are interchangeable in this essay, unless specifically noted that a person is from what is today Serbia.

The Tribunal


UN

United Nations.
When Bosnia-Herzegovina declared independence from Yugoslavia on March 1, 1992, the Yugoslavian Army and a new Bosnian Serb army responded by besieging Sarajevo.\textsuperscript{1} The Serbs wanted to secure Bosnia-Herzegovina as part of Greater Serbia, only for Serbs. The international community offered only fruitless negotiations and ineffective peacekeepers.\textsuperscript{2} After three years of war, talks of a North Atlantic Treaty Organization (NATO) intervention finally began. When the war was over, Bosnia-Herzegovina became “the site of internationally sponsored political engineering on a remarkable scale,”\textsuperscript{3} but the project is still far from complete.

This paper addresses the war from a just war theory perspective. Just war theory dates back to Saint Augustine of Hippo in the fifth century\textsuperscript{4} and is simply a title for “a diverse literature on the morality of war.”\textsuperscript{5} The two fundamental elements of the theory are \textit{jus ad bellum}, judging if there is justice when entering into war, and \textit{jus in bello}, judging justice in the conduct of war.\textsuperscript{6} Recently, a third element, \textit{jus post bellum}, judging justice-in-endings, gained importance as humanitarian intervention became more prevalent. Humanitarian intervention seeks to create “a more secure and more just state of affairs than existed”\textsuperscript{7} so as not to recreate the instability from before the war.\textsuperscript{8} If even one element of just war theory is not adhered to, then the war is deemed unjust.

Therefore, the humanitarian intervention in Bosnia-Herzegovina proved unjust with

\textsuperscript{2} Ibid., 264-274.
\textsuperscript{5} Mona Fixdal and Dan Smith, "Humanitarian Intervention and Just War," \textit{Mershon International Studies Review} 42.2 (Nov 1998)., 285.
\textsuperscript{8} Walzer, \textit{Arguing About War}. \textit{Arguing About War}, 20.
regards to justice-in-endings in that all the principles of justice-in-endings - just termination, right intention, legitimate authority, open declaration, proportionality, reconstruction and rehabilitation - were ignored in Bosnia-Herzegovina.\footnote{Orend. 122}

The principle of just termination dictates that a state may end war when the rights lost have been reinstated and when the aggressor is willing to negotiate the surrender.\footnote{Ibid., 128- 129.} In this instance, the Bosnian Serbs accepted the cease-fire because they were losing ground to Bosniak and Croat military offensives, not because of NATO’s air strike.\footnote{Samantha Power, "A Problem from Hell" : America and the Age of Genocide (New York: Basic Books, 2002) 440.} Those offensives partially reinstated rights of Bosniaks and Croats but not without violating Serb rights first. The United States and NATO ignored the principle of just termination in supporting these vicious offensives that left many Serb civilians dead.\footnote{Silber and Little, 360-361.}

Also, although the peace accords promised to reinstate rights lost, the nationalistic leaders who took over after the war had no intention of following through with that.\footnote{“Summary of the Dayton Peace Agreement on Bosnia-Herzegovina-Herzegovina,” Office of the Spokesman, , released by the Office of the Spokesman, Nov. 30, 1995, United States Department of State, 4/8/08 \url{http://www.state.gov/www/regions/eur/Bosnia-Herzegovina/bossumm.html}.} Bosnia-Herzegovina had to accept a “drastic watering down of the rights that Dayton promised” to avoid violent public reaction.\footnote{Sharp, 127.} Just termination did not occur in Bosnia-Herzegovina.

The second principle, right intention, states that arbitrary deadlines cannot dictate withdrawal from intervention, as they did in Bosnia-Herzegovina.\footnote{Brian Orend, "Michael Walzer on Resorting to Force," \textit{Canadian Journal of Political Science / Revue canadienne de science politique} 33.3 (Sept 2000).}
top negotiator Richard Holbrooke, the Accords were “a rushed job that left many loose ends.”

They designed an overly optimistic, one-year time-table for implementation of the colossal tasks of dividing the country into two governments, demilitarizing ethnic armies, unifying ethnic police forces, aiding the return of refugees and displaced people, removing land mines, and more. For successful nation-building, a long-term military commitment is necessary, as well as a reiterated threat of force if change is prevented; but the international community had unrealistic expectations and the wrong intention.

On the other hand, it can be argued that the international community has not yet withdrawn. “Since Dayton, a steady stream of peacekeepers, civil police, human rights monitors, electoral experts, engineers, logisticians and others have flooded into Bosnia-Herzegovina,” so it might be too soon to analyze right intention.

In the next principle, a legitimate authority must publicly declare the cease-fire and the peace accords that follow intervention. Though representatives of all three ethnic groups were present for the signing, the principle was not fulfilled because the Bosnian Serbs were cut from negotiations. The UN had demanded that Serbian President Milosevic act as the spokesperson for all Serbs because the Bosnian Serbs had been unwilling to compromise. At the negotiations, Milosevic abandoned them because he said that NATO’s intervention in Bosnia-Herzegovina had been their own

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18 Walzer, Arguing About War, 72, 113.
19 Shear, 91.
20 Orend, 129.
21 “Summary of the Dayton Peace Agreement on Bosnia-Herzegovina-Herzegovina.”
fault and because Bosnian Serb leader Karadzic was his rival. Thus, after the agreement, Bosnian Serbs had no connection to the Accords and their leadership saw no reason to enforce it.

The next principle of proportionality states that agreements and punishments must be proportional to the ends of reinstating rights and must not be draconian. This principle was adhered to but only because for years there was barely any accountability for this war’s criminals, despite the importance of accountability for reconciliation. Milosevic was not indicted until May, 1999 and was not taken to the Tribunal until February 2002, after having waged war against much of Yugoslavia. Also, only in 2003 were top-level Bosniak military leaders arrested for their crimes against Serbs and Croats. At the tribunal today, the list of the 161 indicted criminals does not include NATO or UN Protection Force personnel, not even for negligence in Srebrenica. This proves that proportionality was not upheld.

The principles of reconstruction of the state and reparations, such as apologies, restitution of property, compensation, rehabilitation for victims, and a guarantee that war will not return, are the most taxing for interveners and therefore the least upheld.

23 Ibid., 360,365.
24 Ibid., 372, 377.
26 Ibid.,”129.
27 Kathleen Hill Hawk, Constructing the Stable State : Goals for Intervention and Peacebuilding (Westport, Conn.: Praeger, 2002).64
28 Ibid., 448.
31 "Key Figures of Icty Cases," ed. ICTY.org (UN.org, April 4 2008), vol.
32 Michael Parenti, To Kill a Nation, the Attack on Yugoslavia (London: Verso, 2002).
33 Silber and Little, 362.
In order to appeal to all parties, the Accords divided the country into two entities: a Croat-Muslim Federation and the Serbian Republika Srpska. The division created a weak central government and a power struggle between the two entities,\textsuperscript{35} so today, it is dependent on external support for survival.\textsuperscript{36} Aid to Bosnia-Herzegovina is supposed to be contingent on compliance with the Accords, but sometimes it is not. For instance, a British development agency gave a large portion of the $700 million designated for Bosnia-Herzegovina directly to Prijedor in 1996, even though the town was still run by leaders responsible for two concentration camps.\textsuperscript{37} The reconstruction efforts have been disjointed, clumsy and unjust.

**Reparations** to victims have also come slowly. In 2004, the leadership of Republika Srpska finally stopped contesting the ruling that Srebrenica was genocide.\textsuperscript{38} Nine years after the Accords, Serbian President Marovic apologized for Serbia’s role in the Balkan Wars\textsuperscript{39} and Kofi Annan also apologized for the UN’s failure to stop the wars.\textsuperscript{40} Even though apologies are important for transitional justice, the orchestrators of the war have shown no regret; only their countrymen years later.\textsuperscript{41}

Restitution of property and compensation is slow because of bureaucracy and discrimination. The Accords mistakenly focused on the right of return for refugees and not on displaced people. At Dayton, they assumed that other forms of reparations would

\textsuperscript{35} "Rajko Kuzmanovic President, Republika Srpska, Bosnia and Herzegovina," Southeast European Times January 2 2008.  
\textsuperscript{36} Michael Froman and Ivo Daalder, "Dayton’s Incomplete Peace," Foreign Affairs.78 (Nov/Dec 1999). 
\textsuperscript{37} Orend, “Just Post Bellum,” 129. 
\textsuperscript{39} "Us Commends Apology by Marovic to Bosnia-Herzegovina," ed. United States Embassy (November 13 2003), vol.  
\textsuperscript{41} "Us Commends Apology by Marovic to Bosnia-Herzegovina," ed. United States Embassy (November 13 2003), vol.
flow from right of return but that was not the case.\textsuperscript{42} Even though, the European Commission stepped in to regulate the bureaucracy and fill in the gaps, returning property did not translate into returning refugees.\textsuperscript{43} Reparations in Bosnia-Herzegovina have not been granted justly.\textsuperscript{44}

By just war theory, the effort to rebuild Bosnia-Herzegovina was short-sighted and unjust. Today, the state cannot resolve its own conflicts, promote the welfare of its citizens or provide basic security. Its political identity is still one of continued nationalism and ethnic segregation.\textsuperscript{45} Bosnia-Herzegovina can be restored only with continued international help, especially from its neighbor European Union and with major internal reforms. The arrangements made in the Accords were designed “in the climate of war” and so must be reworked.\textsuperscript{46}

If humanitarian interventions are ever to be successful in the future there need to be “institutions and mechanisms” in place to guide it.\textsuperscript{47} Previously, the international community “has been forced to reinvent the wheel for each new circumstance” of humanitarian intervention but in 2001, “The Responsibility to Protect” was written by request of the UN. It defines the international community’s responsibility to protect people from large-scale human rights abuses and how to prevent, react and rebuild appropriately.\textsuperscript{48} This can be the first handbook and Bosnia-Herzegovina can be the last lesson of unjust intervention.

\textsuperscript{42} Williams, vol.2.
\textsuperscript{43} Ibid., 8-9.
\textsuperscript{44} Ibid., 10.
\textsuperscript{45} Hawk, 67-68, 73, 128.
\textsuperscript{46} Sharp, 80.
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The Accords/The Dayton Accords

The short name of the General Framework Agreement for Peace in Bosnia-Herzegovina, initialed November 21, 1995 by representatives from all three ethnic groups at Dayton Ohio.
**Bosniak**  
*Bosniaks* are Bosnian Muslims or Muslims in this paper.

**Bosnian Serb Army**  
A Bosnian army, led by General Ratko Mladic for the purpose of making much of Bosnia-Herzegovina Serb-only.

**EU**  
European Union.

**Genocide**  
“A conspiracy to exterminate national, religious or racial groups. The overt acts of such a conspiracy may consist of attacks against life, liberty or property of members of such groups merely because of their affiliation with such groups.”[100]

**Holbrooke, Richard**  
Assistant US Secretary of State under President Bill Clinton. He led the US peace talks in Dayton, Ohio in the summer of 1995.

**Izetbegovic, Alija**  
Elected President of Bosnia-Herzegovina in 1990. Founded the Muslim Party of Democratic Action (SDA).

**Karadzic, Radovan**  
Karadzic was the President of the Serbian Democratic Party. Indicted by the International Criminal Tribunal for the Former Yugoslavia for war crimes. Sent to the Hague July 2008.

**Milosevic, Slobodan**  

**NATO**  
North Atlantic Treaty Organization.

**Serb**  
“Serb” and “Bosnian Serb” are interchangeable in this essay, unless specifically noted that a person is from what is today Serbia.

**The Tribunal**  

**UN**  
United Nations.

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When Bosnia-Herzegovina declared independence from Yugoslavia on March 1, 1992, the Yugoslavian Army and a new Bosnian Serb army responded by besieging Sarajevo.[49] The Serbs wanted to secure Bosnia-Herzegovina as part of Greater Serbia, only for Serbs. The international community offered only fruitless negotiations and ineffective peacekeepers.[50] After three years of war, talks of a North Atlantic Treaty Organization (NATO) intervention finally began. When the war was over, Bosnia-

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[50] Ibid., 264-274.
Herzegovina became “the site of internationally sponsored political engineering on a remarkable scale,” but the project is still far from complete.

This paper addresses the war from a just war theory perspective. Just war theory dates back to Saint Augustine of Hippo in the fifth century and is simply a title for “a diverse literature on the morality of war.” The two fundamental elements of the theory are *jus ad bellum*, judging if there is justice when entering into war, and *jus in bello*, judging justice in the conduct of war. Recently, a third element, *jus post bellum*, judging justice-in-endings, gained importance as humanitarian intervention became more prevalent. Humanitarian intervention seeks to create “a more secure and more just state of affairs than existed” so as not to recreate the instability from before the war. If even one element of just war theory is not adhered to, then the war is deemed unjust. Therefore, the humanitarian intervention in Bosnia-Herzegovina proved unjust with regards to justice-in-endings in that all the principles of justice-in-endings - just termination, right intention, legitimate authority, open declaration, proportionality, reconstruction and rehabilitation - were ignored in Bosnia-Herzegovina.

The principle of *just termination* dictates that a state may end war when the rights lost have been reinstated and when the aggressor is willing to negotiate the surrender. In this instance, the Bosnian Serbs accepted the cease-fire because they were

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57 Orend. 122
58 Ibid., 128-129.
losing ground to Bosniak and Croat military offensives, not because of NATO’s air strike.  

Those offensives partially reinstated rights of Bosniaks and Croats but not without violating Serb rights first. The United States and NATO ignored the principle of just termination in supporting these vicious offensives that left many Serb civilians dead.

Also, although the peace accords promised to reinstate rights lost, the nationalistic leaders who took over after the war had no intention of following through with that.  Bosnia-Herzegovina had to accept a “drastic watering down of the rights that Dayton promised” to avoid violent public reaction. Just termination did not occur in Bosnia-Herzegovina.

The second principle, right intention, states that arbitrary deadlines cannot dictate withdrawal from intervention, as they did in Bosnia-Herzegovina. According to top negotiator Richard Holbrooke, the Accords were “a rushed job that left many loose ends.” They designed an overly optimistic, one-year time-table for implementation of the colossal tasks of dividing the country into two governments, demilitarizing ethnic armies, unifying ethnic police forces, aiding the return of refugees and displaced people, removing land mines, and more. For successful nation-building, a long-term military

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60 Silber and Little, 360-361.
62 Sharp, 127.
commitment is necessary, as well as a reiterated threat of force if change is prevented; but the international community had unrealistic expectations and the wrong intention.  

On the other hand, it can be argued that the international community has not yet withdrawn. “Since Dayton, a steady stream of peacekeepers, civil police, human rights monitors, electoral experts, engineers, logisticians and others have flooded into Bosnia-Herzegovina,” so it might be too soon to analyze right intention.

In the next principle, a legitimate authority must publicly declare the cease-fire and the peace accords that follow intervention. Though representatives of all three ethnic groups were present for the signing, the principle was not fulfilled because the Bosnian Serbs were cut from negotiations. The UN had demanded that Serbian President Milosevic act as the spokesperson for all Serbs because the Bosnian Serbs had been unwilling to compromise. At the negotiations, Milosevic abandoned them because he said that NATO’s intervention in Bosnia-Herzegovina had been their own fault and because Bosnian Serb leader Karadzic was his rival. Thus, after the agreement, Bosnian Serbs had no connection to the Accords and their leadership saw no reason to enforce it.

The next principle of proportionality states that agreements and punishments must be proportional to the ends of reinstating rights and must not be draconian. This principle was adhered to but only because for years there was barely any accountability

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66 Walzer, Arguing About War, 72, 113.
67 Shear, 91.
68 Orend, 129.
69 “Summary of the Dayton Peace Agreement on Bosnia-Herzegovina-Herzegovina.”
70 Laura Silber and Allan Little, Yugoslavia : Death of a Nation ([New York]: TV Books : Distributed by Penguin USA, 1996), 360,365.
71 Ibid., 360,365.
72 Ibid., 372, 377.
74 Ibid.,”129.
for this war’s criminals, despite the importance of accountability for reconciliation.\footnote{Kathleen Hill Hawk, Constructing the Stable State : Goals for Intervention and Peacebuilding (Westport, Conn.: Praeger, 2002).64} Milosevic was not indicted until May, 1999\footnote{Ibid., 448.} and was not taken to the Tribunal until February 2002, after having waged war against much of Yugoslavia.\footnote{Gary Bass, "Milosevic in the Hague," \textit{Foreign Affairs} (May/June 2003), vol.} Also, only in 2003 were top-level Bosniak military leaders arrested for their crimes against Serbs and Croats.\footnote{Abigail Levine, "Hague Tribunal Tries Its Most Senior Muslims Yet," \textit{Reuters} (December 2 2003), vol.} At the tribunal today, the list of the 161 indicted criminals does not include NATO\footnote{"Key Figures of Icty Cases," ed. ICTY.org (UN.org, April 4 2008), vol.} or UN Protection Force personnel,\footnote{Michael Parenti, \textit{To Kill a Nation, the Attack on Yugoslavia} (London: Verso, 2002).} not even for negligence in Srebrenica.\footnote{Silber and Little, 362.} This proves that proportionality was not upheld.

The principles of \textbf{reconstruction} of the state and \textbf{reparations}, such as apologies, restitution of property, compensation, rehabilitation for victims, and a guarantee that war will not return,\footnote{Rhodri C. Williams, "Post-Conflict Property Restitution in Bosnia: Balancing Reparations and Durable Solutions in the Aftermath of Displacement," \textit{TESEV International Symposium on "Internal Displacement in Turkey and Abroad"} (Istanbul: Brooking Institute, December 5 2006), vol.} are the most taxing for interveners and therefore the least upheld.

In order to appeal to all parties, the Accords divided the country into two entities: a Croat-Muslim Federation and the Serbian Republika Srpska. The division created a weak central government and a power struggle between the two entities,\footnote{"Rajko Kuzmanovic President, Republika Srpska, Bosnia and Herzegovina," \textit{Southeast European Times} January 2 2008.} so today, it is dependent on external support for survival.\footnote{Michael Froman and Ivo Daalder, "Dayton’s Incomplete Peace," \textit{Foreign Affairs}.78 (Nov/Dec 1999).} Aid to Bosnia-Herzegovina is supposed to be contingent on compliance with the Accords, but sometimes it is not. For instance, a British development agency gave a large portion of the $700 million designated for Bosnia-Herzegovina directly to Prijedor in 1996, even though the town was still run by
leaders responsible for two concentration camps.\textsuperscript{85} The reconstruction efforts have been disjointed, clumsy and unjust.

**Reparations** to victims have also come slowly. In 2004, the leadership of Republika Srpska finally stopped contesting the ruling that Srebrenica was genocide.\textsuperscript{86} Nine years after the Accords, Serbian President Marovic apologized for Serbia’s role in the Balkan Wars\textsuperscript{87} and Kofi Annan also apologized for the UN’s failure to stop the wars.\textsuperscript{88} Even though apologies are important for transitional justice, the orchestrators of the war have shown no regret; only their countrymen years later.\textsuperscript{89}

Restitution of property and compensation is slow because of bureaucracy and discrimination. The Accords mistakenly focused on the right of return for refugees and not on displaced people. At Dayton, they assumed that other forms of reparations would flow from right of return but that was not the case.\textsuperscript{90} Even though, the European Commission stepped in to regulate the bureaucracy and fill in the gaps, returning property did not translate into returning refugees.\textsuperscript{91} Reparations in Bosnia-Herzegovina have not been granted justly.\textsuperscript{92}

By just war theory, the effort to rebuild Bosnia-Herzegovina was short-sighted and unjust. Today, the state cannot resolve its own conflicts, promote the welfare of its citizens or provide basic security. Its political identity is still one of continued

\textsuperscript{85} Orend, “Just Post Bellum,” 129.
\textsuperscript{87} "Us Commends Apology by Marovic to Bosnia-Herzegovina," ed. United States Embassy (November 13 2003), vol.
\textsuperscript{89} "Us Commends Apology by Marovic to Bosnia-Herzegovina," ed. United States Embassy (November 13 2003), vol.
\textsuperscript{90} Williams, vol.2.
\textsuperscript{91} Ibid., 8-9.
\textsuperscript{92} Ibid., 10.
nationalism and ethnic segregation. Bosna-Herzegovina can be restored only with continued international help, especially from its neighbor European Union and with major internal reforms. The arrangements made in the Accords were designed “in the climate of war” and so must be reworked.

If humanitarian interventions are ever to be successful in the future there need to be “institutions and mechanisms” in place to guide it. Previously, the international community “has been forced to reinvent the wheel for each new circumstance” of humanitarian intervention but in 2001, “The Responsibility to Protect” was written by request of the UN. It defines the international community’s responsibility to protect people from large-scale human rights abuses and how to prevent, react and rebuild appropriately. This can be the first handbook and Bosnia-Herzegovina can be the last lesson of unjust intervention.

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93 Hawk, 67-68, 73, 128.
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Session IV: Panel A
Zones of Peace

“An Exploratory Research Project: The Creation of a Dominican-Haitian Zone of Peace in Dajabon, Dominican Republic”
Yves-Renee Jennings, George Mason University

“Peaceable Borderlands”
Adriana Salcedo, George Mason University

“The Association of Parents of Servicemen Missing in Action”
Maneshka Eliatamby-de Silva, George Mason University
Yves-Renee Jennings

A Concept Paper:

Exploring The Creation of a
Dominican-Haitian Zone of Peace in Dajabon, Dominican Republic
Presentation at the U. Mass. Conference, October 31 - November 1, 2008

Zones of Peace Panel

Dr. Wallace Warfield & Yves-Renée Jennings, Doctoral Student, ICAR

Introduction. Referring to the historical relationships between the Dominican Republic and Haiti on the Island of Hispaniola, this paper argues for the beneficial outcomes that could result from the creation of a zone of peace (ZoP) in Dajabon, a border city located in the Northwestern part of the Dominican Republic with a population of approximately 25,600. In that area, Dominicans living in the Haitian border city of Ouanaminthe opposite Dajabon intermingle with Haitians and form relationships; and in Dajabon, Dominicans and Haitians have ties and interact daily. These interactions create interdependence between the two peoples and may not be occurring in peace zones or “zones of tranquility” in a normative sense given the inherent likelihood for tension and conflict.

In this respect, border communities become natural settings to study the potential for peace zones and dialogic processes that might encourage this possibility. From our work in Dajabon, it may be determined what conflict mitigating processes can be exported to other border locales experiencing this form of tension and conflict or if these processes are sui generis to this setting. Based on this premise, this paper recommends
the conceptualization of a practitioner-directed action research project to assist key Dominican representatives in Dajabon and their Haitian counterparts in Ouanaminthe to explore the possibility of developing, establishing, and maintaining a ZoP in that area.

The genesis of this research project surfaced in March 2005 based on a research that ICAR carried out to study the current state of Dominican and Haitian immigrant relations and cultural identities. The historic relationship of Haiti and the Dominican Republic is complex and will not be gone into extensively in this paper. To conceptualize this project, we use the theoretical lens that all conflicts have origin, processes, and outcomes. Based on this perspective, we consider that a precipitating event is not the origin of a given conflict. Rather, we view that it is the underlying causal issues framed by needs-based worldviews and values, more often than not unarticulated, but becomes the sotto voce narrative for how the conflict is expressed. Processes speak to how the conflict is engaged. In general terms, parties can oppose each other in various scenarios designed to produce winners and losers; or they can engage a range of conflict-reducing behaviors for purposes of consensually ending the conflict. Outcomes are the “products” of the first two factors and for good or bad, they play out over time. In that outcomes have yet to be determined. We will focus our attention on origins and processes.

**Origins.** History plays a major role in the formation of the Dominican/Haitian immigrant conflict and emphasizes the idea that origins are social constructions and these disparate constructions “contribute to the conceptualization of polarized identities.” Identity polarization is arguably felt most strongly by Dominicans, many of whom, despite a range of coloring that extends to the darker end of the spectrum, consider themselves Spanish. And even where there is some ambiguity about this ancestral claim,
Dominicans often adamantly deny they are Black of African descent.\textsuperscript{v}

\textbf{Processes}. While neither side of the island can be called a bastion of economic and political stability, the Dominican Republic has fared comparatively better than its neighbor. Since the early 1900s,\textsuperscript{vi} poor Haitians have migrated to the Dominican Republic as seasonal workers and labored in sugar cane plantations. Some never went back to Haiti. With the down-spiraling poverty and instability in Haiti during the last few decades,\textsuperscript{vii} a significant influx of undocumented poor Haitians has entered the Dominican Republic through its porous border to secure different kinds of jobs during the recovering Dominican economy. As a result, the Dominican Republic\textsuperscript{viii} has endeavored to rid the country of undocumented Haitians whenever they create social problems or their influx reaches a certain level.

\textbf{Dominican-Haitian Interactions in Dajabon}. In border cities such as Dajabon, both peoples often manage to co-exist although contentious dynamics usually result from their interactions given their acrimonious past and cultural differences. In the last few years these dynamics have been tense due to controversial news about the treatment of Haitians in the Dominican Republic and the issue of children of Haitian descent born in the Dominican Republic claiming their rights to citizenship.\textsuperscript{ix} Other negative propaganda has also led to tension between the two peoples, particularly in Dajabon,\textsuperscript{x} and at the border near the Haitian city of Ouanaminthe.\textsuperscript{xi}

\textbf{Appropriateness of the ZoP Philosophy}. Within the field of conflict resolution, a ZoP is defined as a social space where individuals are protected against personal inviolability based on agreed rules of public order. Developing a typology of contemporary ZoPs, Landon E. Hancock and Pushpa Iyer (2007) explain their nature and
structure; and highlight the various purposes for their creation. For instance, ZoPs have been created as *safe havens during violent conflicts* (Philippines and Colombia); as *peace implementation zones during post-conflict disarmament, demobilization and reintegration* (El Salvador and Aceh); as a *post-conflict peacebuilding and development zone* (El Salvador); or as *specialized and limited zones* (safe space or sacred sites and localities).xii

**Dajabon as a Conflict Prevention, Capacity-Building and Relations Building ZoP.** This paper recommends a different type of ZoP that could be conceptualized as a social, commercial and cultural safe space. In this environment, Haitians and Dominicans interacting at the border cities of Dajabon and Ouanaminthe would come together to learn how to create and maintain the ZoP; and why it is imperative to build better human relations.

**Initial Contacts.** During a recent visit to the Dominican Republic, Yves-Renée Jennings, an ICAR doctoral student, found great interest in the establishment of a ZoP in Dajabon. Discussions with some stakeholders working with communities at the border, in Dajabon and Ouanaminthe confirmed the benefits that communities could draw from this initiative.

**Proposed Scope.** During an exploratory action research field work, ICAR would seek to determine a) what would constitute a strong basis for sustainable peace among the two peoples; b) how would the ZoP help Haitians and Dominicans in Dajabon and Ouanaminthe build better relations; c) who would take the lead in designing, developing, implementing, coordinating, and evaluating various aspects pertinent to the ZoP; d) how would the two peoples ensure the ZoP sustainability or undertake needed changes; e)
what factors would hinder its creation and sustainability; and f) how would the beneficiaries deal with spoilers.

To ensure a holistic process, this social change project would be built using a multi-track-diplomacy system approach\textsuperscript{xiii} (figure 1 below).

\textbf{The Nine Tracks of Multi-Track Systemic Model}

![Diagram](image-url)

\textbf{Figure 1:} Diamond’s and McDonald’s Multi-Track Intervention Components

Also, to ensure representation of all pertinent constituencies, a multi-level\textsuperscript{xiv} participation of key representatives in Dajabon and their Haitian counterparts in Ouanaminthe would be recommended (figure 2 below).
Plausible Scenarios and Outcomes. We deem that at least three scenarios concerning this initiative are possible with regards to the decisions of key representatives in both border cities. For instance, they could: 1) opt for the status quo; 2) leave the responsibility of achieving peace to the Dominican and Haitian governments through means other than the development of a peace culture; or 3) adopt ICAR’s conceptualization to create, implement, and maintain a ZoP based on the local context while its beneficiaries take ownership for its sustainability. ICAR would recommend Scenario 3.

Next Steps. Moving forward, ICAR would develop this concept into a full action research project proposal to be shared, and hopefully discussed, with key local government officials in Dajabon, the religious community, non-governmental organizations, and community representatives as well as their Haitian counterparts in Ouanaminthe.
Clayton Maring, Elizabeth Neal, and Danielle Picariello (2005), three Master’s students from the George Mason University Institute for Conflict Analysis and Resolution (ICAR), along with Wallace Warfield, faculty member and practicum team advisor, assisted by a knowledgeable Dominican colleague spent one week in the Dominican Republic in 2005 to carry out this research.


David Howard. *Coloring the Nation: Race and Ethnicity in the Dominican Republic* (Signal Books, 2001).


The multi-track intervention framework highlights various stakeholders who can come together to support the effective realization of a social change process. The multi-track intervention framework is based on twelve operating principles which ensure that each intervention is approached with respect to its particularities. Among these twelve operating principles, the most fundamental ones include: relationships, long-term commitment and partnership. Within the context of multi-track interventions, relationships matter because they help develop interactions that allow concerned stakeholders learn about each other and build the trust necessary to undertake this delicate and challenging work. Long-term commitment matters because it takes time to achieve any type of lasting social change that can benefit an entire society, in

Borderlands, at the frontiers between states, are the territorial areas that are typically most vulnerable to conflict. At the same time, they offer scope for the establishment of zones of peace in contexts of protracted conflicts. A “zone of peace” according to Hancock & Mitchell (2007:1) can be understood as a set of rules of conduct or as a geographic place “where norms about ‘acceptable’ uses of violence are suspended or amended in a search for some form of non violence and conflict mitigation”. This sort of refuge provides a ‘safe’ space for combatants and locals trapped in the middle of conflict.

In this study, I propose to expand Mitchell’s concept of “zone of peace” to include not only a geographical area or rules of conduct but also the creation of symbolic spaces and more complex dynamics and practices which the parties in conflict can adopt to produce different forms of non-violent interactions (e.g. moving beyond simple suspension of conflict to active trade or migration). In this sense, borderlands in conflictive areas can become geographic and symbolic zones that motivate multiple relations at the international, national and local levels.

In this paper, we start by outlining key concepts for understanding a border, not only from a geo-political perspective but also as a social construct that the different parties fashion according to their convictions and interests. Then we discuss the differences between the Northern and Southern borders of Ecuador, comparing the now
peaceful frontier with Peru to the troubled Ecuadorian-Colombian border. Finally, we draw some conclusions for policymakers.

**Of Borders**

Borders have traditionally been considered demarcation lines between states, designed to clarify territorial sovereignty. This realpolitik perspective stresses the geopolitical dimensions of the boundary, positioning states as the central political actors in the international arena. On the other hand, globalization and the flows of capital, goods, people and information have challenged these demarcations and required increasing harmonization of sovereign state policies.

Recently, authors such as Hubbard (2005) and Low (2003) have adopted a more flexible and comprehensive vision of borders, which considers two different dimensions: a “borderline” that separates one state from another, and a “borderspace” that is configured through a process of expansion of social, economic and cultural practices, and that looks beyond their physical dimension (linearity) to an understanding of borders from the perception of the people who live near, interact across and transform them on a daily bases (zoning). The hybrid nature of border spaces result in a disconnect between states’ capacity to regulate and control these borderlands and the multiple, transnational interactions (e.g. economic, political, social and cultural) that also contribute to redefining the traditional relationship between the center and the periphery.

**The Ecuador-Peru Border**

The Ecuador-Peru border dispute was a long and protracted conflict inherited from Colonial times, based on profound disagreements on the delimitation of the border. The two countries share a border of approximately 1500 kilometers that was almost
completely defined by the Rio Protocol (1942), but a small portion of this border was not
demarcated, due to a cartographic error that left out the Cenepa watershed. This became
a constant source of conflict, leading to a new war in 1995.

Unlike most of the northern border, this was a largely isolated area with a limited
civilian population and military presence. Nevertheless, in 1995 Ecuador and Peru
managed to mobilized more than 5,000 troops into a 70 square kilometer area of jungle in
less that a month. After complex negotiations and the critical intervention of guarantor
countries (Brazil, Argentina, Chile and the United States), Ecuador and Peru settled their
territorial differences in the Brasilia peace treaty, ending over 150 years of conflict.

According to Simmons (1999) three main factors favored the resolution of the
border conflict: the commitment of politicians, which in turn contributed to an
improvement in public perceptions and downplaying of nationalistic discourse, and the
effective intervention of the guarantor countries in a buffer area established in the Cenepa
valley to avoid troop encounters, facilitate communication and lay down definitive
milestones to delineate the borderline. Finally, a creative, lasting (and replicable) ‘zone
of peace’ solution emerged through Galtung’s proposal for a binational park, to be jointly
administered by both countries as a natural reserve, tourist attraction and source of
revenues for both countries.

The Ecuador-Colombia Border

The Ecuadorian-Colombian border extents along 600 kilometers, from the Pacific
coast across the Andes to the Amazon. The border area was not considered a threat to
Ecuador’s security until the late 1980s, when rural peasants and armed groups in southern
Colombia began to grow and process coca, due to the increased profitability following
successful eradication campaigns in Peru and Bolivia. Powerful armed groups, such as the *Ejercito de Liberación Nacional* (ELN) and *Fuerzas Armadas Revolucionarias de Colombia* (FARC) were able to minimize the presence of the state in vast areas of the country. Indeed, Ecuador has frequently criticized the Colombian army for not taking sufficient steps to secure the border and prevent combatants from crossing into Ecuador.

Although there has not been inter-state armed conflict between Ecuador and Colombia, their border has become one of the most volatile areas in Latin America. Relations between the two countries worsened when northern Ecuador began to experience environmental, social and health damages from Colombian aerial fumigations of coca using glyphosate, for which Ecuador has taken the Colombian Government to the International Court of Justice in the Hague, alleging “crimes against humanity”. When Colombia violated Ecuadorian sovereignty to kill a guerrilla leader in March 2008 inter-state relations broke down completely. At the same time, in this conflictive borderland, the Ecuadorian side of the border could be considered a ‘zone of peace’ in Hancock & Mitchell’s terms, since civilian refugees as well as combatants looking for medical attention and goods cross over to Ecuadorian soil.

**Comparing the two borders**

Unlike on the southern border, there has been insufficient political will to address the challenges on the Ecuador-Colombia border, so that nationalism and xenophobia against Colombians have increased in Ecuador. Moreover, in the absence of inter-state conflict, interventions by third parties have been limited to OAS missions and inadequate assistance to refugees. In contrast to the engagement of the Peruvian and Ecuadorian states in jointly managing their border and ‘binational park’, it is precisely the absence of
respect for the borderlines, let alone joint administration or creation of symbolic spaces, along the Ecuador-Colombia border that has exacerbated the conflict. Finally, while citizens on both side have generated an interplay of economic, social and cultural exchanges, both legal and illegal, that blur the jurisdictional lines between the two countries, the ‘zones of peace’ have enjoyed limited support from the state, and the potential for weaving stronger social ties remains under-fulfilled.

Conclusions

This paper has looked beyond borderlines that demarcate the boundary of governability for two states, to the concept of borderlands. Here socio-cultural-economic exchanges render borders permeable, even as communities and refugees use the legal borderlines to achieve safe havens or ‘zone of peace’. A broader understanding of the dynamics of borderlands can clearly strengthen peacebuilding initiatives. Ultimately, a key element for peace along any border is a recognition by the state that its jurisdiction does not end at the border but rather begins there, and that the state’s presence cannot only be military but also needs to meet the basic human needs of borderland populations.

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The quarter century old war that has waged in the Indian Ocean island of Sri Lanka has taken the lives of more than 100,000 people. On September 27th 1998, the Liberation Tigers of Tamil Eelam (LTTE) attacked the Sri Lankan Army (SLA) base at Kilonochchi, in the island’s Northern Province, overrunning the camp. The Government of Sri Lanka (GOSL) reported 609 SLA personnel missing in action.\(^{342}\) To this day this is one of the largest and most brutal attacks in the history of the conflict between the GOSL and the LTTE. Unable to obtain any information on the whereabouts of their sons, the parents of these military personnel came together one month later and held a candle-light vigil in October 1998.\(^{343}\) This set the stage for the birth of a grassroots peacebuilding movement in Sri Lanka. As a result of their first formal gathering, a small group of parents whose sons were missing in action set up a meeting in November 1998.\(^{344}\) Among this group was Visaka Dharmadasa whose son Achinth has been missing in action (MIA) since the attack at Kilinochchi. The group who called themselves the Association of Parents of Servicemen Missing in Action (PSMIA) made the decision that three major issues needed to be addressed:

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\(^{342}\) Interview with Visaka Dharmadasa via telephone, April 2008.  
\(^{343}\) Voices of Reconciliation "Association of War Affected Women," (2005).  
\(^{344}\) Interview with Visaka Dharmadasa via telephone, April 2008.
1) Take all necessary steps to find out the fate of those MIA;
2) Secure the release of all detainees; and
3) Preventing such problems by bringing peace to the country.

From Structural Change to Meeting the LTTE

According to Dharmadasa, the army had not yet issued Achinth a dog tag – “[t]he army didn’t think it was important! If he had been wearing it, I would have known what really happened to him. If you know your son is dead, you can at least mourn him. But now, for me, the issue is eternally pending.” In late 1998, PSMIA lobbied the International Committee of the Red Cross (ICRC) to register all missing individuals and initiate tracing requests for them. However, the ICRC did not have the mandate to open tracing requests without official recognition of the missing by their commanding force. When PSMIA informed the SLA of this, they were told that the SLA were conducting an official Court of Inquiry on those that had been declared MIA, a process which could take more than six months. The ICRC regulations stipulated that any formal request regarding the missing was required to be made within six months of the individual’s disappearance.

Realizing that working within the constraints of these formal structures might lead to them never finding out the fate of their sons, PSMIA led by Visaka Dharmadasa lobbied the ICRC in Colombo, and the Director of Personnel Administration at the Sri Lanka Army Headquarters in Colombo. At the end of December 1998, the Ministry of Defense provided the ICRC with a list of names of those missing as a result of the attack on Kilinochchi. This would become the first among many changes achieved as a result of agency on the part of PSMIA.

Making Contact with the LTTE
PSMIA stressed their point by preparing a booklet featuring photographs of soldiers wearing the identification discs with a request in English, Sinhala, and Tamil. This booklet was released in Anuradhapura, the capital of the North Central Province, and last major city on route to the contested lands of the Northern Province. A copy of the booklet together with a request letter were sent to the LTTE leader, Velupillai Prabakaran. The launch of this booklet was accompanied by the release of 900 gas balloons to which messages of peace were attached and sent across the border to the Northern areas.

This was the first time that parents of servicemen had come out and made a public call for peace, setting the stage for the risky endeavor of attempting to meet face to face with the LTTE. Dharmada described her first face-to-face meeting with the LTTE, explaining that in September 2001, three years after the disappearance of her son, she along with six other members of PSMIA met with the LTTE. This was an extremely risky endeavor that they were compelled to carry out in extreme secrecy due to the situation prevalent in the country. Dharmadasa states that “on the pretext of going on pilgrimage, seven of us went and lit candles at the church, and got permission from the government to do this.” The Madu Shrine is a Catholic Church in the Vanni area and according to Dharamadasa “[t]he church was always out of bounds for the fighting.” According to Shyam Selvaduari, “[o]nce they crossed the

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345 Visaka Dharmadasa, during a conversation with the author, April 2008.
346 The Madu Church is a Catholic church situated in the heart of the conflict zone, but which has for the longest time been awarded the status of a Zone of Peace. However, during the time in which this research was being carried out, the church was under attack for the first time in the history of the conflict in Sri Lanka. It should be noted that the Catholic Church has maintained a non-partisan stand with regards to the conflict in Sri Lanka. This could be partly due to the fact that
347 During the quarter century of open warfare between the Sri Lankan Government Forces and the LTTE, there has been an unwritten understanding between the two groups about the sanctity of this religious shrine. It has enjoyed the position of a religious zone of peace until a few weeks ago – unfortunately the shrine has recently been used as a
boundary into LTTE territory, their car was surrounded by young boys on bicycles, machine guns strapped to their shoulders. They circled the car, while other cadres rummaged through its contents."

Once they made it safely to the shrine and lit candles at the altar, the clergy arranged for them to meet with the LTTE. “Through the Catholic church we were able to meet with the LTTE. They had told the LTTE that we were coming,” Dharmadasa stated. They were able to initially break the ice by sitting on the floor across from the members of the LTTE and offering them food that they had carried with them. She jokingly states that she realized that they didn’t have claws!

**The Power of Contact - Creating Understanding & Building Trust**

Visaka Dharmadasa stresses the need for contact and communication as a tool of peacebuilding. She commented that “[a]ny culture respects the dead, and if they could transfer dead bodies with some respect, this would require some kind of communication even with ICRC playing a role.” Here she stresses the importance of communication and dialogue being key. Abu-Nimer states that “[a]ttempts to establish dialogue and communication between conflicting parties are usually welcomed regardless of their content, structure, motivation, or outcome.”

This is especially important in the case of Sri Lanka, where the populations of the Northern and Eastern Provinces have little to no chance of journeying into other areas without receiving prior consent from both the LTTE and the Sri Lankan Government. This leads to a situation where the people of what Dharmadasa terms the “North” and the “South” rarely if ever meet. Unfortunately hiding place by both groups, and has seen open warfare during several weeks in April 2008, lending itself to what could be termed a *temporarily collapsed zone of peace*.

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this lack of contact between the people has led to the creation of a great deal of distrust and also
dehumanization of the other.

Dharmadasa states that this visit to Madu and the conversation with the local LTTE leader “was the first time that a civil society group had a meeting with the LTTE, and this paved the way for the ceasefire and the peace talks.”\(^{349}\) During her interactions with the rebels,\(^{350}\) Dharmadasa often brought the conversation to a deeply personal level, asking them about their own children. However, she did not beat around the bush, and was clear with the LTTE about her organization’s mission and goals. Dharmadasa states that “I told him, ‘[a]s much as you are proud about your striped uniform, we are proud of our uniform, too.’”\(^{351}\) Here she is clearly creating a parallel positioning, and ensuring that a hierarchical relationship is not established. Dharmadasa and the other mothers that made this journey were not going to allow the LTTE to draw a picture of exclusively their chosen trauma, and they were forced to accept the narrative of these mothers on a parallel scale.

Anderlini states that Dharmadasa “is quick to acknowledge that her pain is matched and perhaps more acute among the Tamil population.”\(^{352}\) While they talked about the sufferings on both sides, according to Selvaduari, Dharmadasa was determined to conduct the conversation on an equal footing. He quotes her as stating that “[t]hey told me of the atrocities of the army, and I

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\(^{349}\) Visaka Dharamadasa, in conversation with the author in April 2008.
\(^{350}\) Visaka Dharmadasa has a conversational knowledge of the Tamil language, and was able to communicate with the LTTE with the assistance of a translator. In one of our conversations she mentioned the “need to speak Tamil in order to communicate.” It should be noted that a majority of Sinhalese Sri Lankans do not read, write, or speak Tamil, and a majority of Tamils living in the Northern and Eastern Provinces similarly lack knowledge of the Sinhalese language. This language barrier has caused multiple problems – the lack of understanding of each other’s languages and thereby their cultures have created a large gap between the people of the island, and have thereby been one of the causes of a great deal of mistrust between the groups.
gave them one for one with their atrocities. I wanted to show that both sides have done wrong. I said, "[b]ut now we have to stop this war."  

“The trust that exists has sustained their contact, even when formal peace talks stalled.”  

It appears that it was this trust earned during the many encounters that took place between PSMIA, AWAW and the LTTE that created confidence in the minds of the rebels – a confidence which became evident when in 2003 they shunned even the Norwegians who were the official mediators of the peace process, and relied on Visaka Dharmadasa to deliver their messages to the government. Dharmadasa emphasizes the need to treat humans with dignity, and states that it is the key to conflict resolution. She draws attention to the importance of listening, mutual respect and the need to heal minds in the quest to build peace in extremely protracted instances.

**A Common Bond**

During their work, the membership of PSMIA recognized that most of the soldiers who are reported missing may in fact no longer be alive. Recognizing the need for mothers and loved ones on both sides to have a space to mourn their loss/s after receiving news of the death of their sons, PSMIA decided to create this space / forum to mourn. Visaka Dharmadasa and the membership of PSMIA saw the Association of War Affected Women (AWAW) as yet another opportunity to establish a connection between mothers in the North and South who had lost their sons. They acted under the premise of creating contact between mothers - bringing women together across the divide. Speaking of the symbol of motherhood and mobilizing for

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354 Ibid.
reconciliation, Visaka Dharmadasa stresses the need for reconciliation to come from within. She recognizes the importance of the ability of motherhood to evoke a special quality of generosity, and its ability to pursue a common goal of ensuring the safety of children on both sides of the conflict.

According to Dharmadasa, AWAW’s primary objective is to achieve peace through socio-economic development with active participation of the affected women. As part of this program, AWAW was able to meet with mothers of LTTE cadres, and in 2002, two hundred women from the North and East joined mothers from the South in protest of the war, calling for an end to the death and destruction that has plagued the island since the war began in 1983. This meeting of mothers continued when AWAW took three hundred mothers from the South to Jaffna, the capital of the Northern Province, and carried out a similar protest. AWAW is currently made up of a group of more than two thousand women from across Sri Lanka who have been directly affected by the war. Their sons, husbands killed/missing in action, or disabled due to the war is the common thread that binds these women. While PSMIA does not constitute a geographic zone of peace as is referred to by Mitchell et al. in Zones of Peace (2007), the women of ASPMA were able to create a metaphoric/virtual zone of peace - one which traveled with them as they crossed into LTTE controlled territory numerous times, and which afforded them security in the face of open warfare. PSMIA earned the rights and privileges that have been awarded to organizations such as Médecins Sans Frontières.
Session IV: Panel B
Restorative Practice of Law

“Alley and Atticus: In Search of the Restorative Lawyer”
Brenda Waugh, Marshal Yoder, Eastern Mennonite University

Brenda Waugh, Marshal Yoder
Eastern Mennonite University

Alley and Atticus: In Search of the Restorative Lawyer
INTRODUCTION
Since the 1970's a variety of programs and approaches have emerged worldwide which adopt a restorative approach to addressing criminal wrongdoings in communities. In some communities, legislation requires a restorative justice approach staffed largely by non-legal professionals while in others, restorative justice work is largely performed by volunteers. Most of these programs significantly limit or exclude the role of the lawyer as advocate. In other communities, the culturally dominant role of the attorney may be impairing the growth of restorative justice. Both situations raise the question: what is the role of the attorney in a restorative process?

OVERVIEW

Professor Howard Zehr describes Restorative Justice as guided by set of principles rather than a specific program or practice.

Restorative justice:

1. Focuses on harms and consequent needs (Not only of victims, but also communities and offenders)
2. Addresses obligations resulting from those harms
3. Uses an inclusive, collaborative process.
4. Involves those with a stake in the situation. (Victims, offenders, and community)
5. Seeks to put right the wrongs. (Zehr 2005)

As practicing attorneys, we have studied these principles, mindful of how they may be applied in our day-to-day practices. After commencing this work, we discovered other attorneys who also found the current framework for the practice of law inadequate to more fully address the parties’ and the communities’ deeper needs, resulting in several movements designed to expand the vision of what it means to be a lawyer. These
include: collaborative law, facilitative mediation, procedural justice, transformative alternative dispute resolution, therapeutic jurisprudence, procedural law, preventative law, holistic law, collaborative law, creative problem solving, community lawyering and rebellious lawyering. Although these movements all add important changes in the means to address conflict, existing legal framework often stalls or stymies these movements (including restorative justice) through legal limitations imposed by the rules of evidence, procedure and professional responsibility. Equally debilitating, are the cultural assumptions which guide the litigants, the attorneys, and the communities behavior within the existing judicial system. In order to move towards a restorative practice (and in keeping within its principles of inclusion) all potential participants in the judicial system must participate in a dialogue about these assumptions and experiences and how roles can be redefined to allow for a restorative practice. A key consideration in this shift is the role of the stakeholders in deciding how to address their conflict.

PROJECT INITIATION

Marshall Yoder and Brenda Waugh are two practicing attorneys, each with twenty years of experience in litigation. From our diverse experiences, we concluded that courts as the primary forum for the resolution of disputes are inadequate and often destructive to the litigants and to the communities. In search of alternative means, we independently enrolled as students at Eastern Mennonite University in the Center for Justice and Peacebuilding to explore other possibilities such as Restorative Justice.
Restorative Justice, with its focus on those harmed, the victims, the offenders, and the community provides a framework for changes to the judicial system and the practice of law. However, in the course of our study of restorative justice, we encountered numerous obstacles to implementing a fully restorative practice. First, we had to abandon our own indoctrination, having adopted the roles of the traditional lawyer. As we began to abandon some of the traditional adversarial roles, we discovered the remaining challenges imposed by procedural rules, substantive law and professional ethical rules.

Additionally, the continuing movement from the practice of law as a profession to a business creates barriers to how lawyers might change the way they practice. Finally, and critically, cultural and personal understandings that disputants carry about lawyers create a substantial obstacle to a restorative practice.

Our mission in this workshop is to engage those with diverse experiences to explore these obstacles and explores means of moving beyond them. We will not proscribe an outcome nor predict a conclusion—rather, we recognize the value of talking with those outside the sometimes insular world of attorneys where we speak in our own sometimes cryptic language. Professor Zehr, in his afterward to his first edition of Changing Lenses, recognizes a value in “wonder” in restorative justice. “Wonder involves an appreciation of mystery, of ambiguity, of paradox, even of contradictions. An ability to live with the unknown, with surprises and with the seemingly irreconcilable is essential to good restorative justice practice.” He describes restorative justice as “an indistinct designation on a necessarily long and circuitous journey.” (Zehr 2005). Therefore, in this workshop we will invite participants into this journey with us and to embrace the contradictions and paradoxes present.
UNDERSTANDING THE DILEMMA

In this workshop, participants will experience first hand some of the dilemmas faced by the would-be restorative attorney: loyalty to the client, diligence, “zealous” representation, privilege, advocacy and classic distributive bargaining where there are only winners and losers, right and wrong. We will explore critical questions about both the roles of professionals and participants in the courtroom arena. Some of those questions include: How far can the lawyer go with the client directives, even when he or she may strongly disagree with them or find the actions morally reprehensible? What are some of the common tools used by lawyers in negotiations? What do clients expect when they retain a lawyer? What are the lawyer’s duties to the community? Are lawyers destined to practice in a world with its own language and mode of behavior, where the rule is pre-eminent and the good of the individual client is paramount above all else?

RESTORATIVE CONFERENCING

Many restorative justice practitioners recommend a collaborative process for proceedings included within a restorative justice process, but also for the examination and exploration of conflict. For example, Bowen, Boyack and Marshall that restorative conferencing be “…guided by competent and important facilitators, strives to be inclusive and collaborative, entails voluntary participation, fosters an environment of confidentiality, recognizes cultural conventions, focuses on needs, exhibits genuine respect for all panties, validates...experiences, aims at transformative outcomes and observes the limitations of restorative processes” (Bowen, 2004).
Using these guideposts for the restorative dialogue and restorative processes, this workshop will then dialog about the experiences of the participants and any observers in the role play. During the course of the dialog, we will integrate the challenges not only as presented, but those presented by including the principles of restorative justice, as well as the alternate new forms of the practice of law. In so doing, we will examine the challenges faced by the professional and lay persons involved in conflicts which are being addressed in the judicial system. This workshop is part of an ongoing dialog in multiple forums wherein these questions and issues are examined.

**CONCLUSIONS**

Professor Zehr reminds us: “Above all, restorative justice is an invitation to join in a conversation so that we may support and learn from each other. It is a reminder that all of us are indeed interconnected.” (Zehr 2002).

In this workshop, we invite workshop participants to share experiences and thoughts about the roles of lawyers and restorative justice practitioners. In doing so, we are working to frame the future for the practice of law to allow incorporation of the important values of restorative justice: interconnection and individuality, respect, listening, and humility. Within this dialogue, we may find a future for the practice of law based not on cultural icons and sometimes outdated rules, but on firmly held and shared values and commitment to a restorative practice of law.

**SOURCES**


Session IV: Panel C
Organizational Conflict

“Conflict and Culture: The Pre-Electronic Medical Records Climate in Nursing Homes”
Kelly Pike, Cornell University

“Assessing the Need for an Ombuds Office at a Scientific Institute”
Lisa Witzler, University of Massachusetts Boston

“The Value of Neutrality in Employment Conflicts”
Mimi McGrath, University of Massachusetts Boston

“Conflict and Group Decision Rule in Mock Juries”
Eunro Lee, Changbuk National University
ABSTRACT

Much of the literature on perspectives of conflict focuses on determining which types are negative and which types are positive. In our study of nursing homes, we wanted to determine what types and levels of conflict existed in different homes to forecast the likelihood of successful organizational change; in this case specifically, the implementation of electronic medical records (EMRs). What we soon began to observe was that there were several common types of homes – based on the lens through which we view organizational culture, which we discuss later – and that there were also several common sources of conflict that existed in each home. However, the effects of these conflicts had a widely different impact on workplace outcomes from home to home. In this paper, the research question we examine is how organizations with the same types and levels of conflict can experience vastly different workplace outcomes.

Conflict and organizational culture are studied in tandem because I believe the link between the two is what informs our understanding of why organizations with a particular set of conflicts are able to sidestep mines while others with the same set are not. What we found was that different perspectives of conflict, not the conflicts themselves, were what shaped either positive or negative workplace outcomes. This finding contradicts much of the past research that suggests it is merely the existence of
certain types or levels of conflict that determine workplace outcomes. Instead, I propose that different organizational cultures lead to different outlooks on conflict, and that these perspectives of conflict are what ultimately shape workplace outcomes.

INTRODUCTION

In 2006, seventeen nursing homes in the greater New York City area received a grant from the State to implement electronic medical records (EMRs). As part of this initiative, Cornell was asked to conduct an evaluation of the impact that EMRs would have on employment relations. Throughout the first year of the project, our small research team conducted an extensive review of the literature, put together a survey instrument in which 1,200 nursing home employees participated, and have had the opportunity to visit ten of the seventeen nursing homes to interview administrators, nurses, union representatives and other front-line staff. This study draws primarily from the qualitative feedback we collected during our in-person interviews.

TYPES OF CONFLICT

There appeared to be four main sources of conflict in nursing homes: organizational hierarchies, staffing, breakdowns in communication, and attitude towards temporary and older employees. These could then be broken down into two additional subsets of conflict, which are illustrated in Table 1.1. Each type of conflict was present in each home but, depending on how each home viewed conflict, this was not always necessarily a negative thing. We discuss these in further detail below and provide excerpts from a sample of the interviews that we conducted. As illustrated in Table 1.1, these different perspectives of conflict stem from the different types of organizational culture we found in each of the homes.
TYPES OF CULTURE

For the purposes of this study, I define organizational culture as a system of hierarchies and subcultures, layered with ambiguities; a dynamic relationship between communication rules and underlying assumptions that in large part shapes behavior within the organization. Given this lens for studying culture, and the variety of ways in which we saw different homes deal with the same types of conflict, we were able to identify three distinct types of nursing home culture which we categorized as authoritarian, progressive and participatory. Again, this is discussed in further detail below, along with a few direct quotes from our interviews. Table 1.1 illustrates how the four main sources of conflict can be articulated differently when broken down by type of nursing home culture.

Table 1.1 Different perspectives of conflict in different types of homes

<table>
<thead>
<tr>
<th>Source of Conflict</th>
<th>Authoritarian</th>
<th>Progressive</th>
<th>Participatory</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Discipline Style</strong></td>
<td>Punitive</td>
<td>Learning</td>
<td>Organizational Self Check</td>
</tr>
<tr>
<td><strong>Decision Making</strong></td>
<td>Top-Down</td>
<td>Collaborative</td>
<td>Primarily employees</td>
</tr>
<tr>
<td><strong>Teamwork</strong></td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
<tr>
<td><strong>Recruitment &amp; Retention</strong></td>
<td>Moderate</td>
<td>Moderate</td>
<td>Moderate</td>
</tr>
<tr>
<td><strong>Flow of Information</strong></td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
<tr>
<td><strong>Trust</strong></td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
<tr>
<td><strong>Temps</strong></td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
<tr>
<td><strong>Older Employees</strong></td>
<td>Low</td>
<td>Moderate</td>
<td>High</td>
</tr>
</tbody>
</table>
CONFLICT AND CULTURE: GOING IN TO THE HOMES

We hypothesize that there will be different implications for affecting any kind of organizational change, depending on how each home views conflict. To illustrate, we show how the three types of nursing home culture interact with the four prominent sources of conflict in nursing homes that we previously identified.

Authoritarian Homes

In authoritarian homes, conflict undoubtedly led to negative outcomes for the organization. Conflict can damage relationships between labor and management or within subgroups of employees. It can create organizational hierarchies and hostility, lending itself to breakdowns in communication that disrupt the flow of important information, ultimately weakening organizational efficiency.

Auth1, CNA: They’re the ones that are the problem. They do nothing and expect us to do everything. We have too many residents to look after and, if we miss one thing, they won’t help out with it and we end up hearing about it. They’re so lazy and think they’re above everyone else.

Authoritarian homes used punitive disciplinary tactics and paternalistic styles of decision-making to run their homes. The staffing situation was poor in each type of home but there was very little teamwork in the authoritarian homes in order to ease the workload or improve the climate for recruitment and retention. Communication was low, as were levels of trust and attitudes towards temporary and older employees.
Auth2, DNS: "We don't take temp CNAs from outside because they don't know what's happening. Sometimes I will take 1 temp (LPN) and she's mine. I know how to keep their mouth shut so it's okay."

Decisions were being made in order to gain tighter control of the staff. In particular with the implementation of EMRs, the goal was to heighten surveillance and discipline.

Auth2, DNS: "I want to know if and when residents are getting their meds. If there's a problem, I want to know which nurses are involved. I may give them an in-service, then a warning. If they don't like that, they can find a job somewhere else. There's going to be better quality of life because people can be kept in check. If it's not good for them, let them be afraid. The residents’ lives are in our hands. Now I will be having more eyes to see what is going on."

Progressive Homes

Progressive homes focused on addressing conflict in a collaborative way, looking at all experiences as a learning opportunity. They aimed to make things easier for their staff by involving them in the decision-making and creating an atmosphere where people felt like they could lend a hand to one another without fear of repercussions.

Prog1, Area VP: "The administrator is what makes this place; she's collective, gives dignity and respect to workers."

Prog2, DNS: “Everyone's time is just as important as mine. We have no layers of staff here."

Communication was more horizontal than top-down and attitudes toward temporary and older employees were much less hostile than in the authoritarian homes.
**Prog1, Contract Administrator:** "Everyone gets along, they’re outspoken and there’s good communication; management hears about it. There's a go-to person on each floor.”

**Prog3, Asst Administrator:** “You know, there are a lot of older people here, so they’re a little leery of what’s going to go on it and who’s going to see it. And, so the calming of the fears...”

**Prog3, CNA1:** "Agency employees, you got to treat them with all the dignity and respect because to make it work everybody has to have some type of communication.”

A monitoring theme again emerged but with more emphasis on the learning aspect.

**Prog3, Administrator:** "We're not out to get them but we're out to see that we have the best care. You may have a floor with say fifty residents but you didn't realize over the last couple years as your admissions came in, most of your residents on that floor are all a two-person assist. So each time that person has to get up, they need the Hoya lift and you're taking all of that staff and then they can't get their job done. So you're kind of setting them up for failure but that nurse may be afraid to come to her supervisor or the DNS to discuss it. [With] something like this, we'll have accurate information and more staff; certain floors may need it."

*Participatory Homes*
In participatory homes, teamwork and empowerment were key features of the workplace, communication was high, and temporary and older employees were regarded as an essential part of the organization.

**Part1, DNS:** "I can reassure them that, if I can do it, they can do it. It will give more of a self-appreciation, confidence, and more time to chat. We use employees leverage to get others to perform; not my own."

**Part2, Director:** "Enhances the camaraderie, team. In designing a care plan, they can do it at their own convenience."

In these cases we saw how conflict was viewed as a positive. Conflict can force employers to look at their own systems in order to see what they can do differently to make life easier and more functional for all parties involved.

**Part2, DNS:** “If somebody isn't good at it, we must teach them. Might be like the tortoise who comes out ahead of the hare. We're a chain. If you break one link, we'll all fall."

**Part3, Asst Administrator:** "We'll look at our system first and see if the employee(s) need additional training. It is surveillance but…it won't be used in that way. Not punitive. Management focused on working through problems and creating systems to prevent further conflict, always looking for better solutions and new innovative ways of doing things.

**Part1, Administrator:** "Education from this will be phenomenal. It will make people better at doing their jobs."
**Part 2, DNS:** "Staffing shortages everywhere but we subsidize one another. If a nurse doesn't come in, managers fill in (RNs). There’s teamwork and support. They just jump in the slot."

**DISCUSSION**

We have seen that different organizational cultures lead to different views of conflict which in turn have different implications for workplace outcomes. This is illustrated below in Table 1.2.

In authoritarian homes, we saw that organizational hierarchy existed in a negative way. Punitive styles of discipline lead to fear and hostility, and top-down decision-making left employees feeling uninformed and mistrusting. Recruitment and retention was moderate but teamwork was low, creating a poor staffing situation in which employees were overburdened and had low morale. The flow of information was low, as were levels of trust. This lead to frequent breakdowns in communication and created an atmosphere of fear and hostility. The attitude towards older and temporary employees was low, further adding to the atmosphere of hostility, frustration and fear.

In progressive homes, organizational hierarchy was viewed a positive. Styles of discipline encouraged those with supervisory roles to identify problem areas and improve learning among employees. Decision-making was collaborative, lending itself to an atmosphere of skill development and opportunity. Recruitment and retention was moderate, but teamwork was as well so that employees didn’t feel as overwhelmed. They were still overburdened but had improved morale as a result of the help they received from co-workers, alleviating some of the pressure and creating a moderate staffing
situation overall. The flow of information was moderate, as were levels of trust. Breakdowns in communication occurred, but the outlook was positive, using these mistakes as an opportunity for training and improvement. The attitude towards older and temporary employees was moderate, or mixed. While these employees were slightly hesitant, management’s goal was to educate, train, and involve them in the process.

In participatory homes, organizational hierarchy was again viewed as a positive. Here, the style of discipline was to use the identification of problem areas as a measure for organizational self-check. Decision-making was done primarily by the employees from the ground up, and the atmosphere was one of opportunity for both individual skill development and the improvement of organizational systems. Recruitment and retention was also moderate in participatory homes but teamwork was high. While the workload was heavy, increased help from co-workers lent itself to improved morale and a better overall staffing situation. The flow of information was high, as were levels of trust. Communication was a key feature of both workplace relationships and problem-solving systems, creating an opportunity to improve as an organizational overall. The attitude towards older and temporary employees was high. These workers were regarded with the same respect and dignity as full-time employees, creating a positive workplace atmosphere.

**Table 1.2  How different perspectives of conflict can impact workplace outcomes**

<table>
<thead>
<tr>
<th>Organizational Hierarchies</th>
<th>Authoritarian</th>
<th>Progressive</th>
<th>Participatory</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fear, hostility, lack of accountability</td>
<td>Employee involvement, opportunities for training and improvement</td>
<td>Ownership, empowerment, continuous improvement of organizational system</td>
</tr>
<tr>
<td>Staffing Issues</td>
<td>Overburdened, no teamwork, low morale, low recruitment and retention</td>
<td>Overburdened, some teamwork, mixed morale, moderate recruitment and retention</td>
<td>Heavy workload, more teamwork, higher morale, moderate recruitment and retention</td>
</tr>
<tr>
<td>-------------------------</td>
<td>---------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Breakdowns in Communication</td>
<td>Confusion, hostility, poor flow of information, lack of trust</td>
<td>Increased awareness, good flow of information, good levels of trust</td>
<td>Well informed, excellent flow of information, transparency, high trust</td>
</tr>
<tr>
<td>Attitudes Towards Temps and Older Employees</td>
<td>Poor employee relationships, hostility, fear, less productive</td>
<td>Decent employee relationships, some reaching out, more productive</td>
<td>Everyone regarded with full respect, no one left behind, increased productivity</td>
</tr>
</tbody>
</table>

**CONCLUSION**

The guiding research question we examined was how organizations with the same types and levels of conflict are able to experience vastly different workplace outcomes. What this study shows is that organizational culture plays a key role in shaping an organization’s outlook on conflict. Furthermore, we demonstrate that different perspectives of conflict have different implications for workplace outcomes, emphasizing a crucial link between conflict and organizational culture. These findings illustrate that the existence of certain types or levels of conflict does not necessitate negative consequences, unless they are viewed in a negative way. Administrators and organizational leaders have some influence in shaping workplace outcomes by changing their perception of these conflicts. Where conflicts are viewed as opportunities for growth and improvement, the work environment will be more conducive to fostering a sense of empowerment and learning on both an individual and organizational level. Less time, money, and energy can be spent on eliminating conflict or on looking for big fixes.
The solutions already lay in the fabric of our organizations; it may, however, need to be re-woven in order to better address workplace issues.

In our future research, we hope to use these findings as a springboard for an analysis of the role that conflict and culture play in the successful implementation of EMRs. While this study focuses on nursing homes, we hope to have provided some insight into the interplay of conflict and culture in organizations generally, so as to be informative to other fields as well.
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Assessing the Need for an Ombuds Office at a Scientific Institute

The term “ombudsman”¹ is a Swedish term that is loosely translated in English to mean “representative” and is intended as a gender neutral term. According to the International Ombudsman Association, the position is roughly 200 years old. The purpose of an ombudsman in a university setting is to provide a place where all members of the university community (including faculty, staff, students, and researchers) are able to have their voice heard in a confidential manner. An ombudsman provides information about channels available for conflict resolution and provides resources for systemic change. An ombudsman office provides a confidential, informal, neutral and independent resource to the members of the community it serves. (International Ombudsman Association Website, http://www.ombudsassociation.org/standards/ visited 9/29/07)

An ombudsman office does not provide visitors with a formal channel to “put the university on notice”, in other words, the ombudsman cannot receive official complaints from employees and hold the university or organization responsible for the complaint. The ombudsman is an informal conflict management resource for an organization.

According to Kolb and Putnam (1992), conflict in an organization is rarely completely resolved; conflict may move throughout an organization and ebb and flow,

¹ I will use the term ombudsman unless a different variation is used in quoted text such as ombuds or ombudsperson.
but rarely completely disappear. There are many different types of conflict, sources of conflict and ways to manage conflict. This paper will provide a literature review and background on conflict management within an organization. I have conducted a needs assessment of a scientific institute and the need for an ombudsman office and will report the findings of this study. I seek to answer the questions: “What are the current conflict management methods at this scientific institute? Is there a need for an ombudsman at this scientific institute?” Based upon the theory of organizational conflict management presented, I will assess the need for an ombudsman office at the scientific institute.

The following section will define conflict, outline the types of organizational conflict, describe sources of conflict and detail how conflict is managed.

**Definition of Conflict**

The definition of conflict and how it is addressed varies across the field. Deutsch (1973) defines conflict as one party interfering with the goals of another party. Abel (1982) defines conflict in terms of resources and differing claims to commonly desired resources. These two differing definitions do not account for the circumstances surrounding the conflict. The context of the conflict is important and must be included in the definition of conflict (Kolb & Putnam, 1992). Accordingly, organizational conflict is different than social and all other types of conflict. For the purpose of this paper I will use Kolb and Putnam’s (1992) definition of organizational conflict: “when there are real or perceived differences that arise in specific organizational circumstances and that engender emotion as a consequence” (p. 312). The scope of this paper addresses conflict that occurs within the context of organizations. I will not address social conflict or other realms of conflict.
Organizational conflict

There are a number of types of conflict that occur within organizations. Many organizations are structured with different groups or departments. Conflict can arise between groups and within groups. Conflict can occur on the same level of hierarchy or between levels of the hierarchy such as conflict between peers or conflict between a manager and a subordinate.

There are a number of sources of organizational conflict. These sources of conflict are not unique to organizational conflict; however, they can be a common source of conflict in organizations. These sources of organizational conflict are: poor communication, personality, priorities, differences in role expectations, and cultural differences.

Conflict within an organization is managed in many different ways and can be dependant on the structure of the organization (Bacharach & Lawler, 1980; Kanter, 1977; Kolb & Putnam, 1992; Pettigrew, 1973, Pfeffer & Salancik, 1978). Organizations often have both formal and informal means of addressing conflict. Some examples of formal channels of conflict management are visiting human resources and filing complaints with a union. Informal channels of addressing conflict can vary by organization and are dependant on the culture of the organization (Schein, 1985). Some examples of informal conflict management are manager mediation and ombudsman offices.

The Project

With the above theoretical background, I explore the unique conflict needs of the Alpha Institute². The first step in organizational development design is a needs assessment of the conflict management system of the organization (Constantino &

² I have used a pseudonym for the actual institute to protect the privacy of the institute.
Merchant, 1996). I will assess the current conflict management system of Alpha Institute and by inquiring about the following: types of conflict present in the organization, how conflict is managed, and what additional conflict management resources employees want. I will analyze the results and extract the major causes of conflict at Alpha Institute and match the needs of the organization to the method of conflict management that best fits those needs.

I will examine the following research questions: Would an ombudsman be a useful conflict management tool for Alpha Institute? Based on the needs assessment, what type of ombudsman office will best meet the needs of Alpha Institute? With the answers to these questions, I will create a presentation for the director of Alpha Institute outlining the need or lack thereof, for an ombudsman office at Alpha Institute.

The primary source of data was key informant interviews. I interviewed members of Alpha Institute’s staff who are responsible for conflict management; for example, lab managers and lab directors. I also interviewed members of the staff who are not at a management level, such as lab technicians. I obtained approval to conduct interviews from the Assistant Director of Alpha Institute prior to interviewing subjects.

The entire process was kept confidential. Subjects’ supervisors were not notified of the subject’s participation in the study. Numbers have been assigned to all of the participants and any identifying information has been excluded. The ten subjects interviewed provided a broad range of sources of conflict as well as a number of different formal and informal conflict management strategies.

Results
The four major types of conflict that were described by the subjects were intergroup conflict, intragroup conflict, peer to peer conflict and subordinate and supervisor conflict. The most frequently observed type of conflict was intragroup conflict. Eight of the ten subjects reported observing or being involved in intragroup conflict at Alpha Institute.

Subjects of Alpha Institute reported both formal and informal types of conflict management. The most frequently reported formal conflict management approach was bringing the conflict to Human Resources and/or bringing the conflict to the next higher person on the organizational hierarchy. The most frequent informal conflict management strategies were addressing the conflict directly with the parties and avoiding the conflict entirely. A third type of conflict management that was reported was leaving the group or the institute entirely.

The needs assessment conducted at Alpha Institute provided insight into their most common sources of conflict, methods for managing conflict, and what additional conflict management resources could be added to address employee concerns.

The most common sources of conflict reported were intergroup conflict, intragroup conflict, peer conflict and supervisor/subordinate conflict.

Conclusions

Based on the needs assessment conducted at Alpha Institute, I have concluded that additional conflict management resources should be added in order to better meet the needs of Alpha Institute. Through their examples of conflicts, subjects overtly expressed a need for a confidential and informal resource in addition to the current formal conflict management resources in place.
Ombudsman Office

The needs of Alpha Institute can be met by an ombudsman office. An ombudsman office can address the needs by providing an informal, confidential, neutral, and independent resource for the employees. There are no other organizational offices that can provide all four of these elements for conflict management. Alpha Institute needs all four of these elements to improve their conflict management.

References


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The Value of Neutrality in Employment Conflicts

Neutrality is a fundamental principle of mediation that practitioners ascribe to in some form or another; almost every mediator has an opinion about it. Rather than a “yes, I believe” or “no, I don’t believe” in neutrality, it appears that the real question is what is your definition of neutrality and how does it appear in a mediated process.

Within human resources (HR) neutrality is a conundrum. While we in HR profess neutrality and promise a fair process, is it possible that people who are paid by the company can be neutral in a conflict situation between an employee and a manager, or is it more likely that the HR professional becomes an advocate for one party or the other? Ideally, it is in the company’s interest to have the HR function operate as a third party neutral in order to understand workplace conflicts and address them in a collaborative way before they become lawsuits. My role within Human Resources places me right in the middle of this dilemma. I describe my role as a third party (I don’t usually say “neutral) who insures that there is a fair process to hear and address workplace issues.

Notes from the experts

The Massachusetts Association of Mediation Programs expects members to uphold five principles of which one is neutrality/impartiality: “the principle which
affirms the parties’ right to a mediation process that serves all the parties fairly and equally and to mediators who refrain from perceived or actual bias or favoritism, either by word of by action.” While this sounds straightforward, a number of practitioners have written about the challenge and even value of this expectation of neutrality is certain situations.

Bernard Mayer in Beyond Neutrality sees the history of mediation to have limited the opportunities for mediators to help in many conflicts on a personal, public, and national level. He seeks a broader role for a mediator. He sees the neutral role as one that limits these opportunities. “As important as neutral can be, it is only one role, and often a very limiting one in conflict. Instead, our field should seek to define itself more by its understanding of conflict and its ability to translate that understanding into practical ways of intervening in conflict—or helping other individuals or groups to intervene—from a number of different roles or stances.”

My hypothesis in this paper is that a third party mediator will be more challenged to maintain neutrality depending on how closely she is aligned with the employer party, i.e. the person who pays her. I tested this hypothesis by interviewing practitioners who work in different roles in employee/employer conflicts.

Interviews with Practitioners

I conducted seven interviews with the following practitioners in workplace conflict: VP of Human Resources, HR generalist responsible for developing and administering employment policies and practices, an internal organizational development consultant, an external organizational development consultant, an employment lawyer
who works for a company, an HR generalist with a role similar to mine, and an external mediator of workplace conflicts.

The interview questions included a description of their role in different conflict situations, their definition of neutrality, the behaviors that they used to demonstrate neutrality in a mediation, and how they knew whether they were in fact being neutral. I also asked them about what factors would hinder their ability to be neutral.

They all immediately spoke about their importance of neutrality in their work with employees and managers; their definitions were similar in that they were all seeking common ground from which to address workplace conflict. There was also similarity was about the inherent internal tension between their role and their own opinions and feelings in a conflict situation.

- fighting my own opinions;
- I don’t want either party thinking I am on their side. (able to be multi partial?)

**Definition of Neutrality**

As respondents described their own definition of neutrality, their comments reflect the need to fight against one’s natural tendency to have or express an opinion. This expression portrays a conflict of its own.

- keep one’s biases out of the process.
- not having a point of view. Try to make sure that fairness/equity is maintained
- through all phases, behave impartially with respond to the substance of the discussion. May have opinions but I don’t act on them.
- people come in expecting a winner and a loser; I try to keep my perspective out of it.

A freer way of stating this is to “not have a stake in the outcome of the conflict.”

The person expressing this perspective felt it was not hard to be in a mediation situation
and be able to refrain from taking a side in the dispute. He described it as “putting on a different set of clothes”.

A different perspective on a definition differentiates neutrality from a desire “not to neutralize passion or to determine right or wrong but rather to come to my own core so that I am able to hear both parties so that people can determine their own solutions. It is not about who’s right and who’s wrong.”

Thus, their definitions reflect the same variation in practice as was found in the literature. There is no one good definition of neutrality.

**Skills of neutrality**

When asked about what they do to demonstrate neutrality, the respondents echoed many of the behaviors which are integral to our mediation curriculum and court coaching.

**Introduction:**

- Meet in a neutral place
- I am conscious of how I introduce myself
- State my role
- I identify that I am here to manage the process, not participate in the process
- I explain that I have worked both as a technical person (individual contributor) and a manager (therefore I have experience both of their worlds)
- Set up ground rules
- Check my own body language; sit openly
- I explain that I will hear from each of them

**Listening:**

- Go from one person to the other
- Restate, “I’m hearing…”
- Try and listen to perspectives
- Restate and summarize what I have heard

**Demonstrate understanding:**

- Reinforce what I’m hearing people say
- Value what people are saying
- Keep the energy focused on the parties
• Make sure the parties understand one another
• Acknowledge and validate both points of view
• Openly hearing both sides; beyond what they say; listen for subtle cues.

Move to closure

• Try to understand both parties’ view to get people to move forward into a better place for the organization.
• See a lot of possible outcomes

How can you tell you are being neutral?

It took longer for the interviewees to respond to this question. It seemed that they had probably taken their own neutral stance and behavior for granted. Their responses reflect the challenge of maintaining neutrality, what they do in the face of those challenges, and how they know they have maintained neutrality.

• Are parties equally happy/ or unhappy with the outcome.
• A number of people responded that they could tell the opposite, when neutrality was failing:
  o a physical feeling
  o can tell they are being defensive in their language and questioning
  o I can feel it. Speaking to the employee I start to get aggravated. I start to feel frustrated. I take a deeper breath.
  o Difficult when behaviors of the parties are most strongly entrenched or when the parties do not take any responsibility for their part of the conflict.
• When they end up finding their own solution. Physically, they may breathe easier.
• Monitor my internal feelings.
• Try to be sure not to manipulate the mediation in order to get an agreement.
• Not easy. Have to work at it not to fall into a trap of believing one side more than another. (may be less neutral than I think)
• Try to NOT form an opinion. Also, bring in a perspective they are not looking at. They may be able to see how their behavior is seen.
• It is hard to remain neutral when on of the parties doesn’t seem to be listening, owning any responsibility, or is shut down.

Factors that impact neutrality
When asked about what factors (personal, situational, positional) could influence their own ability to be neutral, the respondents had a few thoughts:

- The experience or relationship of the mediator with the parties (more likely to occur with mediators already working within an organization.)
- The length of time that a conflict had gone on. The assumption that as positions became more entrenched, it was harder for the mediator to not align with one side over another.
- The power of empathy. Sometimes a mediator is drawn to one party, has more compassion for them.
- One respondent acknowledged that she might want to please a senior leader in a conflict and thus not try to influence them to see the other party’s side as diligently as she could.

**Conclusions**

The variety of opinions about neutrality within the field gives me some comfort. In looking for input from fellow colleagues who deal with work place conflict, I find a number of shared perspectives as well as additional insights into the importance of neutrality, examples of neutral behaviors, and descriptive situations when it is difficult and necessary to maintain neutrality.

My initial premise that “HR mediators”’ definition and experience of neutrality in work place conflict would be linked to the role they played was not substantiated. The answers to the questions from these respondents appear to be more similar than different. The responses from the corporate lawyer, the internal consultant, and the external mediator could not be distinguished by the role they played in work place conflict resolution.

Upon review and reflection, the comments from the interviewees have helped to clarify the issues, affirm my ambivalence, and reinforce my own approach to neutrality in my HR work. Some of my own goals include:

- try to dissociate myself from the outcome.
get to a place where I can see multiple outcomes from a conflict.
- trust the process enough and see my role as making that process as fair as possible.
- be sure that I can hear and reframe the perspective of each party
- try to get the parties to hear one another.

As I am more confident of my skills and more of aware of my “neutrality standing” in any given situation, I can be freer to engage in conflict in a positive, non-threatening way. I can become a model for helping parties to engage in their conflict situations and by using the skills cited above to nurture and support productive conflict at work.

Ending quote from Mayer:

As with so many other situations we deal with (assessing family cases for domestic violence, advising a company on its dispute system and providing mediation of specific grievances, doing a situation assessment of a public dispute that can lead to a further role for us in an ongoing process) a purist approach in the end serves no one. We will have to work to refine certain role boundary safeguards while maintaining the role flexibility that disputes call for. Transparency will be a key tool in helping with this” p. 241

References


Conflict During Jury Deliberation and Decision Rule

A system of trial by jury was introduced to Korea in 2008 for the first time in its history. Korean jurors render the verdict under a ‘double stages of deliberation rule’ (DSDR). If they can’t reach a unanimous decision after a substantial deliberation, the jury will decide the verdict by simple majority rule after hearing the judge’s opinion. With the recent controversy on relaxing the unanimity requirement for jury trials in the United States (Diamond, Rose, & Murphy, 2006), the effect of decision rule on jury decision making may be one of the most urgent issues in Korea. A more consistent and simpler decision rule other than the DSDP is in need. The present study is concerned with how the decision rule affects the quality of deliberation.

Deliberations of 120 mock juries were video-recorded and content-analyzed. Nine-hundred sixty undergraduate students participated in simulated 8-person jury trials. After watching a one-hour-long videotaped trial or reading a written account of a criminal case with approximately 840 words, mock jurors deliberated for 46.9 minutes on the average. Each mock jury was randomly assigned to one of 8 experimental conditions with two levels (unanimity vs. simple-majority) of decision rule and four levels (strong exculpating evidences, strong inculpating evidences, scarce evidences, conflicting strong evidences) of evidence strength.
Two types of jury were excluded from analysis: (1) juries with no factions among the jurors; (2) juries with short deliberation time. Juries that reached a unanimous consensus even before deliberation began cannot be considered to examine conflicts among jurors during deliberation and eliminated from the analysis. Juries with deliberation time that is shorter than one standard deviation from the mean deliberation time were eliminated because conflicts among jurors may require enough time to emerge.

With the remaining ninety-three juries consisting of seven-hundred forty-four jurors in total, perceived conflicts that jurors reported on a post-deliberation questionnaire were analyzed. Decision rule, evidence strength of the case, and pre-deliberation verdict preference distribution explained 23.9% of the total variance in the perceived conflicts.

Jurors in a more evenly split jury experienced more conflicts compared to those in a skewed jury (M=5.05 for 4:4 split; M=3.75 for 7:1 split). For evidence strength of the case, jurors experienced the conflicts in the order of conflicting evidences (M=5.00), scarce evidence (M=4.90), strong inculpating evidence (M=4.28) and strong exculpating evidence (M=4.19). That is, jurors served for easy trials in which evidences were either strongly for or against the defendant experienced less conflicts during deliberation than those served for difficult trials in which evidences were scarce or strongly conflicting with one another.

Contrary to findings from existing research (Diamond et al., 2006; Devine, Clayton, Dunford, Seying, and Pryce, 2001; Vidmar, 2000), decision rule had no effect on the perceived conflict. To verify the absence of the effect, the content analysis method developed by Park, Kim, Lee, & Seo (2005) was applied to the jurors’ utterances transcribed from video recording. Unlike the analysis on the perceived conflicts, the
content analysis method can capture the effect of decision rule on conflicts objectively if it exists. An utterance is a basic unit of a speech bounded by the speaker’s breaths or silence (Bakhtin, 1986). The utterances were classified into 3 valence categories: “For the majority opinion”, “For the minority opinion”, and “Other”. To identify the temporal trends in utterance valences, the deliberation was divided into 5 temporal phases with an equal length.

**Figure 1. The Trend of Majority Opinion Valences during Deliberation: Majority and Minority (large/small faction) Jurors judging each case of 4 evidence strength under each Decision Rule.**

Figure 1 shows how the proportion of the utterances for the majority opinion changed through the temporal phases in each faction under each decision rule. The curvature of
utterance valence reflects the degree to which the faction considered the opposite opinions dynamically. The height of the curve indicates the magnitude of majority valences. Judging the close case, the majority jurors under the unanimity rule considered the minority jurors’ position more than jurors under the majority rule. The minority jurors under the unanimity rule accepted the majority jurors’ persuasion more actively.

Table 1. The characteristics of the Trend of Majority Opinion Valences during Deliberation

<table>
<thead>
<tr>
<th>Evidence Strength</th>
<th>Majority Jurors (Large Faction)</th>
<th>Minority Jurors (Small Faction)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Unanimity Rule</td>
<td>Unanimity Rule</td>
</tr>
<tr>
<td>Close</td>
<td>Lower curve–more consideration of minority opinion</td>
<td>more dynamic curvature–more active acceptance</td>
</tr>
<tr>
<td>Exonerating</td>
<td>Similar height but more dynamic curvature</td>
<td>more dynamic curvature–more active acceptance</td>
</tr>
<tr>
<td>Incriminating</td>
<td>Lower curve and more dynamic curvature</td>
<td>higher curve –being persuaded more</td>
</tr>
<tr>
<td>Weak</td>
<td>more dynamic curvature</td>
<td>lower curve</td>
</tr>
</tbody>
</table>

The cognitively conflicting tasks of juries generate the opposite factions in terms of evidence evaluation and verdict in most trials. In the present study objective trends of utterance valences showed more resolving communication pattern under the unanimity rule. This result suggests that unanimity rule could facilitate both majority and minority jurors to resolve their cognitive conflicts during deliberation.

The research method of the present study could be applied in various cognitive conflict researches such as on the relation of procedural variables and conflict
management/resolving. Measuring the acceptance of other opinions and argumentativeness for own positions among group members would give insights for cognitive resolving strategy, especially between the opposite factions.

REFERENCES


