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## Human Rights and the Conflict Cycle: A Synopsis

*Omar Grech*

### Introduction: A Complex Relationship

When discussing the relationship between human rights and the conflict cycle, one may question whether any relationship between the two is possible apart from an inherently contradictory one. The Universal Declaration of Human Rights emphasises at the outset the notion that human rights and peace are inextricably linked:

*“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”*

Thus, if human rights is the foundation upon which peace is built does it not follow that violent conflict is a denial of human rights in itself? The inclusion of peace as a human right has not yet attained legal status and definition<sup>38</sup> although most human rights treaties and programmes of action make explicit or implicit references to peace as a component of - or even a pre-requisite for - a human rights culture. If one were to adopt the thesis that peace is a human right, naturally there can be no possible dialectic between peace and the conflict cycle except to state that violent conflict is a breach of human rights and thus should be eliminated. Such a response, however, evades the

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<sup>38</sup> On peace as a human right see, *inter alia*, Roche, D. (2003) **The Human Right to Peace**. Ottawa, Novalis.

fundamental reality that violent conflicts do exist and that condemning them or wishing them away will not necessarily yield any positive result.

The adoption of a human rights approach to the conflict cycle, I contend, may provide guidance as to how to respond to the threat of violent conflict, its containment when it erupts and also its resolution. While it would be foolish to prescribe a rights-based approach as a panacea to all the maladies associated with violent conflict, it is worth assessing the contribution that such an approach may provide to conflict studies. The realisation that human rights principles have a role to play within the conflict arena has led practitioners and academics away from a purely adversarial conception of the relationship between conflict (as well as conflict resolvers) and human rights (as well as human rights advocates).

It is now clear that the stereotypical portrayal of human rights advocates as moralising and mindless actors ready to derail a peace process for the sake of human rights principles on the one hand; and the depiction of conflict resolvers as unprincipled, pragmatist protagonists of shady deals involving unsavoury characters on the other hand, are both equally deceptive. The reality is more complex; a complexity that is in keeping with the difficulties inherent in conflict and human rights themselves. One of the central tenets of this paper is that a broader understanding of human rights, eschewing a purely legalistic and litigious interpretation, may prove to be a useful tool in bridging divides, combating monochromatic identities and normalising post-conflict societies.

Such a broad understanding of human rights allows conflict resolvers to view the human rights agenda as a complementary one to the conflict resolution one. It also allows human rights advocates to conceptualise their work in conflict resolution as an ongoing, long-term project that may and should use methods other than courts and tribunals in achieving their aims. The role of human rights education in this context is of particular relevance.

These considerations, as well as others, have made it possible for academics and practitioners to take a nuanced, versatile and balanced approach in defining the relationship between human rights and conflict:

*“The relationship between conflict management and resolution on the one hand, and human rights promotion, on the other, is multifaceted, intricate, and fluid, evolving in response not only to changes in contemporary violent conflict but also to the two camps’ growing experience in working as partners rather than as competitors.”<sup>39</sup>*

I would add that such an approach is also aided by changes in the understanding of human rights as suggested above.

### **The human needs theory of conflict and the fulfilment of human needs as a conflict prevention measure**

The study of conflict and conflict resolution has evolved significantly since the 1950s and 1960s when conflict analysis and resolution emerged as a distinct academic

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<sup>39</sup> Mertus, J.A. and Helsing, J.W. eds. (2006) **Human Rights & Conflict**. Washington, United States Institute for Peace Press. p. x

discipline. Conflict studies are now a discipline which is attracting more students, practitioners and academics as evidenced by the growing number of undergraduate and graduate programmes in conflict analysis and resolution. As conflict analysis matured as an academic discipline so, naturally, did the body of literature that attempts to explain why and how conflicts emerge and how best to resolve such conflicts. It is beyond the scope of this paper to examine the various conflict and conflict resolution models that have emerged over the past four decades<sup>40</sup>. Nevertheless the theories which have had a significant impact on conflict resolution and which are closely linked to the values, discourse and context of human rights deserve to be mentioned.

In particular Edward Azar's theory of protracted social conflict based on lack of access to human needs has strong linkages with the underlying rationale of human rights as a system which addresses the most fundamental human needs (such as food, health, education, political participation etc). This human needs theory of conflict as developed by Azar and John Burton amongst others is summarised by Wallensteen:

*“With the needs-based approach, it is the difficulty of meeting an individual's party's need that is the origin of the conflict and the key to its solution. The analysis aims at locating unmet needs.”*<sup>41</sup>

If we look at specific human rights discourse in this context we note that the cold war division between economic

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<sup>40</sup> For a good general overview see, *inter alia*, Ramsbotham, O., Woodhouse, T. and Miall, H. (2005) **Contemporary Conflict Resolution**. 2nd ed., Cambridge, Polity Press.

<sup>41</sup> Wallensteen, P. (2007) **Understanding Conflict Resolution**. 2nd ed., London, Sage, p.41.

and social rights on the one hand and civil and political rights on the other re-emerges. Breaches of economic and social rights (mainly through discrimination in access to public goods) are identified in some of the literature as underlying causes of conflict whereas breaches of civil and political rights (especially personal integrity rights) are considered as the immediate triggers of violent conflict. In fact it has been suggested that:

*“More often than not the relevant proximate causes are political, including rapid regime change and uncertainty; external intervention; elections; democratic transitions or military coups; protests or insurgent violence, which provoke brutal government crackdowns; and discriminatory policies. For our purposes it is important to note that underlying causes are often associated with violations of economic and social rights, but that proximate causes are more frequently linked to abuses of civil and political rights.”*<sup>42</sup>

However, a caveat should be added to this. Human rights violations of economic and social nature, even severe ones characterized by extreme poverty, do not necessarily, or even frequently, result in violent conflict. As Nelson cogently points out: “Much of humanity has lived in acute poverty for most of history, but has not been in a state of chronic rebellion.”<sup>43</sup> The real underlying cause of conflict in terms of human rights is, I suggest, the ‘discriminatorisation’ of relative poverty i.e. when poverty is, or is somehow perceived as, ‘inflicted’ on certain groups. Interpreting

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<sup>42</sup> Thoms, O. And Ron, J. (2007) Do Human Rights Violations Cause Internal Conflict? **Human Rights Quarterly**, Vol. 29, No. 3, August.

<sup>43</sup> Nelson, J. (n.d) **Poverty, Inequality and Conflict in Developing Countries** [Internet] Available from: <[www.rbf.org/pdf/poverty.pdf](http://www.rbf.org/pdf/poverty.pdf)>.

Thoms and Ron it appears that the most probable risk factor for violent conflict is a scenario where individuals within a group are poorer than individuals in another group because of their appertaining to their specific group. This poverty is usually relative poverty exemplified by lesser access to public goods. Put in simple terms, one may illustrate this risk factor as follows: I am poor because I am discriminated against and I am discriminated against because I am Hindu or black or Catholic etc.

When this equation is internalised by the group and becomes part of their identity the stage is set for potential escalation of conflict. This internalisation of discrimination tends to occur as the fact of being discriminated against becomes part and parcel of the group identity and, indeed, part of the collective memory of that group. Thus, discrimination may serve to forge and strengthen a particular group identity. Once discrimination and victimhood enters the group's collective memory it persists through time even when the actual discrimination ceases. Indeed Thoms and Ron suggest that:

*“in some cases, the truth of the matter matters less than popular perception. If one group has disproportionate control over the state, others may feel discriminated against because they lack a sense of participation and trust<sup>44</sup>.”*

This is particularly relevant in identity-based conflicts in the context of divided communities. These scenarios typically present a situation where a particular ethnic, religious or political group controls the resources of the state (through majoritarism, military repression etc.) and excludes the other groups within the state from access to structures

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<sup>44</sup> Op. cit. Thoms and Ron (2007)

and benefits. This discrimination helps further forge the identities of the respective groups. The group in power perceives itself as special and superior while the excluded group's identity is further strengthened through the experience of discrimination. The shared experience of domination on one side and the shared experience of suffering discrimination on the other side thus serves to further cement the respective identities. The re-enforcement of the group identity in its turn accentuates the underlying causes of conflict by exacerbating the polarisation of society and the sense of grievance of the excluded group. Thus the stage is set for escalation to violent conflict, once the discriminated group witnesses abuses of personal integrity rights such as police violence, arbitrary arrest, torture etc. This seems to indicate that the risk of conflict increases in similar situations for:

*“If rights are denied, needs are frustrated, which creates a potential for violent conflict as people seek to find ways to address their basic needs, since these are non-negotiable.”<sup>45</sup>*

This sense of grievance that is created does not appear to be an immediate trigger for escalation to violent conflict. Instead, the literature suggests that it is repression that transforms grievance into active antagonism:

*“although individuals and groups may grudgingly tolerate economic inequality and discrimination for years, they are likely to respond with violence when physically threatened or attacked.”<sup>46</sup>*

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<sup>45</sup> Op. cit. Parlevliet (2009) p.5

<sup>46</sup> Goodwin, J. (2001) **No Other Way Out: States and Revolutionary Movements**, Cambridge University Press.

Returning to the human needs theory of conflict one can note that addressing violations of economic and social rights may serve to fulfil the unmet needs while preventing violation of personal integrity rights could avoid conflict escalating into violence. Such a framework of analysis provides clear indications on how and where to intervene in conflict prevention terms. Clarity, however, does not equate with ease and the task of addressing abuses of human rights in divided societies remains a delicate and complex one. Essentially, professionals advising on conflict prevention in the context of divided societies riven by discrimination have the unenviable task of balancing the demand for rapid change from the discriminated group with the instinctive resistance to change of the dominant group.

### **The role of humanitarian law in attenuating conflict repercussions**

The difficulties inherent in preventing violent conflict is evidenced by the fact that violent conflicts continue to erupt even at a time when unparalleled structures, attention and strategies have been devised in the field of conflict prevention and conflict resolution. Civil conflict, in particular, continues to break out at regular intervals. Once violent conflict breaks out, human rights are necessarily the first casualties of the conflict.

This is widely acknowledged by states, civil society and international organizations such as the United Nations:

*“The human rights abuses prevalent in internal conflicts are now among the most atrocious in the world. In 1996, there were 19 ongoing situations of internal violence around*



*the world in which 1,000 people or more were killed...The number of conflict-related deaths is only a small indication of the tremendous amount of suffering, displacement and devastation caused by conflicts. Assaults on the fundamental right to life are widespread -- massacres, indiscriminate attacks on civilians, executions of prisoners, starvation of entire populations... Women and girls are raped by soldiers and forced into prostitution, and children are abducted to serve as soldiers.... Homes, schools and hospitals are deliberately destroyed...The collapse of infrastructure and civic institutions undermines the range of civil, economic, political and social rights.”<sup>47</sup>*

Severe breaches of human rights committed during armed conflict have a negative impact not only on the direct victims but also on the communities wherein they are perpetrated. Communities traumatised by atrocious human rights abuses during conflict will arguably be animated by a greater demand for revenge. This will render the resolution of the conflict more tortuous and post-conflict normalisation more challenging. Memories of ethnic cleansing, rape, torture, wanton destruction of property and killing of civilians are likely to be enduring images, that become part of the group’s collective memory and which may continue to fuel hatred for generations.

This is why humanitarian law is an important aspect of the relationship between human rights and the conflict cycle. Legally, human rights law and humanitarian law are related but distinct branches of the law<sup>48</sup>. However, they are both

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<sup>47</sup> United Nations (n.d.) **Human Rights and Conflict: A United Nations Priority**. [Internet] Available from:

<<http://www.un.org/rights/HRToday/hrconfl.htm>>

<sup>48</sup> In a nutshell the most basic distinction between human rights law and humanitarian law refers to their scope of application with human rights norms protecting individuals in peacetime and humanitarian law rules protecting individuals in situations of armed conflict.

grounded in the same values of human dignity and, I would argue, taking a less legalistic approach is useful also in this context. International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not, or are no longer, participating in the hostilities and restricts the means and methods of warfare. Thus humanitarian law attempts to regulate conflict and attenuate its worse effects, particularly on civilians, which may render the transition from conflict to peace less problematic. Nevertheless international humanitarian law (IHL) is also facing a number of challenges.

One of the main challenges being faced by international humanitarian law is that it developed as a series of norms designed to mitigate the effects of international armed conflict. Indeed the bulk of the rules of IHL refer to inter-state conflict. The Four Geneva Conventions of 1949, which are considered to be the cornerstones of IHL, only regulate in a cursory fashion internal armed conflict in their common article 3. The rise of inter-state conflict has, to a considerable degree, found IHL unprepared. The international community has sought to remedy these lacunae by introducing international treaties which also regulate the means and methods of warfare in internal conflicts. One such example is the 1977 Additional Protocol 2 to the Four Geneva Conventions. The difficulty in ensuring compliance with IHL inherent in the context of violent conflict is intensified in situations where the conflicting parties are not states but rather non-state actors such as guerrilla groups etc.

This lack of compliance with IHL has also been a spur for the establishment of court-based systems to enforce its rules. Indeed the International Tribunal for the Former Yugoslavia, the International Tribunal for Rwanda and the International Criminal Court are all examples of courts designed to ‘end impunity’ for, *inter alia*, grave breaches of IHL (war crimes). This movement towards functioning enforcement mechanisms for IHL may also, as we shall see, prove to be an obstacle to conflict resolution. This is particularly the case where during the conflict rival groups have been accused of grave violations with the threat of prosecution pending.

A different approach argues that the premise on which the edifice of humanitarian law is built, that of humanising war, is itself misguided and flawed. Rendering conflict more human may lead to its prolongation rather than its conclusion. This approach posits that conflict management of the kind undertaken under the auspices of humanitarian law is destined to be counter-productive by creating conditions of ‘acceptable levels of violence’. Such conditions, one may argue, are unlikely to create the momentum for resolving the conflict and are more likely to drag out the armed conflict for a longer period of time. Empirical research testing this hypothesis is not readily available, partly because testing whether parties are more or less likely to continue armed conflict with more or less observance of humanitarian law rules seems a venture reliant on too many variables. What is clear is that some conflicts, which have witnessed persistent violations of humanitarian law norms, such as the Israeli-Palestinian conflict, have been sad, long sagas.

## Human rights and conflict resolution: creative tension?

However long and intractable violent conflicts are, they will at some point be resolved. The crucial question in the context of this paper is whether human rights principles and values are obstacles or aids to conflict resolution. This research question has attracted the most attention from scholars and practitioners alike within the broader field of human rights and the conflict cycle. Interest in this specific issue of the relationship between conflict resolution and human rights emerged strongly within the context of the armed conflict in the Balkans in the early to mid 1990s. Mertus and Helsing suggest that an anonymous article in the Spring 1996 edition of the Human Rights Quarterly entitled Human Rights in Peace Negotiations was a trigger to serious debate in this field. Parlevliet also refers to this article as being ground-breaking in the discipline. The article appears to argue that human rights activists were responsible for the prolongation of the Bosnian war and for the additional deaths and destruction such prolongation engendered. I would argue that the article is not the indictment of human rights most understand it to be. Early on in their analysis the authors referred to criticisms levelled at several peace formulae devised throughout the Bosnian conflict.

*“Trenchant, therefore, were the voices that called for justice and retribution, and judged every blueprint for peace according to whether, in the eyes of the commentators, they rewarded “aggression” or ethnic cleansing”<sup>49</sup>*

The issue of “rewarding aggression”, to which the authors return at several points in the article is not, essentially, a

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<sup>49</sup> Anonymous. (1996) Human Rights in Peace Negotiations, **Human Rights Quarterly**, Vol. 18, no.2, May, p.250.

human rights issue. The concept of aggression and the legal consequences of aggression are matters of the international law of war or *jus ad bellum*. The rules of international law governing aggression do oblige states not to recognise acquisition of territory acquired through aggression but this is certainly not a matter of human rights law or practice.

There is then the point of rewarding ethnic cleansing which is a human rights issue. Human rights activists certainly cannot ignore or condone ethnic cleansing and massive violations of human rights. Indeed, in contemporary international law and politics the concept of humanitarian intervention and the responsibility to protect has emerged ever more strongly. The international community has thus taken on board the humanitarian imperative of protecting people from genocide and ethnic cleansing (vide Kosovo). It seems that, after all, the principle of not rewarding ethnic cleansing and indeed of stopping ethnic cleansing are matters upon which the United Nations and other organizations now agree. Be that as it may, it is not human rights activists who refused or rejected the numerous peace plans produced at various stages of the conflict. It was the parties to the conflict themselves who had the power and thus the responsibility to accept or reject peace deals. The responsibility for the prolongation of the war and the ensuing deaths thus rests squarely with them. In the same article President Clinton is quoted as saying, "Only the parties to this terrible conflict can end it." Peace negotiators have a role as mediators, human rights advocates have a role too in documenting human rights violations and highlighting them (and also to promote human rights values and culture) while it is up to the parties to end any conflict.

In their Concluding Observations the authors state that:

*“[t]argeting violators of human rights and bringing them to justice is essential. Accusation, however, comes more easily than making peace. The quest for justice for yesterday’s victims of atrocities should not be pursued in such a manner that it makes today’s living the dead of tomorrow. That, for the human rights community, is one of the lessons from the former Yugoslavia.”*<sup>50</sup> What is, then, the lesson to be drawn from the Bosnian conflict for the human rights community? Is it that they should not comment on human rights violations during conflict? Is it that there should not be international tribunals established to punish violators of human rights? Or is it that they should not criticise peace agreements?

Answering each of these questions in turn, I would suggest that the *raison d’être* of the human rights community is fundamentally twofold: documenting and highlighting human rights violations as well as promoting a human rights culture through education, understood in its broadest sense. It is therefore impossible to expect that the human rights community will not document and highlight human rights violations, especially systematic and massive abuses such as happened in Bosnia and elsewhere. That they should do so adhering to the most scrupulous standards of fairness and ethics is certainly an important condition to be fulfilled at all times. That such documentation should also be done with sensitivity to time and context is also an important consideration.

The establishment of the International Tribunal for Yugoslavia was a United Nations Security Council decision.

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<sup>50</sup> Ibid. p.258

Certainly the human rights community lobbied for the establishment of the tribunal but the decision to establish the tribunal through a Security Council resolution was not a human rights community decision. Human rights activists lobby on many occasions, the Security Council rarely takes notice. Indeed Geoffrey Robertson argues that the creation of the ICTY “was conceived as a fig leaf to cover the UN’s early reluctance to intervene in the Balkans.”<sup>51</sup> It is therefore difficult to ascertain what lesson the human rights community should draw from the Bosnian experience in this respect. The criticism in the article referred to Richard Goldstone who as Chief Prosecutor made certain statements which, the authors considered, imperilled the peace process. Without entering the merits of whether the ICTY was a good idea or not, the criticism made by the authors implies that Prosecutors and Judges in such tribunals ought to be careful and understand the delicacy of the context in which they are operating, not that such tribunals are, in themselves, an obstacle to peace.

The final question I attempt to respond to is whether the Bosnian experience indicates that the human rights community should not criticise peace agreements. As noted earlier, whether or not to accept a peace agreement is the ultimate responsibility of the parties to the conflict. In situations of violent conflict the most immediate imperative is the ending of the violence. However, experience has demonstrated that peace agreements are processes rather than static legal instruments. Concentrating solely on the immediate cessation of violence, while ignoring longer term normalisation structures and procedures, including human rights concerns, may very well be counter-productive in the

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<sup>51</sup> Robertson, G. (2006) **Crimes Against Humanity**. 3rd ed. London, Penguin Books.

longer term. It would seem legitimate for the human rights community to call for the inclusion of human rights structures and processes within the agreement. At the same time criticisms of amnesties for crimes against humanity and genocide may be taken to risk destabilising peace processes and agreements. Nevertheless, the UN itself seems now to have taken this route. In fact then UN Secretary General Kofi Annan instructed his personal representative to Sierra Leone to append a reservation to his signature to the agreement stating that the UN did not subscribe to any amnesty granted through the agreement for persons accused of genocide etc.

The UN Secretary-General, Kofi Annan, rejected in his report to the UN Security Council the proposed amnesty:

*"As in other peace accords, many compromises were necessary in the Lome Peace Agreement. As a result, some of the terms which this peace has obtained, in particular the provisions on amnesty, are difficult to reconcile with the goal of ending the culture of impunity, which inspired the creation of the United Nations Tribunals for Rwanda and the Former Yugoslavia, and the future International Criminal Court. Hence the instruction to my Special Representative to enter a reservation when he signed the peace agreement stating that, for the United Nations, the amnesty cannot cover international crimes of genocide, crimes against humanity, war crimes and other serious violations of international humanitarian law [...]."*<sup>52</sup>

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<sup>52</sup> United Nations Observer Mission in Sierra Leone (1999) **Seventh Report of the Secretary-General on the United Nations Observer Mission in Sierra Leone**. 30 July.



Whatever the lessons for human rights advocates emanating from Bosnia, I would contend that lessons should be drawn from every conflict not just by the human rights community but more broadly, including by peace negotiators and conflict resolvers.

One of the lessons that needs to be learned and re-learned within the scenario of violent conflict is how to deal with the legacy of massive and systematic human rights abuses. Dealing with such issues by keeping both the justice and peace perspectives is perhaps the most difficult issue to resolve in the complex relationship between human rights and conflict. The reference to ‘learning and re-learning’ is an especially important one in this context. The argument of human rights advocates is that grave human rights violations must not go unpunished for a number of reasons. Some of these reasons may be summarised thus: (i) if impunity prevails, those sections of the community who have suffered these grave human rights breaches will retain a sense of grievance, thus imperilling the long term peace (ii) the punishment of individuals guilty of grave human rights abuses may serve as a deterrent (iii) you cannot build a just society on a culture of impunity. Moreover, as illustrated by the example of the UN Secretary General’s stance vis-a-vis Sierra Leone, amnesties for genocide and crimes against humanity are increasingly illegal under international law.<sup>53</sup>

On the other hand, insistence on prosecuting individuals within a conflict resolution context may certainly prove to be an obstacle in ensuring a cessation of hostilities. A number

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<sup>53</sup> The 1948 Convention on the Prevention and Punishment of the Crime of Genocide establishes a legal duty on state parties to prosecute or extradite individuals accused of genocide. This probably is also a rule of customary international law.

of responses have been tentatively put forward in resolving this conundrum. Trials are the most legalistic responses and may take a variety of guises: domestic courts, hybrid courts and international tribunals. Truth Commissions seek to uncover the truth but are not prosecutorial devices. They are intended to allow truth to emerge as an antidote to denial (of human rights atrocities) and amnesia. One may contend that Truth Commissions are psychological and sociological responses. Reparations are another instrument designed to acknowledge suffering and offering a financial compensation for such suffering. There are many other responses which, ultimately, may all be incomplete responses to massive atrocities and grave violations of human rights. Martha Minow comments that

*“Responses to collective violence lurch among rhetorics of history (truth), theology (forgiveness), justice (punishment, compensation and deterrence), therapy (healing), art (commendation and disturbance) and education (learning lessons). None is adequate.”*<sup>54</sup>

However, a combination of these responses may begin to allow communities and individuals to recognise themselves as human beings with rights and responsibilities. Such an understanding is ultimately what human rights are about: the value of human dignity that is at the core of human rights discourse as evidenced in the opening lines of the Universal Declaration of Human Rights. These thoughts do not provide guidance as to which combination of resources to use and at which point in time to use them. Perhaps it is unwise to give any guidance since such decisions must rely heavily on the particularities of the conflict and the communities in which the conflict has existed. For example, some in South Africa

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<sup>54</sup> Op. cit. Minow (1998) p.147

question whether the Truth and Reconciliation Commission would have been possible without the charisma of personalities such as Nelson Mandela and Desmond Tutu. Thus, personalities, histories, geographies and other local factors will all play a part in making these difficult choices.

The time factor is also an important one; what may seem impossible early on in the post-conflict stage may be eminently do-able within a 10-20 year time frame. If one looks at the trajectory of post-Pinochet Chile one can see a vivid example of this. General Pinochet's regime, having engaged in very grave violations of human rights towards political opponents, relinquished power in the early 1990s. He left the presidential office with amnesties, a seat for life in the Senate and other assurances. When Spanish and UK judicial authorities attempted to prosecute General Pinochet for crimes against humanity in 1998 the Chilean government objected in the strongest possible terms. Numerous politicians and opinion formers in Europe and elsewhere argued that these attempts at prosecuting Pinochet were undermining Chilean national reconciliation etc. It seemed impossible for justice and peace to cohabit in Chile. In 2000 a Chilean Court stripped Pinochet of his immunity and at the time of his death he was still involved in legal wrangles relating to his period in power. Although Pinochet never faced justice, the change in such a short period of time is remarkable. This may be a salutary lesson to human rights activists engaged in work in post-conflict societies. While there are some who hold strictly to the view that justice delayed is justice denied, justice deferred may be the wisest course in certain contexts.

## **Human rights promotion as a stabilising and normalising factor in post-conflict societies**

Conflict resolution is mainly concerned with ending hostilities or putting an end to violence. In Galtung's terminology, conflict resolvers primary role is to achieve negative peace i.e, absence of direct violence. In post-conflict societies the main challenge that is faced by communities is to build positive peace by eliminating cultural and structural violence. In everyday terminology post-conflict societies need to re-build communities where the 'us and them model' of a divided society is replaced by an 'all of us together' model. Such an inclusive, pluralistic society necessarily eschews discrimination and provides a shared space and a shared experience. According to Ramsbotham, Woodhouse and Miall we end "structural violence by removing structural contradictions and injustices and cultural behaviour by changing attitudes"<sup>55</sup>

In order to examine the role of human rights in societies which seek to end injustices and change attitudes it is necessary to revert to a reflection on the Universal Declaration of Human Rights. The first paragraph in the Preamble refers to the premise that the "equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." The notion of equality (thus non-discrimination) and justice (thus the absence of injustice) and human rights are inextricably yoked together. In fact Article 1 of the Declaration postulates that individuals "should act towards one another in a spirit of brotherhood" as an essential prerequisite for the observance of human rights. Societies based on these tenets of equality,

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<sup>55</sup> Op. cit. Ramsbotham *et al.* (2005) p.11.

justice and brotherhood seem to fulfil the criteria for positive peace as defined by conflict analysts.

Moving beyond issues of punishment and retribution, how do human rights structures and methods assist a society suffering from structural or cultural violence embark on a process of normalisation? From a purely perceptual perspective, the existence of human rights structures such as national human rights commissions may give comfort to those sectors of society which were at the receiving end of injustice. If these commissions are given adequate powers and resources and are staffed by competent individuals on a cross-community basis, they will give a sense of protection to communities who have lived long periods of discrimination. Moreover, if these national human rights institutions seek to reach out in a proactive manner to all sections of society they may serve a further perceptual purpose. This purpose is that of giving these sections of society a sense of political participation by having a stake in such public bodies.

Human rights education, whether provided by national human rights commissions or by civil society, is another crucial contribution that human rights may provide to post-conflict societies. The concept of human rights education as described by the UN General Assembly is particularly pertinent in this respect:

*“Human rights education should involve more than the provision of information and should constitute a comprehensive life-long process by which people at all levels in development and in all strata of society learn respect for*

*the dignity of others and the means and methods of ensuring that respect in all societies.*"<sup>56</sup>

If individuals within a given society understand that all members of that society possess a dignity that needs to be recognised and respected then the attitudinal changes required for ending cultural violence begin to appear possible. A crucial dimension of human rights education is the 'values and dispositions' aspect<sup>57</sup>. This dimension emphasises how individuals may gain experience of, develop and practice values and dispositions which are crucial to a just, democratic and peaceful society which respects and promotes the human rights of all. Among the values explored in this dimension are those of caring for yourself and for others together with a sense of responsibility and a sense of belonging.

Another critical dimension in human rights education dwells in 'ideas and understandings' which focuses, among others, on the critical role of relationships, the relevance of compromise and negotiation, the concepts of democracy, citizenship, community and governance as well as cultural identities, conflicts and conciliations. The idea of the centrality of relationships exposes individuals to reflections on the need to foster economic, social, cultural and political relationships based on equality and reciprocity and an understanding that mutual benefits flow from such relations. In the context of peace and human rights an understanding of

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<sup>56</sup>General Assembly United Nations (1994) Resolution 49/184 of 1994 **United Nations Decade for Human Rights Education** [Internet] Available from: <<http://www.un-documents.net/a49r184.htm>>

<sup>57</sup> This and subsequent points on human rights education are derived from the Euro-Mediterranean Human Rights Network (EMHRN) publication prepared by the EMHRN Human Rights Education Working Group 2003: **Human Rights Education: a background paper** to which the author has contributed.

compromise and negotiation is important as is the ability to identify what is essential and what is subsidiary. All of the above and other human rights education dimensions seem to be particularly apposite and urgent in post-conflict societies.

Furthermore, with reference to the vexed issue of how to deal with a legacy of mass atrocities and secure a peaceful future, Minow argues that “deliberate programs of education, teaching materials, books, exhibits, and events for adults and children – all of these are vital responses to mass violence.”<sup>58</sup>

The emphasis on human rights education, apart from its intrinsic value, which hopefully emerges from the above, also serves a further purpose. One may argue that this educational approach allows us to look at human rights within a broader perspective. The emphasis is not purely, or in some cases not even primarily, on legalistic and penal perspectives. Instead this approach presents human rights very much in the holistic spirit of the Universal Declaration of Human Rights which concludes its Preamble with a call which places human rights education at its core by enjoining:

*“Every individual and every organ of society, keeping this Declaration constantly in mind, [to] strive by teaching and education to promote respect for these rights and freedoms...”*

## **Conclusion**

This short overview presented some of the points of intersection and interaction between human rights and the

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<sup>58</sup> Op. cit. Minow (1998) p.144

conflict cycle. The most significant ideas which, I hope, emerge from these points of intersection are that:

(i) human rights need to be understood not merely within a legal normative context but also within a social, economic, cultural and specifically an educational one; and

(ii) although there are points of tension between the legal normative dimension of human rights and particular stages of the conflict cycle, a holistic view of both human rights and the conflict cycle presents more complementarities than competition.

Too much emphasis has been placed on the legalistic perspective of human rights with not enough attention paid to sociological and philosophical aspects, including the values base and educational dimensions. This is not to deny the importance of the legal dimension but is rather an invitation to consider human rights in their broadest sense. In the context of the conflict cycle this is a particularly important consideration. As outlined above, violent conflicts, particularly identity-based inter-state conflicts, have at their core issues of structural injustices and cultural prejudices. While legal safeguards guaranteeing equality and non-discrimination are an essential tool for removing injustices, they may not suffice on their own. Other tools are required to buttress legal safeguards and ensure structural and behavioural change. Winning hearts and minds is not a matter for legislation alone. Human rights education has already been noted as one of these tools. Human rights education, in order to be effective in this respect, must not only focus on awareness-raising of rights and duties. Minow, quoting a civil society educationalist, remarks that:



*“Education is too often teaching, not knowing; teaching cannot be just about facts, but must be about empathy, participation, finding common humanity, asking kids where does the hate come from, relevance.”*

In all of these contexts engaging with conflict analysts and resolvers is useful to the human rights community itself. By having to reflect on what contribution human rights approaches may provide to conflict studies, human rights advocates and educationalists are required to question their own assumptions and working methods. This may allow them to discover new avenues for working both in societies that are at peace, as well as in communities facing the threat, reality or legacy of violent conflict.