

# Peace and Conflict Review

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For further information, including guidelines for contributors, please visit [www.review.upeace.org](http://www.review.upeace.org).

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#### **Editorial Policy**

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## Editorial Note

The articles and reviews collected in this Fall 2009 issue of the *Peace and Conflict Review* cover a wide area within the field of peace and conflict studies, from theoretical discussions of development and environmental security to case analyses of reintegration programmes and mechanisms of transitional justice. This assortment is, to some extent, a reflection of the wider diversity of themes and approaches within peace and conflict studies, and the commitment to multiculturalism and interdisciplinary research at its heart. If a common thread can be seen to tie these articles together, however, it may be the concept of *transition*, as each author offers new insight into how we can move beyond experiences of insecurity and injury towards integration, justice, and peace.

Bosede Awodola begins the issue with a comparative analysis of reintegration programmes for child soldiers, drawing on the lessons learned and best practices emerging from a variety of post-conflict experiences, mainly on the African continent. Focusing particularly on Liberia, Awodola identifies the failures and successes of the 1997 and 2003 reintegration programmes and argues for context specific interventions informed by a careful consideration of international experiences.

Josh Cerretti furthers the discussion of transitional challenges in post-conflict societies with a critical analysis of existing development models for communities emerging from conflict, offering recommendations and principles for a flexible, conflict-aware model of development. Again, the balance of context-appropriate intervention and international/historical experience is emphasized, as are issues of gender and human security.

Virorth Doung and Sophal Ear offer a detailed analysis of transitional justice mechanisms in Cambodia, and discuss the wider implications of the Cambodian experience for societies recovering from similarly traumatic experiences of violent conflict. The authors show how formal, community-based forums for dialogue and alternative justice, such as truth commissions, are an essential part of social healing processes, alongside trials and other purely legalistic mechanisms. It is subsequently argued that such a public forum be established in Cambodia, in addition to the ongoing Khmer Rouge Tribunal.

Renée Gendron and Evan Hoffman remind us of the relationship between resource scarcity and violent conflict, and suggest that scarcity in various forms could play an important indicator role in the monitoring of post-conflict recovery or the escalation of potentially violent conflict. By paying attention to the availability of resources and their distribution, the authors argue, peace agreements can be strengthened and the chance of backsliding into further violence is reduced.

We are especially pleased to introduce a timely special feature in this issue of the *Review* on President Barack Obama's Prague speech about the "moral responsibility" of the US to work towards the abolition of nuclear weapons, with responses and analyses from Kenji Urata, David Kreiger, and Richard Falk. Given President Obama's recent acceptance of the Nobel Peace Prize, the international community is now investing, with cautious optimism, in his leadership to scale down the US nuclear weapons program and support the global movement for the elimination of nuclear arms.

I am grateful to all our contributors – including Kevin Avruch and Maria Keet for their thoughtful review articles – as well as our editorial board, for all of their work and support. As always, submissions and feedback from our readers are highly encouraged, and should be directed to [editor@review.upeace.org](mailto:editor@review.upeace.org).

Ross Ryan  
Managing Editor

## **Comparative International Experience with Reintegration Programmes for Child Soldiers: The Liberian Experience**

Bosede Awodola\*

The changing nature of armed conflict has been characterised by the use of children as soldiers, and the reintegration of these children back into society has become a matter of primary concern for post-conflict countries seeking to achieve sustainable peace and security. While measures of reintegration have been similar in various post-conflict peacebuilding initiatives, the experiences and outcomes differ widely from one country to the other. Therefore, this paper focuses on comparative international experience with reintegration programmes for former child soldiers. It discusses the aspects of reintegration, how it is being practiced from one country to the other and the lesson therein for Liberia.

Data for this work were derived from a fieldwork conducted in Liberia and from the results of similar studies undertaken elsewhere, leading to the conclusion that it is important to examine the social context of a society before adopting particular reintegration measures and to encourage collaboration between relevant stakeholders so as to promote qualitative reintegration. The mainstreaming of child rights by state actors, the enforcement of strict measures against child recruiters, and the prioritization of child welfare would help to curb the menace of child soldiering in the future.

### **Introduction**

Reintegration programmes have become synonymous with post-conflict countries like Sierra Leone, Uganda, Mozambique, Rwanda, Somalia, Angola, and Liberia. Reintegration is an aspect of a trinity – Disarmament, Demobilisation, and Reintegration (DDR), though reintegration can only be achieved when the two other components are well implemented. The trinity is inevitable in post-conflict countries if the society is to achieve sustainable peace, security and development as a successful DDR programme for ex-combatants is the key to an effective transition from war to peace. The success of this first step, following the signing of a peace accord, signals the end to organised conflict, and thereby

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provides the security necessary for people affected by war to reinvest in their lives and their country (Tom, 2005:1).

The reintegration component of the DDR process is more difficult when it involves former child soldiers. The task of reorienting and readjusting children who have lost childhood and have had their personality shaped by knowledge of crime and atrocities cannot but be daunting, however, a procedure of returning former child soldiers to civilian lives is necessary in view of their training in the use of arms and the negative values they acquire during the war years. Failure to engage them in proper rehabilitation and reintegration would portend grave consequences and loss of human capacity for the affected society anywhere. It is usually within this context that the disarmament, demobilisation, and reintegration of child soldiers are built into peace negotiation and resulting peace agreements in many countries emerging from conflict.

Most post-conflict societies across the world have found the reintegration of former child soldiers to be a serious challenge, and the methods adopted have varied from one country to another. While some restricted the process to keeping former child soldiers in school or in vocation, others have gone a step further to provide psychological support to those traumatised by years of involvement in heinous crimes. Consequently, there is no clear-cut standard employed in the implementation of the process so far, especially in post-conflict African countries. This paper, thus, focuses on the comparative international experience with child soldiers' reintegration. This is done with a view to identifying gaps and prospects in the process as implemented by different post-conflict States. Data for this work were derived primarily from fieldwork conducted in Liberia between May and July 2006, and from the results of similar studies.

### **Aspects of Reintegration**

For a successful reintegration programme of former child soldiers, it is expected that adequate measures be put in place that will provide for the needs of children. Generally, the reintegration of former child soldiers should emphasise three components: family reunification; psychosocial support including traditional rituals and family and community mediation; and education and economic opportunity (Dissemination Notes, 2002:3). These components have become dominant in the view of how programmes for the reintegration of former child soldiers should be carried out. However, the effectiveness of these measures is debatable.

The essence of family reunification is to reunite and reconcile former child soldiers with relations. Family reunification or alternative family-based living arrangements, rather than centres, are considered the most effective strategy to reintegrate child soldiers into the community (Dissemination Notes, 2002:3). The emphasis on the family is not misplaced. The Convention on the Rights of the Child, for instance, regards the family as the fundamental group of society and natural environment for the growth and well-being of its members. The Convention further affirms that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding (Preamble to the UN Convention on the Rights of the Child).

A situation may arise, however, where efforts to trace a family fail or an entire family has perished in conflict, or has been rendered incapable of providing the physical means of sustenance, happiness, love and understanding necessary. In such situation, it is suggested that other care-giving arrangements be provided that meet the child's physical, social and emotional needs (Brett & McCallin, 1998:122-123). The successful implementation of this component requires concerted collaborative effort from international donor agencies, government, local and international non-governmental organisations, religious bodies, private organisations, community based organisations, community leaders and other relevant stakeholders. This approach should not be used as by default, however, since

former child soldiers are not generally considered to have been reintegrated until they have been reunified with their family or home community.

Traditional healing rituals/ceremony is another important measure often cited as vital to the reintegration of former child soldiers. Verhey (2001:3) provides insight into this aspect when he examined the place of culture in the process of addressing the psychosocial impacts of conflict on child soldiers in areas that have suffered from armed conflict such as Angola, Uganda and El Salvador. In his view, the rituals provide for the acceptance of the child, assuaging the ill spirit associated with the child soldier's activities during conflict, and reconciling the child with ancestral spirits. Similarly, Utas (2004) emphasises the importance of the psychosocial component of the reintegration process in his reiterating the difficulty of rebuilding social solidarity. To him, it is necessary that we know and engage the social environment in the process of peacebuilding. Furthermore, Williamson and Carter (2005:13), in their review of the progress made by the International Rescue Committee in the implementation of a reintegration project for Liberian and Sierra Leonean child soldiers, recommend traditional cleansing ceremonies, traditional healing, and religious support as measures essential to the successful reintegration of former child soldiers. The effectiveness of these measures in transforming the lives of former child soldiers for the better, however, requires further investigation.

Educational support and skill acquisition have featured prominently in the reintegration programme for former child soldiers. Massimo (2000:4), for example, is of the view that lessons learned from past DDR experiences suggest that child soldiers are best served when they are provided with education and professional training. Such measures, he argues, offer children with no professional experience an opportunity for a sustainable livelihood. Some of the challenges that have confronted the reintegration process have been an acute shortage of relevant skills to support sustainable livelihoods, and the fact that many ex-combatants are not able to take advantage of opportunities in post-conflict reconstruction. This is due to their limited educational background and lack of marketable skills which makes their absorption into the formal sector, including the civil service, less feasible. Skills development, on the above account, has been a key targeted area in terms of economic reintegration.

Educational support and skills acquisition are often linked to the psychosocial component or reintegration because the task of establishing a new identity for the child soldiers will depend on the availability of productive activities and new learning opportunities. In implementing this measure, some programmes have included the payment of sustenance allowance to children undergoing reintegration. It is essential that a balance be struck between the child soldiers' needs to earn income immediately and the need to resume education or acquire vocational training. Unfortunately, access to education is one of the most often requested support by child soldiers but often forgone for economic reasons (Dissemination Note, 2002:4). If the objective of economic reintegration must be achieved, it will definitely be dependent on the rehabilitation of basic social, economic and physical infrastructure and the revitalisation of social services.

The measures discussed above have remained the foundation on which reintegration of former child soldiers is practiced in post-conflict countries.

### **International Experiences with Reintegration**

Reintegration programmes have become a common feature of post-conflict peacebuilding initiatives to transition former child soldier to civilian life. In West Africa alone, over 8,000 children were still fighting in 2005 and over 20,000 were involved in demobilisation and reintegration programmes (Coalition to Stop the Use of Child Soldiers, 2006:3). Considering the level of usage of child soldiers in recent conflicts, this figure indicates a larger number of former child soldiers waiting for reintegration programmes in post-conflict countries in Africa.

While the reintegration needs of these children are similar everywhere, the experiences and challenges of reintegrating them differ from one country to the other. The **Angola** exercise, which lasted from 1995 to 1997, was one of the most extensive in the history of the United Nations. It was perhaps the first time that children were specifically included in a peace process. Even though the position of children was not made explicit in the Lusaka Protocol, their demobilisation and reintegration was declared a priority in the first resolution adopted by the Commission set up to implement the peace agreement. Furthermore, partnership was forged with local civil society networks in ensuring that many children return to their homes (Verhey, 2001:4). The accompaniment and family reunification was adopted as a strategy to prevent re-recruitment. The Angola programme also featured an extensive community-based society network with members accompanying child soldiers from demobilisation through family reunification. The strategy could be said to be effective, because some officials of the National Union for the Total Independence of Angola (UNITA) rebel forces acknowledged that family reunification obstruct their recruitment strategies unlike in Northern Uganda, where families feared that reunification with former child soldiers would attract the attention of rebels in future attacks. Furthermore, the Angola framework on child soldiers included a provision that child soldiers would not be subjected to Angola's compulsory military service regime. In addition, the legal framework included a provision that child soldiers could receive demobilisation documents and benefits outside of the formal demobilisation assembly areas (Verhey, 2001:4.).

Cultural values are often mainstreamed into reintegration programmes. This was true in the Angolan case, as local culture was explicitly employed as a tool for addressing the psychosocial impacts of conflict. Such was reflected in traditional healing rituals for former child soldiers. The rituals provided for the acceptance of the child, assuaged the ill spirit associated with the child soldier's actions during conflict, and above all, reconciled the child with ancestral spirits (Verhey, 2001).

In **Mozambique**, the war that pitched the Mozambique National Resistance (RENAMO) against the country's Government ended in 1992. During the war, nearly all the parties were involved in the use of child soldiers. Militia groups such as Naparamas, a military-religious movement, conscripted children and used them to fight, and substantial numbers of child soldiers are also believed to have fought on the side of RENAMO. Although, Frente de Libertacao Nacional (FRELIMO), the government forces, and the RENAMO rebels signed a peace accord in 1992 and organised democratic multi-party elections in 1994, there was no doubt that the conflict took a psychological and material toll on children, their families and communities (Mozambique Country Profiles, 2005:1-2). However, access to child soldiers after the conflict was restricted, making it difficult to implement reintegration measures.

In February 1994, UNICEF initiated negotiations with the RENAMO authorities after which UNICEF representatives were able to visit a group of 60 children living in RENAMO's base at Jordao, Maputo province. In another meeting with UNICEF, RENAMO agreed to grant full access to their military bases so that UNICEF and other partner organisations could proceed with the registration of children and their relocation from military to civilian areas. Following the agreement, UNICEF registered about 850 children in 19 military bases around the country. Photographs and basic information about the children's identity were collected and their health and nutritional status was also assessed. Family reunification was the major hallmark of Mozambique's reintegration programme (Cindy, 2000:1).

The reintegration of child soldiers in Mozambique was equally facilitated by the reactivation of traditional mechanisms of conflict resolution. Former child soldiers were welcomed and considered as returnees like most of the rest of the community. Religious leaders and *curandeiro* (traditional healers) systematically organised special purification ceremonies for child and adult ex-soldiers who were re-entering the community. The aim of these ceremonies was to help the children cope with their past. The ceremonies were also a process of forgiveness by the community. The implicit consensus was that whatever happened during the war must be forgotten (Cindy, 2000: 2). The Mozambique strategy represents an initiative to fully involve communities in reintegration processes. However, other recent

DDR operations have sought to identify local and regional implementing structures, strategies and mechanisms to ensure the representation and inclusion of communities (including youths, women, elders and combatants) in DDR dialogues, design and implementation.

It was not until 1997, three years after the genocide, that the **Rwanda** government set up a Demobilisation and Reintegration Commission for the social and economic reintegration of ex-combatants (IRIN News, 2004:1). The demobilisation and reintegration programme was designed to help foster reconciliation among Rwandans after the 1994 genocide and to contribute towards poverty reduction and the strengthening of peace within the Great Lakes region. Unlike other experiences discussed earlier, the Rwanda programme was designed in phases. The demobilisation of child soldiers occurred in the second phase during which about 454 of the ex-combatants under the age of 18 years were demobilised. Children were given special help and were separated from adults in the demobilisation process. Other aspects included tracing their families towards effecting reunions, and providing them with trauma counselling, psychosocial care, and access to education. Most of the returning children were taken to schools. Those who had completed primary education were either enrolled in technical schools or advanced to the secondary school stage (IRIN News, 2004:1).

The mode of recruitment of children into armed groups in **Burundi** followed the pattern of adoption, while others joined after seeing their parents, relations or neighbours killed. According to Amnesty International (2004), children as young as ten years old were used as domestic labour, porters, and spies as well as in combat in Burundi and Democratic Republic of Congo by the government armed forces. Other children were knowingly exposed to danger by government soldiers who forced or bribed them to provide intelligence on activities by armed political groups opposed to the government. By and large, all the armed factions in Burundi were guilty of using children as soldiers. In October 2001, the government and UNICEF signed an agreement on a programme for the demobilisation and reintegration of child soldiers (Amnesty International, 2004). The programme involved the participation of the Ministries of Human Rights, Defence, Interior, Public Security and Social Action, as well as the indirect involvement of the Education, Crafts, Labour, Health and AIDS Ministries. UNICEF information (May 2004) cited in the Child Soldiers Global Report (2004:3), indicates that the reintegration programme was aimed at providing sustainable support to each family through appropriate assistance decided on an individual basis, including the possibility of provide vocational and professional education for an 18 months period. Psychosocial support and medical care were provided for those with severe illnesses and injuries. According to a United Nations Report, over 500 child soldiers who fought on government side (some as young as 11) were demobilised by late March 2004, and most of them were reintegrated with their families (UN, 2004:16-21). The programme initially targeted only child soldiers from the government, civil defence forces and the CNDD-FDD (Ndayikengurukiye) and FNL (Mugabarabona). Child soldiers with other armed movements, estimated to number around 3,000, were slated for reintegration under a general DDR programme. Concern was expressed that this might lead to some children not being covered by either programme (Human Rights Watch, 2004:3).

In the **Democratic Republic of Congo (DRC)**, like many other countries engaged in many years of civil war, the use of child soldiers by different parties has been extensive. In 1997, President Kabila's government initiated a programme to demobilise 75,000 soldiers, including child soldiers. UNICEF was engaged to work with local authorities to develop programmes to reintegrate these former child soldiers back into civil society. In conjunction with provincial authorities and local NGOs, UNICEF implemented reintegration programmes in Goma (North Kivu), Bukavu (South Kivu) and Kisangani (Province Orientale) (UNICEF, 1997:1). These programmes consisted of three phases. The first phase lasted for three months and under it, children received psychological counselling and participated in community building activities. At this stage, family visits were encouraged and children with special needs were identified. In phase two, which was designed to last for six months, children were reintegrated into their families or put with other care givers and were given literacy and vocational training. Phase three comprised close

monitoring of the reintegration process, the continuation of counselling, and the provision of additional capacity-building training (UNICEF, 1997:2).

Lessons learned from the DRC show that the schemes were not ultimately successful, because many former child soldiers who participated in war were re-recruited by armed forces. This happened because the programmes took place in conflict areas where military authorities were yet to give child protection guarantees. This was an important learning experience for UNICEF (and reintegration exercises in general). It showed that demobilisation in a state of crisis may not be successful, and that there cannot be a guarantee of success until demobilisation is made official. UNICEF realized that it needed to work more closely with political and military authorities in order to secure their support for demobilisation of child soldiers, and for an end to recruitment of children as soldiers. It was precisely this activity that has been at the forefront of UNICEF's child soldier programme in DRC since 1998 (UNICEF, 1997:2).

Also, unlike the experience gathered in other war-torn countries where reintegration programmes for child soldiers have taken place, the DRC experience shows that family/community reunification does not always materialise. Child soldiers were afraid to leave the armed groups, and the communities that would receive ex-child soldiers were normally afraid to do so as well (UNICEF, 1997:3). The immediate families of child soldiers were often disadvantaged and were ill-prepared to receive and reintegrate children. Moreover, the wider economic and social support structures needed to reintegrate former child soldiers back into civilian life were also largely non-existent (UNICEF, 1997:3).

Inter-clan conflicts in **Somalia**, particularly in the southern parts, have continued over the years, along with the widespread use of children as soldiers by all parties. The UN Independent Expert on Somalia (2002), for instance, noted large numbers of child soldiers with factional militias in Mogadishu and Baidoa, and reported that often, young boys carrying weapons were riding with larger groups of armed men on anti-aircraft or similar vehicles. The Independent Expert estimated that over 200,000, or five per cent of Somali children have carried a gun or been involved in militia activities at some point in their lives (UN, 2003). In 2002, UNESCO helped to demobilise and provide vocational training for 450 militia members between the ages of 15 and 35 in Mogadishu (UN, 2002). These reintegration activities involved the collaboration of The Rule of Law and Protection Working Group of the Somalia Aid Coordination Body (SACB). The group coordinated international support for disarmament, demobilisation, and reintegration of clan and faction-based militia. A pilot demobilisation and reintegration programme for 118 former combatants, girls and boys, was undertaken in 2001 and 2002 by UNICEF and the Elman Peace Centre, a non-governmental organisation that has offered vocational training for former militia members since 1992. A second phase of the programme continued in 2004 with funding support from the Canadian International Development Agency (CIDA) for 420 more child soldiers, 20 per cent of them girls, in Mogadishu, Merca and Kismayo (UNICEF, 2002).

**Sierra Leone** probably holds the world's worst record for recruiting children as soldiers. Between 1992 and 1996, the period of the fiercest fighting between the Government forces and the Revolutionary United Front (RUF), an estimated 5,400 children were forced to fight on both sides. In 1997, 60% of a group of 1,000 fighters screened by the DDR Committee were children. In 2001, when the Sierra Leone conflict officially came to an end, the country immediately initiated programmes aimed at the rehabilitation and reintegration of all war-affected children, especially the child soldiers. The programme was adjudged to be successful. The success of the reintegration recorded in Sierra Leone was not unconnected with the proper coordination, support and cooperation from the communities and the welfare organisations (Oluwaniyi, 2003:153). The implementation process included components such as counselling and the tracing of child soldiers' family members. The reunification of child soldiers with their families was carried out by tracing network partners once the location of communities and families were confirmed and sensitisation and mediation completed. At the end of the DDR programme in Sierra Leone, a total number of 4,892 children were reunified with families out of a total number of

5,037 demobilised children (UNICEF, 2002). A significant weakness of the Sierra Leone programme and many others was the exclusion of girls from demobilisation, rehabilitation, and reintegration processes, as girls were excluded from the demobilisation programme and left with their rebel captors (Becker, 2004). Such an oversight may not be unconnected with the usual underestimation of the involvement of girls in armed conflicts.

### **The Initial Liberian Experience with Reintegration of Former Child Soldiers**

The first Liberian experience of reintegration programme took place after the cessation of hostilities in 1997. The method adopted was described as a quick and dirty approach because of an improper planning strategy by UNICEF (Coordinator) and its regional network. The tracing of families was left to the Save the Children Fund (SCF-UK) and Don Bosco Home (Kelly, 1998: 48). This was unlike the Angola programme which featured a broad community-based network whose members accompanied child soldiers from demobilisation through to family reunification. Furthermore, the importance of cultural elements in addressing psychosocial problems was downplayed, whereas in the Angola, Sierra Leone, and Mozambique cases, ritual and traditional cleansing ceremonies for child soldiers were essential components of reintegration programmes. The initial Liberian reintegration programme might have further been limited by the lack of recognition for the need to economically empower the immediate families of former child soldiers. The Burundi programme, for its part, emphasised this aspect as it provided economic support for families of child soldiers, whether they were biological relatives or foster parents.

Another vital feature of reintegration that was probably under-implemented in Liberia was skill acquisition and education. Countries like Somali, Rwanda, and DR Congo, however, provided for these aspects. Also, the Liberian reintegration programme failed to emphasise the position of girl combatants, unlike in DR Congo and Somalia cases, where girl soldiers were included in the reintegration plan, though the numbers of those reintegrated were relatively few. Finally, the 1997 reintegration programme in Liberia treated ex-combatants as an all-inclusive category, merging adult combatants with child soldiers. This would have accounted for the inability to focus on the special needs of children. Some other countries, however, took cognizance of this and treated former child soldiers as a special category within the reintegration plan. For instance, in Rwanda, children were separated from adults in the demobilisation process and were given special help which included trauma counselling, psychosocial care and access to education.

The lessons learnt from the 1997 exercise provided a base of knowledge and experience for the 2003 programme, which was expected to be more comprehensive and better coordinated.

### **Liberian Experience of Reintegration Programme of Former Child Soldiers in 2003**

The second reintegration experience in Liberia, which was implemented after the end of the 2003 conflict, was more inclusive and better organised. The programme was premised on an institutional framework, based on the Accra Peace Agreement and Security Council Resolution 1509 of 2003. The strategic and operational framework of reintegration support for ex-combatants provided for the participation of various local and international non-governmental organisations and community based organisations, as well as relevant public sector ministries and the private sector as a way of ensuring maximum impact.

The tracing of family of former child soldiers was carried out by a wider spectrum of organisations. This was a sharp departure from the first programme where family tracing was left with Save the Children's Fund UK (SCK-UK) and Don Bosco Home (DBH). The 2003 experience indicated that more organisations, both local and international, like Children Assistance Programme (CAP),

International Rescue Committee (IRC), Zorzor District for Women and Children Care, Don Bosco Home, United Nation Children's Fund (UNICEF), National Commission on Disarmament, Demobilisation, Rehabilitation and Reintegration (NCDDRR) and some other religious organisations played an essential role in reunifying former child soldiers with their families. This reality can be compared with the Angola case, which featured a broad community-based network that helped in reunifying former child soldiers with their families.

However, there is no evidence that the programme corrected the oversight that occurred in 1997 reintegration programme, where the families of the child soldiers were not economically empowered to take up the responsibility of caring for the children. This would have required that they borrow a leaf from the Burundi experience, whereby economic support was provided for parents or relations of former child soldiers. In line with what may be regarded as a conventional view about reintegration of child soldiers, the 2003 Liberian experience revealed that reintegrating children within a family and community setting was the most appropriate means of achieving reintegration for the former child soldiers. Unfortunately, it appeared that many of the former child soldiers have more or less become street children or urchins in the real sense of the words, and they should be regarded as having lost touch with their families and communities. For this set of children, the task of reintegrating them within a traditional family or community setting may move beyond the scope of what was provided for in the operational framework for reintegration.

Skills acquisition and educational support for former child soldiers was a dominant feature of the 2003 reintegration programme. This aspect was downplayed in the 1997 programme, perhaps because the programme was carried out in a rush. Non-governmental organisations in Liberia like Don Bosco Home, Children Assistance Programme and many others, with the help of international donor organisations, played a central role in training former child soldiers in different skills as well as placing the children in schools. This measure was equally adopted in Mozambique, Rwanda, Somalia, and DRC. Formal education and skill acquisition are considered to be viable approaches toward the economic empowerment of former child soldiers in the Operational Framework of reintegration. Despite the level of success achieved with this measure, the Liberian experience yet revealed a significant under-achievement in terms of the decreasing numbers of former child soldiers in the streets of Monrovia. For example, the three years of educational support which were provided was not enough to see a child through elementary and secondary schools. For skill acquisition, the 2003 experience showed that many of those who completed trainings at vocational centres and were given start up tools, sold them and returned to the street. The implication of the above is that there was faulty isolation of certain needs.

This is not to say that there was no improvement from the 1997 experience, as the 2003 reintegration programme did focus more on the needs of the former child soldiers. The fact that the children were treated as a separate entity was an improvement on the previous programme. It was also an indication that lesson learnt from other countries like Rwanda was put into consideration in the reintegration plan. Nevertheless, it was evident that the former child soldiers were not involved in the design and implementation of reintegration programme. The field reality showed that former child soldiers were not well educated about the essence of reintegration. Their lack of knowledge and understanding of the programmes nitty-gritty may be associated with exclusion from the process that midwifes the programme.

The 2003 programme paid diligent attention to cultural measures in addressing psychological problems. This conformed with the practice in Angola, Mozambique, and Sierra Leone where ritual and traditional cleansing ceremonies for former child soldiers were components of reintegration programmes. The implementation of this aspect was another improvement on the initial experience. However, the ceremonies turned out to be nothing beyond symbolic, as they failed to provide the children with means of imbibing the morals, ethics, and values of their societies. A deeper and more authentic engagement with the cultures and traditions of Liberian society would have benefitted the

programme, and could have been carried out through greater community involvement in the planning and implementation stages.

Finally, the place of girl soldiers was not well defined in the programme. The second experience, in this regard, failed to improve on the initial programme and, as well, learn from experiences in DR Congo and Somalia where girl soldiers were specifically focused on in the reintegration plan. There is no gainsaying the fact that the male child soldiers were more visible in the 2003 programme compared to their female counterparts.

## Conclusion

This paper has made an effort to situate the Liberian programme within the context of the international experience of reintegration of former child soldiers. It highlights the views of some scholarly work on reintegration measures which have, so far, become a general view of what reintegration should be. However, on account of the flaws that are yet visible in the Liberian experience, it will prove worthwhile that post-conflict societies examine carefully the practice, success and failure of reintegration programmes carried out in other countries, while remaining attentive to their particular socio-cultural environment, as well as the economic situation.

Despite the shortcomings, however, reintegration programmes for ex-combatants is a peacebuilding initiative that any society transforming from conflict to peace must imbibe if the society is to achieve durable peace. When it concerns children, the task is doubled as failure to initiate the process of rehabilitation and reintegration of former child soldiers back into normal life could spell doom for the future of the affected society. The most efficient approach, therefore, must also seek to prevent the recruitment of children as soldiers. In view of this, both governmental and non-governmental organisations, community based organisations, religious bodies, and international organisation concerned with the welfare of children should be more proactive in working against the recruitment of children as soldiers. They should also collaborate with one another for an affective reintegration programme for former child soldiers. These could be achieved through community level advocacy and sensitisation. Welfare and educational support for vulnerable children could also be a strategy in reducing the incidence of the recruitment of children as soldiers.

Fundamentally, mainstreaming Child Rights into the activities of both state and non-state actors can help in curbing the menace of child soldiering. Measures of international sanctions against state and non-state actors in conflict could also serve as deterrent to commanders involved in the recruitment exercise. Finally, reintegration is a dependent variable, which rests on conflict to strive. Without conflict, issues of child soldiers would not arise. Good governance, for every country, would serve as a panacea to preventing armed conflict.

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## Hurdles to Development: Assessing Development Models in Conflict Settings

Josh Cerretti\*

In this piece, the author attempts to reveal the unsuitability of existing models of development for societies experiencing or emerging from armed conflict. Both the dominant neo-liberal model of development and the more contemporary, oppositional model of Gender-and-Development are rejected here as unresponsive to the specific needs created in conflict situations because the models represent the interests and experiences of those who have been privileged by the absence of armed conflict and the presence of high levels of human development in their lives. The author provides six flexible factors that, rather than providing a “one-size-fits-all” approach to development, allow for the particular circumstances of different conflicts to move people and societies towards a conflict-aware model of development.

Conflict has affected the economic and social development of prodigious numbers of people across vast spaces in recent decades, exacerbated by the concentration of conflict in areas already behind other states in development. For this reason, theories and models for development must take into account, and sometimes even go so far to assume, that praxis will occur under conditions of ongoing conflicts or in situations dubiously termed “post-conflict.” Unfortunately, the dominant strains of development discourses have failed to address the realities of many societies that they target in relation to conflict. This is true whether we speak of the neo-liberal development model historically advocated by the World Bank and International Monetary Fund (IMF) or the Gender-and-Development (GAD) model advocated by Shawn Meghan Burn in her book *Women Across Cultures: A Global Perspective*.

Since World War II, the majority of states in Latin America, Africa, and Asia have been scarred by conflicts internal and external and currently conflicts causing more than 1,000 deaths a year are ongoing in the Democratic Republic of the Congo, Sri Lanka, Afghanistan, Iraq, the Sudan, Pakistan, Somalia, Mexico, Palestine, and elsewhere. Though war has been a regular fact of life for many people across

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wide swaths of the Global South in the past 30 years, the Global North has seen few significant, sustained armed conflicts outside of Northern Ireland since the neutralization of communist insurgents in Europe during the 1980's. This should never be taken as a metonym for the peaceful nature of the Northern states, as though actual fighting has primarily occurred in the territory of the South since the end of WWII, the states of the North have been the major funders of conflict and belligerents in past and ongoing conflicts.

Before proceeding, it is important to have some understanding of the contested terrain upon which the word "development" sits, as the way it is defined directs both goals and methods for a model. When used without modifier by the author, development is understood here to mean, very generally, the improvement of quality-of-life for people through social and/or economic change. This paper focuses on two contesting approaches to development: first, the neo-liberal model that defines development as those processes that assist in the creation of a highly-industrial, capitalist economy and then the GAD model, which looks towards a transformation in society affecting greater equality between men and women as development.

Close examination will reveal that both of these models are insufficient for meeting the specific needs of societies experiencing or emerging from conflict and each model has different limitations in regards to meeting the gender-specific needs of both women and men. The purpose of this paper is to learn from both the strengths and weaknesses of each model in order to create a loosely defined model that addresses the needs of some of the most threatened and marginalized people in the world. Due to the dire situations experienced by large numbers of people in the regions most targeted for development, it is imperative that such models are designed, and to understand the history that has led to the current paradigm, it important to begin with an examination of the neoliberal model that has dominated development discourse since the 1940's.

### **The Failure of the "One-Size-Fits-All" Washington Consensus**

Most basically, neoliberalism is economic policy or theory that supports less public involvement in the economy through reductions in government spending and public ownership, as well as a reduction of barriers to international trade and a general deregulation of the economy. The Bretton Woods conference gave birth to the IMF and other instrumental proponents of neo-liberalism in an attempt to shape the future world order in the interests of the capitalist Allied nations who participated in the meetings. As stated on their website, "The IMF has played a part in shaping the global economy since the end of World War II," most prominently through structural adjustment plans (SAPs). SAPs function as sets of conditions for states that wish to obtain developmental aid from the IMF or World Bank, often the only institutions willing and able to loan the large sums of money desired by contemporary governments.

Suzanne Bergeron identifies two levels of ideology at work inside of SAPs in her book *Fragments of Development*; first, a belief that the economy is a bounded phenomenon that can be studied quantitatively, and second, a belief in neoliberal economic policy. Bergeron explains that the IMF presents the economy "as a disembedded entity, an object that can be viewed in its entirety by a dispassionate scientist who stands outside of it." This assumption allows prominent economic theorists, almost-exclusively wealthy intellectuals from the North, to present their model as if it were not shaped by their identity and privileged geographic position in the global economy. It also leads to a marginalization of the human constituents of the economy. Numerical abstraction substitutes for analysis based in lived reality and "downplays the differential effects of economic change" across lines of ethnicity, gender, and class (Bergeron 2004, 105).

SAPs have been documented by Maureen Larkin as "exacerbat[ing] the already severe health problems which prevailed ... undermin[ing] food security... depress[ing] incomes and employment

opportunities,” and impacting women in a particularly deleterious manner (Larkin 1998, 97). Women suffer disproportionately from structural adjustment because of the historical, patriarchal values and structures that have rendered them more likely to be responsible for children and more likely to be dependent on government spending. This vulnerability, experienced by many more women than men, becomes a liability within structural adjustment because “In the IMF world, the cause of inflation and external imbalance [in trade] is excessive government spending” (Bergeron, 103). SAPs provide only one solution to relative under-development and only one pathway to monetary aid: cut government spending and open the country to foreign goods and investment in order to pursue an austerity project of paying back debt to foreign, wealthy countries and institutions (Bergeron, 103).

This policy is based on assumptions that markets will correct imbalances and drive economic expansion, which is undergirded by assumptions that prices will be exclusively determined by competitive markets and that all actors in the economy act with “rational” self-interest and “respond to policies in predictable ways.” The insufficiency of this model for application in conflict environments is obvious since, as Bergeron notes “The model does not take into account the existence of any uncertainty in this decision-making process” (Bergeron, 104). The needs of people who have survived conflict are not met by market-based approaches because they interact from unequal power positions within the economy dependent on the degree to which the conflict affected them.

Post-conflict environments easily slide back into conflict without strong intervention based on the principles of redistribution and equity manifest in social spending, and already taxed societies should not be expected to bear the future burden of servicing their debt in order to prevent a return of violence. The neoliberal approach encourages competition in environments marked by violent competition where a need exists for development policy that encourages solidarity and cooperation as opposed to providing incentives for rivalries and self-interested behaviour. Lastly, though this is by no means an exhaustive indictment, personal success in neoliberal economies is dependent on western-style economic thinking and actions related to maximizing one’s personal utility that are not culturally appropriate or relevant in all contexts.

The neoliberal model promoted by the IMF through SAPs is not only ill-suited for development in the context of conflict, it is ill-suited for meeting the needs and desires of a majority of the world’s people. Attentiveness to the needs of marginalized people, however, is not enough to build development models that are responsive to the context of conflict, as an inquiry into the work of Shawn Meghan Burn will reveal.

### **GAD and a Shift Towards Awareness**

Gender and Development, according to Shawn Meghan Burn, is a model that “focuses explicitly on improving women’s status,” with “an emphasis on looking at the overall power relationships of women and men and their importance to development” (Burn 2005, 149). The approach is inherently critical of existing means and ends of development, which predominantly ignored the participation of women in economy and development until worldwide women’s movements forced male-dominated governments and institutions to give them some, if only token, representation. The gradual steps taken by the UN to “mainstream” gender analysis into all of their work have not achieved full relevance even within that organization, not to speak of the countless other institutions driving development that have appeared more threatened by gender-based analysis. Because gender remains a marginalized category of analysis in development discourses, Burn’s elucidation of the GAD model is significantly different than the previously elaborated approach.

Burn writes that “development programs do not usually enhance women’s status, and women’s lives are often made even harder” (Burn, 135). Development programs often aim to improve conditions through increased opportunities for higher-wage employment in export-oriented industries as well as

increased opportunities for investment by the few who possess some form of capital. Both of these opportunities are maldistributed across gender difference. Employment opportunities are less useful for women due to decreased female access to the labour force dictated by their customary compulsory care for the family. Additionally, patriarchal values restrict women's access to the public sphere and sexist attitudes amongst management and ownership lead to lower wages and fewer opportunities for advancement. The chance to invest capital is so often irrelevant for women because so few of them, compared to men, possess the capital necessary to make investments, meaning profitable private investment furthers the economic inequality between men and women.

Numerous scholars have documented the increased burden women are forced to assume by the expectations of femininity in response to structural adjustment.<sup>1</sup> Femininity has historically been constructed around the role of caretaker-for-the-family and when governments reduce food subsidies, health-spending and educational opportunities; women are most often forced to act as quartermasters, caretakers, and teachers for their family with a decreasing amount of resources. Burn also identifies neoliberal development models as adding to "women's workloads through environmental degradation, taking water and land for cash crop production, and taking men away for wage earning."

The GAD models addresses two assumed needs, economic inequality across the North/South divide and gender inequality within a society, by attempting to "transform society to create gender equality" while expanding economic opportunities for all people. The means for this transformation require women to be cast as "architects of their own development," according to Burn, "through women's organization and activism, participation in politics, and decision making" (Burn, 140; 150). The GAD approach is best exemplified by organizations like the Self-Employed Women's Association of India (SEWA) that functions as both a financial institution and labour organization for women entrepreneurs and those who wish to become entrepreneurs. The organization attempts to not only raise the income gained by women, but also to raise consciousness about means to understanding and altering the marginalized role of women in society. SEWA is driven by the desires and needs of its constituents, not by the will of wealthy, foreign donors, and it attempts to transform gender relations far beyond just providing financial stability. However, organizations of this stripe cannot succeed in creating gender equity by themselves, as they target only the feminine side of gender identity for transformation.

Societies emerging from or engaged in conflict are also embedded in conflict about gender roles. Many of the most heinous forms of violence inflicted upon women and men by the mostly-male combatants "are linked to traditional images of what it is to be a [masculine] warrior, [or] because of women being seen as man's property" (Connell 2000, 14). Conflicts in recent decades have featured a disturbing array of forms of gender-based violence that includes mass rape, forced abortion, forced pregnancy, sexual slavery, gender-targeted executions, and other sexually exploitative or demeaning activities performed under coercion. These events trouble both masculine and feminine roles and further the construction of a binary representation of men-as-violent and women-as-victims, or its equally problematic, euphemized substitute: a binary of the masculine-as-protector and the feminine-as-protected. Not only are particularly violent forms of masculinity often encouraged by conflict, other less-aggressive forms of masculinity are often marginalized in societies experiencing the negative economic repercussions of hosting conflict.

Marko Zivcovic, in assessing the legacy of the wars that fractured the former Yugoslavia in the 1990's, claims that:

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<sup>1</sup> For example: Ault, Amber and Eve Sandberg (2000) *Our Policies, Their Consequences: Zambian Women's Lives under Structural Adjustment*. In Richardson et al. (eds.) *Feminist Frontiers V*. New York: McGraw-Hill. AND Harrison, Faye (1997) *The Gendered Politics and Violence of Structural Adjustment: A View from Jamaica*. In Lamphere et al. (eds.) *Situated Lives: Gender and Culture in Everyday Life*, New York: Routledge.

[...] economic emasculation, at least for certain segments of the population, “depresses” the male pole of the gender balance [...] Ethnonationalist re-traditionalizing rhetoric of recovering some ideal, proper, traditional, etc. masculinity feeds off and exploits this “depression,” and, under situations of crumbling legal order, the resultant boost to certain kinds of masculinities could account for at least some of the appeal of war (260).

For societies emerging from conflict, this means masculinities, both victorious and defeated, must be addressed and altered in ways that encourage gender equity and peace if a society hopes to prevent a reoccurrence of open hostilities. In marginalizing masculine gender in its analysis, the GAD model, undoubtedly strong in many regards, fails to live up to its name or the needs of people who have survived violent conflict in the Global South.

### **Conclusion: Conflict-Aware Development**

No one development model can address the need and desires of every person in every context, a major pratfall of most models that attempt to be “one-size-fits-all.” The six points presented here to direct conflict-aware development are not weakened by the limitations of specificity, but rather draw strength from their applicability in the widest possible range of contexts. With this in mind, I propose the six crucial elements of conflict-aware development must be demilitarization; targeting the most deprived; fast, non-segregated resettlement; rewards for cooperation; limited private foreign investment; and some form of truth and reconciliation.

*Demilitarization* involves disarmament across the society (not just of combatants), demobilization of the largest possible number of armed individuals, removal of military officers from all sites of political power, and an ideological process of de-programming militarized values from those who were subjected to them. Disarmament, focusing on small arms, is one of the biggest instrumental steps a society can take towards preventing future violent conflict; though people have been participating in violent conflict for much longer than small arms have existed, their reduction also reduces the probability that conflict will spread as well as reducing the lethality of it. Beyond taking arms out of people’s hands, it is perhaps more significant to marginalize the ideology of militarism, which Cynthia Enloe defines an internalization of values like “a belief in hierarchy, obedience, and the use of force,” as well as a worldview that sees “military solutions as particularly effective” and “the world as a dangerous place best approached with militaristic attitudes.” At the same time, it is important to recognize that “Most militarized people are civilians” (Enloe 2007, 4) and not trained soldiers, because customary responses to conflict from governments and social movements have fostered militarization, which creates a constant impetus to resort to violence as a means to solve problems.

*Targeting the most deprived* differs vastly from other development models in that it looks towards the populations with the least likelihood of economic and social success as the gauge of the model’s efficacy. If a development model enriches the sector of the population that already has some wealth and education, it only exacerbates the relative deprivation of the marginalized groups and creates fertile ground for future conflict. This aspect of the model also ensures that “the real need women feel for social transformation rather than the reconstruction of the past” (Meintjes, Pillay, and Turshen, 2001, 4) is met by targeting assistance based on contemporary need rather than the return-to-normalcy (i.e. return to stratified, hierarchal gender roles) that post-conflict models often encourage.

*Fast, non-segregated resettlement* is, unfortunately, only a pleasant fantasy for the world’s 30,000,000 refugees and the probably equally large quantity of internally displaced persons (IDPs) that are not tallied by the UN’s High Commission on Refugees. Refugee camps not only feature appallingly low standards of living, their formation has been criticized for concentrating vulnerable ethnic and identity groups, increasing the possibility of genocide, and for becoming semi-permanent communities

for people disenfranchised by conflict. Though refugee camps are a necessity as a stop-gap measure during conflict, creating a truly post-conflict setting requires resettlement for all people in a manner that equitably compensates them for what was lost in the conflict. Resettlement procedures must also take care to not further factionalization through ethnically segregated resettlement and should assist to redistribute wealth in the form of land resources.

Conflict-aware development must offer *rewards for cooperation* and create dis-incentives for competition, which is the polar opposite of the neoliberal model that advocates competition as the source of social and economic growth. In a society where individuals were recently pitted against each other by outside forces for the sake of waging war, there is a need for communication and solidarity, not further struggle over finite resources. Conflict-aware development would require all programs to target all sides in the conflict and penalize or limit engagement with programs—public and private, foreign and domestic – that are based around one identity group.

As a last stance against the market-based development that has failed the majority of people in societies damaged by conflict, conflict-aware development must *limit private foreign investment* for a number of reasons. First, it is often corporations who were involved in funding conflicts that attempt to continue their influence over a foreign state or their resources through investment. Second, investment, as opposed to aid, often furthers the debt of countries, eventually leading to cuts in desperately needed social spending. Finally, societies wracked by violent conflict need to be given time and space to develop domestic industries without multi-national corporations from wealthier nations taking advantage of the vulnerable economy to create barriers-to-entry that domestic industries will not be capable of meeting. If we hope to mold economically sustainable societies, they must be given no-strings-attached monies with which to develop instead of the self-interested investment of foreign capital.

The final aspect necessary for conflict-aware development is some form of *Truth and Reconciliation* process that documents the events that triggered the conflict and crimes committed during it as well as promoting dialogue, healing, and preventing combatants from profiting off of their actions during war. The process would not necessarily have to take the form of the widely noted Truth and Reconciliation Commission active in South Africa after the end of apartheid, nor does it need to take on the revanchist character of the Nuremberg Trials. A true process of truth and reconciliation would involve accounting for the gender-based violence, displacement, fear, and deprivation experienced by constituents and assistance to cope with these negative outcomes in the spheres of economy, civil society, and mental and physical health.

If development models hope to positively impact the largest possible number of people their policies need to reflect the historical and current realities of conflict. Conflict has differential effects across geography, gender, class, and other forms of identity that we must also be attuned to in order to affect positive change. Further research is necessary in this field and, unfortunately, the contemporary world provides many sites in which conflict-aware development must be implemented. Until the guarantee of sustainable personal security is extended to all people of the world, the potential for conflict stalks every corner of the globe.

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## Transitional Justice Dilemma: The Case of Cambodia

Virorth Doung and Sophal Ear\*

The last two decades have witnessed a remarkable proliferation of efforts to seek justice that responds adequately to mass atrocity. There is a mounting debate over the desirability and effectiveness of each effort in consolidating justice and peace. This essay offers a perspective for approaching the challenges of transitional justice and assessing policy priorities to improve the responses of transitional justice mechanisms for people whose human rights have been violated. As scholars from Cambodia who lived under the Khmer Rouge regime, we use Cambodia as a case study for analysis. This essay suggests that both trials and truth commissions, simultaneously or subsequently, are fundamental during transitional periods in order to achieve better results on behalf of victims, and proposes establishing a community-based public forum for Cambodian victims and perpetrators to have a formal dialogue, in addition to the current Khmer Rouge Tribunal.

### Introduction

Societies that experience chronic civil wars under authoritarian regimes seek various approaches to deal with past repression, injustice, and trauma when they reach periods of “transitional justice”, i.e., processes and mechanisms used to address past abuses and ensure accountability which serve justice and achieve reconciliation (Ambos 2009:21; UN 2004). Transitional justice normally encompasses legal, moral and political considerations to uphold justice and rule of law (Bell, Campbell and Aolain 2004:305; Eisikovits 2009:1).<sup>1</sup> It consists primarily of two forms of justice: retributive and restorative (UN 2004:5).<sup>2</sup> The most

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<sup>1</sup> Transitional justice has certain defining characteristics. First, it includes the concept of justice. The second key concept is political transition, normally from one regime to another, from authoritarian or repressive rule to more democratic governance.

common approaches adopted are trial and reconciliation (through truth commission). The trial approach emphasizes the need to hold accountable those who have committed human rights violations. In Germany, for instance, the successors of the Nazi regime held an international criminal tribunal, the Nuremberg International Military Tribunal, to try 24 top war criminals (De Brito 2001:4). The reconciliation-through-truth commission approach stresses “amnesty,” based on principles of forgiveness and moving forward to restore the relationship between the victims and perpetrators. South Africa, for example, established the Truth and Reconciliation Commission in 1996 to deal with the apartheid regime by promising non-prosecution to those who confessed completely their past crimes (Kiss 2000:68; Gibson 2005).

The trial and truth commission mechanisms have become primary means of effecting reforms suggested by international organizations, donor agencies and experts for countries in transition from war or authoritarianism (Ambos 2009:21; Thoms, Ron, and Paris 2008:9). There is debate over the desirability and effectiveness of each method in consolidating justice and peace, and the tension between proponents of trials and proponents of truth commissions poses critical concerns for policy makers and practitioners. This debate emphasizes the need to redefine both theory and policy for practical application in countries emerging from violent conflict or authoritarian regimes (Ambos, Large and Wierda 2009: v). Which transitional justice mechanisms provide more effective results remains a contentious question.

The psychological trauma brought by the Khmer Rouge regime remains desperate but inadequately addressed. In 2006, more than three decades after the fall of Phnom Penh, the government of Cambodia and the UN launched a hybrid Tribunal known as the Extraordinary Chambers in the Courts of Cambodia (ECCC) to try a handful of aging Khmer Rouge leaders. The ECCC aims to try only crimes committed in Cambodia between 17 April 1975 and 6 January 1979, which caused an estimated 1.7 million deaths. It also seeks ways toward reconciliation through its innovative Victims Unit, and is a new role model for court operations in Cambodia (Menzel 2007:224). Expectations of norm penetration can only be achieved if the court functions fairly.

Since its inception, however, the ECCC has suffered myriad problems, including political interference and allegations of corruption through kickbacks. The ECCC was born of conflict between the Cambodian government and the UN, which caused considerable delay. The “Cambodian supermajority hybrid criminal court” raises critical concerns about the capability, independence and political interference of Cambodian judges (Stensrud 2009:8). In addition, the ECCC's effectiveness is hampered by many technical constraints, including limited financial resources, limited capacity and experience of Cambodian judges and prosecutors on the criminal cases, and corruption allegations within the ECCC, only five aging Khmer Rouge leaders have been indicted. More importantly, the participation of victims in the court process, despite the introduction of a Victims Unit, has stumbled. A recent survey by the University of California, Berkeley (Pham et al. 2009:36) shows that up to 85 percent of the population has very limited or no knowledge of the ECCC. These challenges raise doubts about whether and how justice can be served or the whole truth can be sought.

We believe the ECCC is still viable if problems are remedied instead of ignored. Because of the international nature of the crimes committed and the continuing sense of impunity in Cambodia, a tribunal is essential for the application of justice. However, a court alone is not a sufficient mechanism to ensure justice or promote the rule of law and respect for human rights, all of which are necessary to promote democratic governance. We contend that achieving transitional justice is less likely when proponents use only legal proceedings. Both trials and truth commissions, simultaneously or subsequently, are necessary

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In the transitional context, the concept of justice evolves from seeking justice for victims by holding those accountable for past human rights abuses.

<sup>2</sup> There are more mechanisms of transitional justice such as vetting, reparation, etc. Here we focus on only the most popular mechanisms: trials and truth commissions.

during a transitional period. Both are considered prominent mechanisms of transitional justice and have become intertwined (UN 2004). Given their linkage, no element of transitional justice can be dealt with in isolation.

To unfold this argument, we divide this essay into three sections. The first section elaborates upon the history of the Cambodian conflict leading to current context. We discuss the theoretical foundation of transitional justice in the second section, demonstrating that current debates on transitional justice suggest both trial and truth commission are integral to success. The final section analyzes current practices of the ECCC to see if it strengthens or weakens rule of law and respect for human rights. The ECCC is constrained by technical and substantive matters causing difficulties in seeking justice for millions of Cambodian victims. We suggest that a community-based public forum in addition to the current ECCC is important to allow more space for victims and perpetrators to have formal dialogue.

### **The Cambodian Conflict**

After decades of chronic civil war, Cambodia today enjoys relative peace and stability resulting from years of tremendous effort by the international community in concert with local actors to establish political and economic liberalization (Ear 1997, 2007). It has been argued that such efforts to restore and build up positive peace in war-shattered societies has proven less effective over time, fading gradually as in the case of Cambodia, chiefly because of limited local institutional capacity (Kim 2007:1; Paris 2004:154; Peou et al. 2004:6). This perpetuates shallow or unconsolidated democracy (Kim 2007:2; Peou et al. 2004:6) or worse, negative peace (Peou 2007).

The legacy of trauma from the Khmer Rouge regime, 1975 to 1979, and later during the Third Indochina Conflict in 1980s (Vietnam's invasion of Cambodia and China's retaliatory attack on Vietnam) has had lasting effects on the Cambodian people and society (Lambourne 2004:5; Linton 2004:12). The contemporary dilemma started in 1975 when the Khmer Rouge leader, Pol Pot, took power and drastically transformed the whole country into "an extreme version of Maoist collectivism" (Menzel 2007:215) by evacuating all people from cities (Kiernan 2004:80; 2002:486), abolishing currency, and renaming the country Democratic Kampuchea. All social, economic, cultural, and religious identities were obliterated. As Short (2004: 12) has argued, "Individual rights were not curtailed in favor of the collective, but extinguished altogether. Individual creativity, initiative, and originality were condemned per se. Individual consciousness was systematically demolished." Pol Pot and his comrades succeeded in creating their version of Utopia, which was little more than hell on earth for everyone else. The regime blocked international relations except with China and a few other friendly countries (Kiernan 2002:487). As a result, nearly two million people died of torture, extermination, starvation, disease and exhaustion from forced labor (Kiernan 2002:486; Menzel 2007:215).

In 1979, the Khmer Rouge were ousted, forced to the Cambodian-Thai border by Vietnamese troops. Democratic Kampuchea was renamed the People's Republic of Kampuchea (PRK) and although various economic sectors were reestablished, they remained minimally capable through 1989, when the Vietnamese withdrew. Cambodia, like Vietnam, was under a Western-imposed embargo. The civil war between the Vietnamese backed-PRK and the Khmer Rouge in alliance with two other resistance movements along the border continued to take a toll in Cambodian lives.

Despite the 1991 Paris Peace Accord and the 1993 UN-sponsored election, Khmer Rouge leaders, who boycotted the elections, continued to fight against the new coalition government, killing people sporadically. In 1998, the last of the Khmer Rouge cadres were reintegrated into government military forces and civil positions, though some hard-liners, such as Ta Mok, were captured. Although atrocities ended, the crimes committed by the Khmer Rouge remain unaccounted for.

## Retributive Justice and Its Limitations

The demand to bring perpetrators to court and hold them accountable, via either punishment or atonement, for past wrongdoings is retributive justice.<sup>3</sup> Restorative justice seeks to construct relationships between the victims and perpetrators in the communities<sup>4</sup> (Chan 2006:69-71; Estrada-Hollenbeck 2001:66; Lambourne 2002). Although transitional justice, which combines these two forms, is normally a short-term or temporary process, its result can establish an ongoing judicial reform process (Anderlini et al. 2004). Transitional justice requires political commitment from the succeeding regime and other involved players, time and resources with consideration of local cultures and religion, victim participation and scale of atrocity.

Retributive justice, as characterized by Zehr (2001:330), or legalistic justice, as labeled by Estrada-Hollenbeck (2001:66), views the crime as totally wrong (Estrada-Hollenbeck 2001:67) and against individuals and states (Daly 2002). Perpetrators deserve to be punished by judicial means through prosecution in court to avoid retaliation from the victims (Kiss 2000; Lambourne 2001:313). This involves formal judicial procedures from lodging of complaints to investigation by prosecutors, with formal testimony from victims and perpetrators to gather sufficient evidence and witnesses to support the accusation and the formal procedural hearing in the courts. The main focus is to seek out the perpetrators and blame them for their wrongs (Zehr 2001:331) through punishment or prosecution.

Trials have multiple goals including deterrence, punishment for the guilty and promotion of the rule of law (Minow 2000:235; Thoms, Ron and Paris 2008:21). Criminal punishment administers justice for victims, reinforces social norms, removes political threats to the new regime and deters future recurrence (Peou 2009:110). More specifically, the trial advocates hope that punishment can help end impunity (Minow 2000:236). Credible threats of punishment can boost political stability and encourage constructive political behavior (Akhavan 2001:12). Trials can serve as a model or incentive for local legal systems during transition, and they help promote the rule of law and respect for human rights by obligating governments to conduct themselves according to public and broadly applicable rules (Peou 2009:110; Thoms, Ron and Paris 2008:22). Proponents believe that the continuing legacy of impunity is a serious impediment to democracy.<sup>5</sup> Thus, holding perpetrators accountable for their wrongdoings advances the rule of law.

While the result of retributive justice may prove satisfactory for the victims, the procedure itself is limited in several ways. First, prosecutions focus primarily on the perpetrators and do not give victims the attention or healing they need (Kiss 2000:73; Hayner 2001:89). Second, trials can lead to re-victimization, as those giving testimony are cross-examined in a potentially hostile and humiliating proceeding (Kiss 2000:73), as happened in Argentina (of which more below). A litany of victims have already been assailed

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<sup>3</sup> The judicial approach draws from a normative argument of proponents for human rights and international law (UN Report 2004:5). Human rights activists have influenced this field by demanding that perpetrators be held accountable for their wrongs through punishment. This demand is believed to serve the interest of the people by offering justice for the victims. According to international law proponents, states undergoing transition have certain legal obligations, including halting human rights violations, investigating past crimes, identifying those responsible for human rights violations, imposing sanctions on those responsible, preventing future recurrence, providing reparations to victims, preserving and enhancing peace and stability and fostering individual and national reconciliation (UN Report 2004).

<sup>4</sup> The ability to deliver justice in a post-authoritarian period, however, is constrained by the scale of atrocity, limited resources, legal capacity and political commitment. In some cases, transition is complicated by negotiated political settlement resulting in a tenuous peace and fragile democracy with a judicial system that is weak, corrupt or ineffective. In addition, the number of perpetrators may be large. Reconciliation emerges from this perspective as another alternative. Details of transitional justice mechanism development can be found in: Eisikovits 2009; Valji 2009; Thoms, Ron, and Paris 2008.

<sup>5</sup> Trials help promote reconciliation by establishing individual accountability and cooling desires for vengeance (Thoms, Ron and Paris 2008: 22).

by defense lawyers in Cambodia, such as Norng Chanphal, aged 8 when he was taken to the torture center known as S-21 with his mother, and Phork Khan whose testimony contradicted his statement (Gée 2009). Third, criminal courts, due to the necessity for clear-cut “yes” or “no” answers, may limit information sharing, making it difficult to obtain the whole truth (Hayner 2001:92). Additionally, perpetrators have no incentive to confess, tell the whole truth or make the record public (Kiss 2000:73). Finally, retributive justice is hard to achieve if the conflict is related to inter-communal ethnicities, especially within communities where political settlement is sought between factions for the sake of ceasing war and striving for peace (Estrada-Hollebeck 2001:69). The limitations of this approach make justice difficult to achieve in courts (Hayner 2001:88). For these reasons, retributive justice for the people of Cambodia seems inadequate.

Argentina pursued justice for victims through prosecution and attempted to hold members of the former military junta accountable for their human rights violations. The government established a Truth Commission to collect evidence against perpetrators for prosecution. Five hundred officers were listed in the commission report as having to face trial. However, the attempt failed due to the judicial chaos of testimony and the threat of a coup, which coerced the government to halt prosecution and issue a “blanket amnesty for soldiers and police” (Kiss 2000:75). Likewise, the cases of Rwanda and East Timor indicate how procedural justice embodied in trials can have adverse effects on traditional justice and can fail to achieve the goal of moving forward if victims feel alienated from the process (Chan 2006:93).

### Restorative Justice

Restorative justice is a process through which all those affected by an offense—victims, perpetrators and by-standing communities—collectively deal with its consequences (Bazemore and Schiff 2005:28). This approach emphasizes the healing of wounds and the rebuilding of relationships between victims and perpetrators within communities (Kiss 2000:69). Unlike retributive justice’s focus on punishment or atonement, restorative justice seeks to repair the damage (Lambourne 2001:313; Zehr 2001). Trust building is the core focus. The parties not only earn trust and conceive the process as trustworthy but also must encourage themselves to develop trust (Estrada-Hollenbeck 2001:74). Van Ness identified five main requirements of restorative justice: first, invite full participation and consensus; second, seek to heal what is broken; third, provide full and direct accountability; fourth, reunite what has been divided; and finally, strengthen the community to prevent further harm (2001:5-6; qtd. in Lambourne 2002:184).

Many developed countries have adopted this approach to deal with domestic crimes, such as youth gangs and sexual abuse in the United States, New Zealand and Australia (Daly 2002; Studds 2007; White 2003). Restorative justice involves a range of activities including Family Group Conferencing, Victim-Offender Reconciliation Programs, and Sentencing Circles (Bazemore and Schiff 2005; Daly 2002; Studds 2007; White 2003; Zehr 2001). Even though criminal trials are framed as a stark alternative devoid of restorative justice, the best ones can promote some reconciliatory values (Drumbl 2007), but as Daly and Sarkin caution, “criminal trials are rarely at their best” (2006:174).

Kiss (2000:79) highlights four commitments entailed in restorative justice: “(1) to affirm and restore the dignity of those whose human rights have been violated; (2) to hold perpetrators accountable, emphasizing the harm that they have done to individual human beings... (3) to create social conditions in which human rights will be respected.” Finally, restorative justice represents a “commitment to reconciliation” (ibid.). While the first three components also pertain to retributive justice, the last provides a clear distinction between the two mechanisms. White also incorporates reconciliation as part of restorative justice and shares the conclusion that reconciliation is part of restorative justice (2003:144).

## Reconciliation

As adopted by most contemporary post-conflict countries, reconciliation is a process that aims to heal past trauma through forgiveness, public apology and restored relationships. This concept of reconciliation has earned notable recognition in international politics and has become the focus of discourse in scholarly debates (Meierhenrich 2008; Moon 2004; Santa-Barbara 2007; Schaap 2005; Veitch 2007:4).

Reconciliation has been defined in varying ways in the literature. Meierhenrich proposed a “systematized concept of reconciliation” as “accommodation of former adversaries through mutually conciliatory means, requiring both forgiveness and mercy” (2008:206). Santa-Barbara’s definition is the “restoration of a state of peace to the relationship, where the entities are at least not harming each other, and can begin to be trusted not to do so in the future, which means that ... revenge is foregone as an option” (2007:174). Bloomfield gives a similar definition of reconciliation as “an over-arching process which includes the search for truth, justice, forgiveness and healing ... to find ways to live alongside with enemies” (2004:12). Schaap defines it in the first person as “what makes the revelation of truth possible and explore what I take to be the first step in anthropological sequences of reconciliation, namely, the act of constitution” (2007:10). All these definitions incorporate the central theme of relationship building based on truth, forgiveness and apology, which is incompatible with retributive justice.

Preventing the recurrence of past atrocities has to start by uncovering truth<sup>6</sup> (Freeman and Hayner 2004:122; Rotberg 2000:3). The process seems simple in theory but is difficult in practice (Santa-Barbara 2007:176), especially if it involves past politics. In this context, finding truth, or evidence, is difficult through litigation or the judicial process, what Santa-Barbara refers to as the “blame-game” (2007:177; Gibson 2006:416). Gibson believes that because it triggers reconciliation, the truth plays an important role in reconciling a divided nation (2006:410-411), but his valiant attempt to prove this causal relationship empirically (2005:6-7) in South Africa following apartheid has not been definitive, as Backer (2006) carefully noted. Truth drawn from perpetrators who committed brutalities can still be useful as a historical record for both present and future.

Some Cambodian people reject the notion that “Khmer killed Khmer” (Linton 2004: 27). One of the authors visiting Angkor Borei in Takeo Province in 2004 was told by villagers that the culprits for the killings were *kloun Khmer*, *kbal Youn* (Khmer body, Vietnamese head, using the common though frequently derogatory word for Vietnamese, *Youn*) for example. Surviving Khmer Rouge leaders have said it was a mistake of inexperience in governing the country (Thayer, interview of Pol Pot, 1998, qtd. in Chandler 2000) and that most killings were committed by Vietnamese agents. The ECCC process is supposed to reveal the truth and achieve some redress for victims. Menzel asserts that “a trial will not cure them at all” but instead “might be somewhat dangerous shock therapy as trials bring memories back and force people to reflect [on] their past” (Menzel 2007:226). According to Schapp, the only way to reveal the truth of Khmer Rouge crimes would be to first and foremost assert at the national and community level the willingness to offer forgiveness. This would provide the political space for perpetrators to express repentance and reveal the full truth. This would be followed by an apology and promise of “never again” and the restoration of fractured relationships (Schaap 2005).

<sup>6</sup> Seeking the truth here refers to a process of discovering the past facts of behavior and legal systems designed to oppress and violate human rights; discriminate; murder or otherwise act against individuals, groups or ethnic minorities. The facts can be used for judicial and reconciliation purposes (Hayner 2001). Haack (2004:16-18) outlines two ways of truth seeking: legal process that trace through evidence and DNA and scientific inquiry, which social scientists use to investigate behavior. Haack (2004) suggests both ways are complementary. Mendeloff (2004:358) identifies eight claims of truth seeking: 1) ensure social healing and reconciliation; 2) promote justice; 3) allow for the establishment of a historical record; 4) serve a public education function; 5) aid institutional reform; 6) help promote democracy; 7) preempt future crimes; and 8) deter future crimes.

Cambodia demonstrated this during 1996-97 when the Cambodian government negotiated with former Khmer Rouge leaders and promised to give amnesty when they agreed to stop fighting and were fully reintegrated into society (Kiernan 2002:491). This happened to Khmer Rouge leader Ieng Sary (who is now among the five indicted men on the docket of the ECCC). It also led to the events of 5-6 July 1997—a coup d'état by any other name—when the First Prime Minister was deposed by the Second Prime Minister.

### **Toward Integrated Mechanisms**

The mounting debate among transitional justice proponents centers on the desirability and effectiveness of applying either trials or truth commissions. Both approaches attempt to seek justice, promote the rule of law and advance democracy. Recent literature on effective application of both mechanisms has been unclear or limited. For example, Thoms, Ron and Paris (2008:31) indicate that transitional justice makes either a moderately positive or no contribution to pre-established goals. Another study, however, demonstrates that trials and truth commissions do not bring about the rule of law but are important symbols; the legitimacy of the domestic legal system is critical to the success of transitional justice (Fletcher, Weinstein and Rowen 2009:220).<sup>7</sup> The effectiveness of transitional justice is limited when both options are pursued in isolation from each other, separated by time (Valji 2009:11), as has been the case in Cambodia. There is a general assumption that these mechanisms are mutually exclusive or even at odds (Humphrey 2002).

Post-conflict recovery requires an integrated framework, developed in full partnership with national and local communities, to ensure ownership and commitment. Judicial and non-judicial approaches are equally relevant and complementary: both pay serious attention to past wrongs and take into account the interests of victims (Ambos 2009:40). “The most probable scenario is a combined application [of transitional justice mechanisms] given the fact that the measures are complementary, each playing a distinctly important role” (Ambos 2009:49). Normatively, judicial and non-judicial approaches satisfy distinct legal and moral duties, so they are likely to complement but not substitute for each other if meant to serve truth and justice (Ambos 2009:40; Thoms, Ron and Paris 2008:24).<sup>8</sup> The application of nonjudicial approaches could be considered as a mitigating factor in normal criminal proceedings. A study by Payne, Olsen and Reiter (2008:16) confirms that while countries that adopted trials and truth commissions have achieved nearly the same level of democracy, they show dramatic differences in levels of violence. Kofi Annan in his UN report (2004:9) called for a comprehensive approach for bringing satisfactory results, as the processes are complementary and cannot be implemented in isolation.

### **Current ECCC and Challenges**

Cambodia is internationally known for the mass atrocities committed from 1975 to 1979 by the Khmer Rouge regime. Measured in terms of percentage of the population killed, it was the largest single episode of mass murder in centuries (Etcheson 2005:142). Additionally, the UN report of a Group of Experts (1999) clearly showed that crimes committed during the Khmer Rouge regime are classifiable as genocide, war crimes, and crimes against humanity under both Cambodian and international laws. A recent survey

<sup>7</sup> For details on the effectiveness of transitional justice mechanisms, see for example: Thoms, Ron and Paris 2008; Fletcher, Weinstein, and Rowen 2009; Payne, Olsen and Reiter 2008; and Valji 2009.

<sup>8</sup> For legal justification of using both approaches, especially related to punishment and amnesty, see: Ambos 2009; Bell 2009.

found that 93 percent of the population were victims of the Khmer Rouge (Pham et al. 2009:24).<sup>9</sup> Almost every Cambodian now living lost family members during that time, and 60 to 80 percent of victims suffer disorders of extreme stress (Linton 2004:57).<sup>10</sup> More seriously, traumatized individuals form part of the wider community. The prevalence of dysfunctional relationships between individuals and groups has the potential to cause instability if the roots of the problems are not dealt with properly (Linton 2004:58). Domestic violence, drug addiction, and youth gangs have emerged as central problems in Cambodian communities, in addition to poverty (CDRI 2007).<sup>11</sup> A recent study suggests that the majority of victims who suffered trauma wish to seek revenge (Field and Chhim 2008:369). Another survey found that 71 percent of respondents wish to see the Khmer Rouge leaders suffer in some way, 37 percent wish they could take revenge and 40 percent would do so if given the opportunity (Pham et al. 2009:29).

Ironically, the Khmer Rouge were recognized by the West, notably the United States, in the Coalition Government of Democratic Kampuchea and took Cambodia's UN seat during the 1980s and early 1990s. Most analysts link this Western support of Khmer Rouge resistance to the geopolitics of the Cold War (Kiernan 2002, 2004; Chandler 2008).<sup>12</sup> This does not, however, obviate the fact that many of the earliest apologists of the Khmer Rouge were leftist academics (Hildebrand and Porter 1976, Caldwell 1978, Kiernan 1977, Chomsky and Herman 1979). Adding insult to injury, Cambodians must suffer the further indignity of a former Chief of Public Affairs and now current head of the ECCC Victims Unit who is a devout Marxist-Leninist and a member of the Leninist Party Faction of the Democratic Socialist Perspective, an Australian political party (Jarvis et al. 2006).

The legacy of mistrust, fear of death, lack of social cohesion and non-reciprocal relationships indoctrinated by the Khmer Rouge regime persists in Cambodian culture. During peace negotiations in 1991 and subsequently, the Khmer Rouge, rather than being held accountable for crimes committed, were included; and they were fully entitled to compete in the UN-organized election of 1993.<sup>13</sup> The scale of tragedy committed by the Khmer Rouge is immense; immeasurable; and is difficult for survivors, lawmakers, activists and scholars to deal with (Chandler 2000:67). Therefore, the ECCC is believed to be the only appropriate response.

The establishment of the ECCC<sup>14</sup> has been a central matter for both Cambodia and the international community.<sup>15</sup> As a hybrid tribunal, the ECCC remains tenuous, as it arose following a long conflict between the Cambodian government and the UN over who would control the ECCC. In 1997 the government requested the UN's assistance in establishing a trial to prosecute the senior leaders of the Khmer Rouge. By

<sup>9</sup> This figure corresponds to a previous survey by DC-CAM (2004:20): 89.49 percent claimed to have lost relatives and 57.02 percent claimed to have lost at least one parent. Other surveys include Khmer Institute for Democracy, Center for Social Development (CSD); Craig Etcheson (2005) also claimed similar figures.

<sup>10</sup> The lasting psychological impact is evident in the high incidence of lifetime post-traumatic stress disorder (PTSD) as well as other psychiatric disorders attributed to the Khmer Rouge period (Field and Chhim 2008:353).

<sup>11</sup> CDRI 2007.

<sup>12</sup> Supporting the Khmer Rouge was a means to fight Vietnamese invasion and communist ideology.

<sup>13</sup> The Khmer Rouge leaders withdrew themselves from the agreement and continued their guerrilla activities, threatening the security of both Cambodians and foreigners.

<sup>14</sup> For a full historical account of the ECCC's establishment, see Etcheson 2005; Menzel 2007.

<sup>15</sup> See David scheffer (undated): Why the Cambodian Tribunal Matters to the International Community; extracted from website: [http://www.cambodiatribunal.org/index.php?option=com\\_content&view=article&id=40&phpMyAdmin=ou7lpwtyV9avP1XmRZP6FzDQz3&Itemid=34](http://www.cambodiatribunal.org/index.php?option=com_content&view=article&id=40&phpMyAdmin=ou7lpwtyV9avP1XmRZP6FzDQz3&Itemid=34) Youk Chhang: Why ECCC matter Cambodian community? Extracted from website: <http://www.dccam.org/Tribunal/Analysis/Anthem%20Essay%20for%20website.pdf>

February 2002, the UN pulled-out of negotiations convinced of the bad-faith of the Cambodian side, having dragged negotiations out half a decade. Cambodia then formed a coalition in the General Assembly that voted to force the UN's Office of Legal Affairs back to the negotiating table. An agreement for the creation of ECCC was reached in June 2003. The ECCC serves to test precedent for international law (Ambos 2003; Menzel 2007:218). Proponents claim it will be able to bring justice for the victims and end impunity by punishing those most responsible for their crimes (Menzel 2007:224).<sup>16</sup> Cambodian judges are in the majority, but the rules require at least one international judge side with them for decisions to be carried. If it is at least somewhat successful, this supermajority hybrid court might become a relevant option elsewhere. Some political and legal analysts expect that if the ECCC ensures fair and due process, Cambodian people and other actors will have confidence in and observe legal proceedings that meet international standards. Furthermore, Cambodians will favor legal reforms to ensure fair and just procedures. This preference may earn strong support from civil society advocates and the donor community, who have long pushed for governance and judicial reforms within the current government with little success (Ear 2007).

It is also possible that ECCC is a political game between the Cambodian ruling elites and the international community, especially the UN. The long delays and foot-dragging in establishing the court—first proposed in 1997, first trial officially begun in 2009—certainly suggests this. If the Cambodian government and the UN care for suffering victims and intend to hold the perpetrators accountable for their misdeeds, why has it taken so long? The purposes of the ECCC can be summarized as both backward-looking and forward-looking (Stensrud 2009:8).<sup>17</sup> The backward-looking goal is to hold five Khmer Rouge leaders accountable for mass human rights violations and have this judicial proceeding serve as a means of determining historical truth (Menzel 2007:224). The forward-looking goal is to prevent the recurrence of mass crimes by respecting the rule of law and human rights. The criminal court is meant to serve as a model for the Cambodian judicial system as well as for other countries (ICTJ 2009:2; Menzel 2007:224). Will the ECCC fulfill these goals?

Certainly, the establishment of the ECCC answered doubts about whether there would ever be a Khmer Rouge tribunal. Although there was some controversy over sovereignty and credibility, the UN and the Cambodian government agreed to set up a criminal court under Cambodian law with involvement from international judges.<sup>18</sup> Five former Khmer Rouge leaders were indicted and taken into custody.<sup>19</sup> Kaing

<sup>16</sup> Details on literature related to the goals of the ECCC are in Menzel 2007; Etcheson 2005; deGuzman 2008.

<sup>17</sup> Ghai in his report to the UN Human Rights Council (2008) summarized the ECCC principles jurisprudence as: a) provide accountability to the millions of Cambodian for the crimes of the Khmer Rouge; b) have a deterrent effect by demonstrating that there can be no impunity for violation of human rights; c) enhance people's understanding of justice and the rule of law; and d) the jurisprudence and practice of the ECCC would be absorbed by the rest of the Cambodian justice system.

<sup>18</sup> The agreement was entered in 2003 between the UN and Cambodia. A law on the ECCC was amended by the Cambodian National Assembly in 2004. A courthouse was selected; staff and judges were recruited. In July 2006, all Cambodian judges took an oath in front of the king. The chambers consist of three levels: pre-trial chamber, trial chamber and supreme chamber. The ECCC has two co-prosecutors, one Cambodian and one international, and each chamber has one Cambodian and one international co-investigator. There are five judges in the pre-trial and trial chambers. Each chamber is composed of three Cambodian judges and two international judges. The supreme chamber consists of seven judges of whom four are Cambodian and three are international. The decision is based on a supermajority formula plus at least one international judge in each chamber. The presiding judges are Cambodian in all chambers. This formula is called "Cambodian supermajority hybrid criminal court." The court is under Cambodian law, and the crimes and procedures are to be defined under Cambodian laws with residual relevance to international law. Maximum punishment is life imprisonment. The ECCC has jurisdiction over crimes committed between April 1975 and January 6, 1979; only senior Khmer Rouge leaders are indicted for prosecution (five so far); and the crimes to be prosecuted are enumerated and consist of genocide, crimes, crimes against humanity and war crimes. See: Law of ECCC 2004; <http://www.eccc.gov.kh/english/cabinet/law> McGonigle 2009.

Guek Iev, better known as Duch, the former director of Tuol Sleng (S-21) detention and torture center, is the first to be tried. The start of that process on 30 March 2009 represents a major step forward for those seeking justice. Cambodian victims and the international community applaud the trial and have strong hope that justice will be served and a culture of impunity will be replaced by a culture of accountability—and that ultimately the rule of law will be attained.<sup>20</sup>

In the process leading up to Duch's trial, Internal Rules for ECCC procedures were finally adopted. Specifically, the Internal Rules allow victims to participate as civil parties in the proceedings and to create a dedicated Victims Unit (McGonigle 2009:139).<sup>21</sup> This is a positive development within the Cambodian legal framework and also a precedent for other internationally assisted courts (ICTJ Report 2009:4). In addition, NGOs play active roles, both encouraging victims to participate in the ECCC process and disseminating information about the prosecution to a wider audience (Pham et al. 2009:19).

Technical and substantive issues remain, particularly the lack of resources, political commitment, legal instruments to deal with criminal acts, competence, accountability and translation. Substantive issues include the ability of the court to provide justice with fairness and cohesion inherent to the rule of law, including political independence, transparency, and impartiality.

### Technical Constraints

In 1979 the People's Revolutionary Tribunal in Phnom Penh, then controlled by the Vietnamese, tried Ieng Sary and Pol Pot in absentia and found both guilty of the crime of genocide. Thus, when the Cambodian government and the UN negotiated the establishment of what would become the ECCC, conflicts arose over integrity, sovereignty and independence of the courts, leading the UN to withdraw from negotiations. Following shrewd maneuvers by the Cambodian government, the General Assembly of the UN voted to require the body to return to the negotiating table. Discussion resumed and an agreement was reached in 2003. Since the ECCC was established in 2007, there have been frequent delays due to conflicts between Cambodian and international judges over internal rules. Lack of money is a perennial problem. Initially, the budget was estimated at around US\$56 million for a period of three years, from 2007 until 2009. Now the budget has increased to almost US\$100 million within a longer time frame. In addition, soon after the ECCC began, allegations of corruption within the human resources and administration departments were publicized, leading some donors to suspend funding to the Cambodian side of the ECCC.<sup>22</sup> This led the UN to negotiate with the Cambodian government about transparency and mechanisms to tackle corruption, but the on-and-off discussions produced no concrete measures.

Recently, Prime Minister Hun Sen announced publicly that he wished to see the court fail and prayed for it not to obtain a sufficient budget.<sup>23</sup> A few days later, Peter Taksoe-Jensen, UN Assistant

<sup>19</sup> The five indicted are: Nuon Chea, Brother Number 2; Khiev Samphan, head of state; Ieng Sary, foreign minister; Ieng Thirith, Minister of Social Affairs; and Kaing Guek Iev, director of S-21 prison. For details on each indicted person, see Glapsy 2008.

<sup>20</sup> Youk Chhang, director of the Documentation Center of Cambodia (DC-Cam), a prominent NGO in Cambodia documenting the Khmer Rouge atrocities and advocating for the Tribunal, sent a letter to Prime Minister Hun Sen requesting that the day be a public holiday for the Cambodian people ([www.dccam.org.kh](http://www.dccam.org.kh); accessed 3 April 2009). For international coverage, see the *Phnom Penh Post* ([www.phnompenhpost.com.kh](http://www.phnompenhpost.com.kh); accessed 1 April 2009); the *Cambodia Daily* (31 April 2009); BBC report ([www.bbc.com.uk](http://www.bbc.com.uk); accessed 1 April 2009); CNN ([www.cnn.com](http://www.cnn.com); accessed 1 April 2009); and the *Guardian*, *Bangkok Post*, *ABC Australia*, *Voice of America* and other media outlets, 31 March 2009.

<sup>21</sup> For detailed analysis of victim participation in the ECCC, see McGonigle 2009.

<sup>22</sup> See Report of the Open Society for Justice Initiative (OSJI), "Recent Developments and Challenges of the ECCC" (New York: Open Society for Justice Initiative, 2007).

<sup>23</sup> *Phnom Penh Post*, 1 April 2009.

Secretary General for Legal Affairs, met Deputy Prime Minister Sok An to seek anticorruption measures within the ECCC's human resources management and administration. The meeting failed to result in any commitment because Australia announced it would resume aid to the Cambodian side of the ECCC prior to the meeting.<sup>24</sup> There has been no legal action against any corrupt officials within the court.<sup>25</sup> This brings into question the Cambodian government's political commitment to victims of the Khmer Rouge.

While the lack of political commitment has been a long-running saga for the Cambodian side, these have sometimes been eclipsed by legal complications that would appear beyond the control of the Cambodian authorities. Some legal experts express concern over the legal applicability and admissibility of the criminal charges, which are based on domestic laws with residual application to international laws.<sup>26</sup> The availability and reliability of witnesses and evidence adversely affected by the passage of time are challenges (Darcy 2008:1), as is correlating the definition of genocide during the Khmer Rouge's reign with the definition of genocide as set out in the 1948 Genocide Convention (Darcy 2008:2; Skilbeck 2008:442). A wider interpretation of the term may seem ethically attractive, but lacks persuasiveness in light of the clear language of the Convention and recent developments in international law (Menzel 2007:222). Another concern is the ability and competence of Cambodian judges in dealing with international criminal issues. None of the recruited Cambodian judges has experience in international criminal law and some have hardly any substantial legal education (Menzel 2007:220). In addition, the qualifications and the independence of the Cambodian judges and prosecutors from political interference are in question. As Etcheson (2005:172) notes, the very structure of Cambodia's legal system ensures that judicial independence and legal professionalism cannot be obtained in practice. These judges have been appointed and their tenure depends on loyalty to the regime.<sup>27</sup> Court logistics related to the lack of capable interpreters for legal terms and lack of witness protection facilities and programs are further technical complications.

### Substantive Constraints

The court's structure, with a Cambodian majority and presiding Cambodian judges in all chambers, affords the Cambodian side legitimacy to control the process. Given that the judicial and legal system is historically dysfunctional, corrupt, incompetent, politicized and totally distrusted in Cambodia (Menzel 2007:226; Richmond and Franks 2007; Stensrud 2009:10), the Cambodian supermajority could be a liability for the ECCC. The concern is not only the incompetence of the judges but also that the government will use its control over them to influence the ECCC for political ends.<sup>28</sup> The recent demand for additional indictments by the international co-prosecutor, Mr. Robert Petit, who announced his resignation effective 1

<sup>24</sup> Statement of Peter Taksoe-Jensen, UN Assistant Secretary General for Legal Affairs, *Phnom Penh Post*, 9 April 2009.

<sup>25</sup> Report of Center for Transitional Justice submitted to the Universal Periodic Review of the UN Human Rights Council, 14 April 2009. For more accounts of alleged graft, see Open Society Justice Initiative 2007 and "Progress and Challenges at the Extraordinary Chambers in the Courts of Cambodia" (New York: Open Society for Justice Initiative, 2008) and also John Hall, "Judging the Khmer Rouge Tribunal," 2 March 2009 and "The Trial on Trial," 10 March 2009 <http://www.feer.com/politics/2009/march53/Judging-the-Khmer-Rouge-Tribunal>. Lao Mong Hay, "Khmer Rouge Tribunal Must Have Autonomy," UPI Asia online, 18 March 2009 ([www.upiasia.com/human\\_rights/2009/03/18/Khmer\\_rouge\\_tribunal](http://www.upiasia.com/human_rights/2009/03/18/Khmer_rouge_tribunal); accessed 23 March 2009); Robert Carmichael, "Cambodia: Corruption Allegation Undermine ECCC," *Inter Press Service*, 30 April 2009.

<sup>26</sup> See UN Report 1999 for details of legal admissibility and applicability analysis; Menzel 2007.

<sup>27</sup> Recent reports of corruption within the ECCC claiming that staff and legal experts pay bribes to get recruited and pay "kickbacks" from their salaries to secure their positions pose serious questions of legal professional ethics (ICTJ 2009:2).

<sup>28</sup> Ghai 2008; ICTJ 2009.

September 2009 for unrelated personal and family reasons, has caused consternation on the Cambodian side.<sup>29</sup> The indictment request was publicly criticized by the Prime Minister and other senior ministers. The Cambodian co-prosecutor opposed it on the grounds of political instability and limited resources. This government intervention drew a massive outcry from both civil society and international analysts. Many national and international observers see Cambodian control of the ECCC as its Achilles heel and fear that instead of providing justice for the victims and strengthening the Cambodian judicial system, the process will leave Cambodia further weakened (deGuzman 2008:338).

The long delay of the proceedings has had a serious deleterious effect. The key Khmer Rouge figures, including Pot Pot, Brother Number One; Ta Mok, Commander-in-Chief; and Son Sen, the minister in charge of security, have died without indictments or independent trials. The current five detainees are also in various states of deteriorating health; four may not live to hear their verdicts.<sup>30</sup> The prosecution of these aging Khmer Rouge leaders who had “command responsibility” poses another question, whether this trial can satisfy millions of victims who want justice from the government and truth from the perpetrators.

According to the ECCC internal rules, victims can participate as civil parties or as complainants to the proceedings in addition to being called as witnesses. This is an innovative development for international criminal courts, as victims are given more participatory rights (McGonigle 2009:142).<sup>31</sup> In addition, the ECCC can award “moral and collective reparations” to civil parties following a conviction.<sup>32</sup> More than 3,000 people applied to the court as civil parties and made formal complaints; however, as of March 2009, only 45 civil parties have been accepted (including one of the authors) and 11 are in process.<sup>33</sup> The excuse for

<sup>29</sup> In late 2008, an international co-prosecutor requested to investigate several additional suspects for this proceeding. This request was opposed by his Cambodian counterpart on the grounds of fear of political instability, endangering national reconciliation, and limited resources. This was similar to what the Prime Minister and other senior ministers publicly claimed during their speeches. Thus, rather than leaving this conflict to the ECCC to solve, the government tried to dictate to the court using their judges. See Lao Mong Hay (2009). In September 2007, a government spokesperson claimed that the government has the authority to terminate the Tribunal if judges bring charges against former King Norodom Sihanouk (Glaspy 2008:154).

<sup>30</sup> The four detainees with serious health conditions include Ieng Sary, 83, who has allegedly suffered a heart attack and decided to waive his rights to a lawyer, prompting intervention that he is of weak physical and mental capacity and unfit to stand trial. Ieng Thirith, his wife, was half carried into the courtroom by her nurse and guard. Nuon Chea, 83, suffers from a serious heart condition and high blood pressure. Khiev Samphan is the same age and has suffered from a stroke. A doctor, nurse and ambulance are on permanent standby in the Tribunal’s compound.

<sup>31</sup> At the ECCC, victims are full parties to the proceedings, meaning that victims do not need to ask for permission before exercising their participatory rights.

<sup>32</sup> Because of full rights of participation and victims’ moral and collective reparation, McGonigle argues that the ECCC is unique among other courts and aims to serve both retributive and restorative justice (2009:145). We disagree, given that the procedures of the trial and the truth commission are distinct. The court process focuses on only individuals as witness and evidence must be related to the individual, while the truth commission seeks to record the pattern of the regime (collective rather than individual). Another distinction is that a truth commission involves the public while a trial is limited only to those who are directly involved. The purposes of the two bodies are clearly different: truth commissions tend to restore relationships and offer amnesty while trials are strictly aimed at finding fault and determining guilt for punishment, though the truth aspect may be partly attained. Reading McGonigle’s article can lead to the conclusion that there is no need to set up a truth commission nor any other public forum for dialogue in order to heal trauma and the broken relationships between victims and perpetrators who are now integrated in the communities. The grounds for the author’s argument are based on the ECCC and the activities of some NGOs, such as DC-Cam and CSD. However, the ECCC proved itself constricted by many issues as discussed above. NGOs’ work contributes a lot to this process, but to officially consider it a truth commission is too premature. First, NGOs’ focus groups are randomly selected and do not represent all. Second, the NGOs’ work is not officially legitimized and fully authorized by the government as official truth commission efforts; third, NGOs’ work is on an individual basis for interviews, not organized in public with strong involvement from both victims and perpetrators as well as government.

<sup>33</sup> As of March 2009, as noted by Open Society Justice Initiative 2009.

such delays is insufficient resources due to an overwhelming number of participants. This inefficiency risks undermining the ability of victims to participate meaningfully in the proceedings and presents a real possibility that their expectations have been raised in ways that cannot be met (ICTJ 2009:3). The moral and collective reparations have also been challenged by victims' lawyers, demanding that reparations be individualized.

### **Discussion: A Quest for Justice and Truth**

The ECCC was created in response to demands by the majority of Cambodians and the international community for accountability from those responsible for human rights violations during the Khmer Rouge regime.<sup>34</sup> The indictments for the five former Khmer Rouge leaders considered most responsible for crimes against humanity, were cheerfully greeted. The recent hearing of Duch's case and subsequent hearings to reject legal requests for release from detention of the other four suspects represent a major step and real commitment of the ECCC. The ongoing Duch trial has revealed at least some truth about how the regime organized the mass murder of the Cambodian people. The trial is considered the best strategy for the ECCC to move toward accusing the other four, and is clearly the easiest given that Duch is readily confessing to his crimes. Among the five indicted, he is the only real "butcher" with bloody hands; the rest held executive authority as policy-makers. Thus the confession from Duch can be strong legal grounds for establishing the guilt of the others. The confession also functions as a model for the other detainees, although none is likely to follow.<sup>35</sup> They have expressed no remorse for their crimes and all blame the late Pol Pot. Although recent developments do not fully alleviate concerns that the Cambodian hybrid formula of the ECCC will simply compound past injustice, there is a glimmer of hope.

The ECCC, however, will not be able to meet all its goals fully. Given the immensity of the crimes, Cambodian victims deserve the primary and foremost attention. The Cambodian people suffered tremendously from the regime and were ignored for almost three decades. To implore them, as the Prime Minister did in 1998, "To dig a hole and bury the past" (Hun Sen, qtd. in Chandler 2000) is akin to avoiding the truth. A major goal of the ECCC is to ensure partnership and participation from the victims. If the victims are the primary actors for the ECCC, will justice be sought and the whole truth attained? It seems premature to answer this question while the trial is ongoing. However, based on the above analysis, we conclude that the backward-looking goal cannot be fully achieved. Justice (through punishment and reparation) and uncovering the whole truth (through the court) are far from realistic. Five detainees cannot satisfy millions of victims. Distressingly, while the ECCC aims to serve the interests of the victims, only 15 percent of the population has heard about it (Pham et al. 2009:36). There is nothing to claim from the accused except truth and life imprisonment. There is little to no prospect of additional indictments, as the ECCC is constrained by politics. Political and power interests, rather than law and principle, determine the outcome. Etcheson predicts that holding all Khmer Rouge accountable and ending impunity will not happen in the Cambodian context (2005:173). By and large—as some scholars have speculated—the ECCC can only bring "symbolic or light justice" (Menzel 2007) and partial truth.

The forward-looking goal will likely also be met in only a limited way under the ECCC. There is some hope that fairness and due process within a court system can be partly achieved. The Cambodian judges obtain legal training on the job, when presiding with international experts, and learn how fair and due process is implemented. The Cambodian people too can observe the outlines of a fair trial process. The commitment of the judges to apply this model when they return to work under a heavy patronage system

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<sup>34</sup> See Linton 2004; Pham et al. 2009.

<sup>35</sup> During the first day of the trial, Duch read his confession and took responsibility for all crimes committed when he was in charge at S-21 prison, which allegedly claimed to have killed more than 14,000 innocent intellectuals and foreign people.

remains to be seen. Future crime deterrence, respect of human rights and rule of law, however, seem lofty goals at this point. Given the current record of widespread institutional corruption, human rights violations, such as land-grabbing, and oppression of freedom of expression, especially of journalists and opposition parties,<sup>36</sup> it is unlikely that the ruling elite will reconsider their actions in the foreseeable future. Impunity continues to mar the rule of law in Cambodia.

In addition, the ECCC has been plagued by concerns about political interference, secrecy about its operations, delays, corruption allegations, limited competence of Cambodian judges, lack of legal means to deal with crimes and limited resources, all of which undermine the court's credibility and legitimacy. Most donors and civil society demand judicial reform and enhancement to ensure the rule of law. However, progress has been hindered for more than a decade. The ECCC must address these concerns openly and transparently if it is to have any effect in specific cases and in society at large. So far, it has done little. The government has threatened to ban those who criticize the court in 2007 and to terminate the court under its authority if there are additional indictments or an indictment of His Majesty King Father Sihanouk, and has openly wished for the court to fail (*Phnom Penh Post*, April 2009).

The government and international community want to show that they care for the victims, pay attention to rule of law and justice, and uphold human rights. Their obligation and responsibility will be finished when the court comes to an end. However, the legacy of atrocities and the scale of current suffering among the Cambodian people are immeasurable and cannot be dealt with under the court alone. Those citizens who are familiar with the ECCC (15 percent) may already think that the court is not enough, but what about the 85 percent who have no knowledge of the court? They cannot be excluded. Surveys (Linton 2004; Pham et al. 2009) clearly show that people want to see the perpetrators held to account in some way. The prevalence of problems such as domestic violence, youth gangs and drug addiction can be partly caused by social psychological trauma earlier generations endured without remedy during the Khmer Rouge period. Chronic poor living conditions such as extreme poverty and lack of access to education (Fujii and Ear 2002), health care and clean water greatly contribute to social problems. As John Paul Lederach (1997:15) notes, in a divided society where deep, long-term fear and direct experience of violence sustain an image of the enemy, people are extremely vulnerable and easily manipulated. In the Cambodian context, all the middle- and lower-level former Khmer Rouge cadres have been integrated into normal life. This means they are now living closely with the victims and sometimes have face-to-face interaction. Without any proper mechanism to address hidden anger, "latent conflict" could easily erupt into violence.

Reconciliation demands both justice and some form of truth to address these issues, and participation from the victims is indispensable to lend legitimacy to transitional justice process and make the process socially accepted (Ambos 2009:40). After three decades, the Khmer Rouge issue has not been raised for debate or even mentioned in the public school curriculum. Given that former enemies live in communities without being held to account, many young people do not believe that mass killings took place (Pham et al. 2009). The median age in Cambodia is 22, with a birth year circa 1987, nearly a decade after the Khmer Rouge were ousted from power. Organizing truth commissions or community-based public forums to create space for formal dialogue and acknowledgment of victims' grievances is important to address this social issue. The victims feel relieved when their suffering is officially heard, their dignity is respected through expression of remorse by the perpetrators, broken relationships are restored, the truth is sought and stated and younger generations are able to participate in and learn from the events. An appropriate venue for a Cambodian-style public forum (miniature truth commission) would be Buddhist pagodas, with involvement from monks who are revered. Not unlike the Gacaca in Rwanda where community justice was inspired by tradition in the wake of the 1994 Genocide that saw between 800,000 and 1,000,000 Rwandans, mostly Tutsi, slaughtered, Buddhist monks in pagodas could help facilitate a

<sup>36</sup> Licadho 2009; Ghai 2008; Human Rights Watch 2009.

process of reconciliation that cannot possibly be satiated with only five persons indicted by the current ECCC. Of course, even the Gacaca cost millions of US dollars and required political commitment to face Rwanda's past, something that cannot be guaranteed in the context of Cambodia, when many of its leaders are themselves former low-level Khmer Rouge cadres.

## Conclusion

The ECCC is distinct from other international criminal courts in several important aspects. The court consists of Cambodian and international judges and administrators, with Cambodians in the majority. The ECCC Internal Rules give victims extensive rights to participate in the proceedings, and can award them moral and collective reparation following a conviction. As one scholar argues, the ECCC aims to provide both retributive and restorative justice (McGonigle 2009:145). However, whether justice will truly be served for millions of victims is questionable.

The ECCC is constrained by political patronage and interference by the Cambodian authorities. The five currently indicted former Khmer Rouge leaders are considered the only and ultimate detainees for trials. All are elderly and several are in fragile health. The current delay and long time frame of the ECCC pose serious concerns as to whether these four men and one woman will be able to participate in the whole process. The ECCC is not a fully legitimate institution: popular confidence and trust have not been gained from the victims or the international community. Corruption allegations and political interference appear to be major constraints on legitimacy. Civil society and other actors, including the victims themselves, play limited roles. This essay proposes that a community-based public forum based on Buddhist principles, with involvement from Buddhist monks, could play an important role if permitted to do so. This would provide a better opportunity for both victims and perpetrators to express their suffering and remorse. Through this process, inflicted wounds and trauma can be healed, the dignity of victims can be restored, truth can be sought, and youth can participate and learn. While this article has treated retributive and restorative justice processes more as alternatives than as complements, both are necessary and essential for the healing of post-conflict societies. We have argued here at the margin that, all else being equal, the case of Cambodia is more likely to benefit from restorative than retributive justice. Cambodia is slowly becoming a normal country again—with all the attendant problems of the developing world—and the process by which its people seek justice will undoubtedly set an important precedent for future post-conflict countries.

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## Resource Scarcity and the Prevention of Violent Conflicts

Renée Gendron and Evan Hoffman\*

This article argues that resource scarcity creates multiple impacts on conflicts. It can increase the chances that a nonviolent conflict will become violent and it can re-trigger violence in a previously resolved conflict. Thus, the authors argue that resource scarcity plays an important role in both the monitoring of and response to situations where violent conflict is to be prevented. In terms of monitoring, resource scarcity can be used as an indicator to help provide warnings that a nonviolent conflict is likely to become violent. In terms of responses, dual policies aimed at fair and equitable resource sharing plus managing resources in a manner that helps alleviate poverty may be the most effective for preventing the outbreak of violent conflict. In the case of preventing new violence in a previously-resolved conflict, peace agreements should address resource management issues by building mechanisms for this into the agreement.

### Introduction

Increasingly, it seems that many analysts within the peacebuilding field predict that future violent conflicts will likely take the form of resource wars – which can be understood as those conflicts which are primarily waged over access to scarce resources such as rare minerals, water, or oil.<sup>1</sup> The underlying reasoning behind this assumption is that, “as the global population continues to rise, and the demand for resources continues to grow, there is significant potential for conflicts over natural resources to intensify” (UNEP, 2009). The proponents of this view argue that resource scarcity may be an underlying cause of violence as it serves as an indication of poor social capital. The inability of existing social resources to develop, maintain, and implement innovative techniques and solutions to resource scarcity indicates weak overall social capital,

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<sup>1</sup> Philippe Le Billon states that these critical resources often associated with past resource wars have, ‘...mostly included water and petroleum, but also diamonds, timbers or fisheries’. See Philippe Le Billon, “Economic and Resource Causes of Conflicts” in *The SAGE Handbook of Conflict Resolution* ed. Jacob Bercovitch, Victor Kremenyuk and I. William Zartman (Thousand Oaks: Sage Publications, 2009), 213.

translating into weak state institutions. While grievances and motivations for war are unique to every violent conflict, weak state institutions serve as a good indicator of potential for violent conflict.

A reasonable argument has also been made that resource abundance, and not resource scarcity, has been a cause of violent conflict. The more plentiful a resource, the more competition there will be for access and control over a particular resource. More precisely, the argument is as follows: the higher the economic return, the more competition, the higher the likelihood of a violent conflict erupting. In sum, these two seemingly competing roles that resources might play are summarized as follows:

In the past decades, natural resources have attracted considerable attention as a source of conflict. Depending on the respective theoretical premises, some scholars have argued that scarcity of renewable natural resources inevitably leads to violence in countries of the global South. Others have tried to show that it is not scarcity, but abundance of natural resources which creates problems (Krummenacher, 2008).

Interestingly, this same report found that, “neither the scarcity of land or water nor the abundance of oil or gas drives a society straight down the road to violent conflict. Resources like water and land or environmental damage can be important ingredients in a complex blend of political, cultural, and economical factors that eventually breed violence” (Krummenacher, 2008). This report then goes on to state that,

the institutional settings of the societies concerned, the structure and type of political authority, as well as global mechanisms at play and the historical context are just as important as, if not more, the actual availability of land or water in both explaining and resolving conflicts (Krummenacher, 2008).

In sum, either resource scarcity or resource abundance may play an *enabling* role in the potential outbreak of violent conflict, depending on the particular historical and contextual circumstances of the situation. A much more robust definition of resource wars than the one previously provided would thus consider them to be those violent conflicts in which access to and control of either scarce or abundant resources is of particular importance.

While resource wars are not necessarily a new phenomena and there are many historical examples of these wars, such as the various civil wars waged in Africa in which diamonds or oil played a significant role and the US-led invasion of Iraq in 2003, there currently appears to be much evidence to support the conclusion that these types of conflicts are more likely to emerge in the coming years (2009, Part II, Chapter 2). In fact, Gleditsch states that the idea that resource constraints may lead to violent conflict is one of the oldest ideas in research on conflict and peace (Crooker et al, 2007, chapter 11). Likewise, a 2005 Organisation for Economic Co-Operation and Development Issues Brief suggested that conflicts and violence over access to water will likely increase in the coming years unless water management and water governance are taken seriously (Organization for Economic Cooperation and Development [OECD], 2005). Historically, inter-state wars have not been fought over access to water (OECD, 2005). Local tensions, local violence and increased regional tensions can and do occur over water issues however (OECD, 2005). These tensions will likely continue to increase because, “competition for water exists at all levels and is forecast to increase with demands for water in almost all countries. In 2030, 47% of world population will be living in areas of high water stress” (United Nations Educational, Scientific and Cultural Organization [UNESCO], 2009).

Moreover, there are many institutions which are forecasting increased competition over access to energy resources. The competition may be non-violent or it may lead to increased tensions and subsequently increased localized violence. The Heritage Foundation held a panel discussion on oil producing states and *The Coming Energy Wars: A 21<sup>st</sup> Century Time Bomb?* in July 2005. The panelists agreed that those states which were most dependent on oil for generating revenue were most affected by terrorism and internal violence. Two states in particular, Iran and Saudi Arabia, not only face internal domestic violence issues, the

governments are also supporters of terrorism and violence abroad (The Heritage Foundation, 2005). Another example in which demand for a natural resource fuels internal violence is due to China's increasing purchases of Sudanese oil. China purchases most of Sudan's oil output. The British Broadcasting Corporation has alleged that China also assists Sudan militarily, through the supply of munitions, equipment and training, in efforts to maintain cordial relations with a key strategic resource supplier (Andersson, 2008). As the demand for energy from BRIC countries (Brazil, Russia, India, and China) increases, the vying for control over energy and raw resources is predicted to increase.

Another example of the growing potential for an increase of resource wars stems from the case of Central Asia. Central Asia is witnessing the resurgence of a Second Great Game, in which competing world powers vie for control and access to natural gas, oil and mineral resources. Kleveman (2003) argues that Central Asia will see increasing violence as world powers seek to maximize their advantage in the region. The situation in Central Asia is also closely related to bloody conflicts in the Caucasus. Most of the conflicts in the Caucasus are separatist in nature: Nagorno-Karabakh, Chechnya, South Ossetia, Abkazia and Javakheti. The conflicts are complicated by the oil-rich Caspian Sea and pipeline routes. The significant, largely unexploited energy reserves of the Caspian, have drawn the attention of the United States, the European Union, Russia, Iran and increasingly China. As each power seeks access to energy resources, the separatist conflicts are exacerbated by outside influence and pressure (The Economist, October 16, 2008).

Moreover, several resource wars are currently being waged in the Sudan and Nigeria. One such resource war has been called “the deadliest conflict since World War II” in a recently-released report from the Enough Project (2009). The Enough Project sounded the alarm over the conflict in the Democratic Republic of the Congo because:

[...] while eastern Congo is a complex crisis—fueled by tensions over land, rights, identity, regional power struggles, and the fundamental weaknesses of Congo as a state—the trade in conflict minerals remains one of the key drivers of the conflict. The same armed groups that reap enormous profits from the mineral trade in eastern Congo regularly commit conscience-shocking atrocities as they jockey to control the region’s most valuable mines, transportation routes and opportunities to impose extortionary “taxes” on those involved in this trade (Enough Project, 2009).

If the prediction that resource wars are likely to become more common in the future is correct, then steps should be taken now to prevent these conflicts from erupting in the first place. The question, however, is what steps can be taken now by the peacebuilding community to help prevent these types of conflicts from erupting in the first place, and if they do occur what can be done in the post-conflict phase to help prevent their reoccurrence? This article will explore the intersection between resource scarcity and the prevention of violent conflicts.

### **Conflict Prevention and Peacebuilding**

The term “peacebuilding” originates from Johan Galtung's work “Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding” (Galtung, 1970). According to Galtung’s definition, peacebuilding is the creation and strengthening of institutions and structures which not only remove or significantly diminish the causes of war but create circumstances in which peace is the most likely result.

We borrow the definition of peacebuilding from the John Hopkins University School for Advanced International Studies (SAIS) whereby peacebuilding is defined as, “a process that facilitates the establishment of durable peace and tries to prevent the recurrence of violence by addressing root causes and effects of conflict through reconciliation, institution building and political as well as economic transformation” (John Hopkins University School for Advanced International Studies [SAIS], website).

Within this wide definition of peacebuilding, conflict prevention can thus be considered to be a component of peacebuilding inasmuch as it constitutes those activities taken to prevent a conflict from becoming violent or those actions taken after a violent conflict has occurred which are aimed at preventing the re-occurrence of another violent conflict.<sup>2</sup> In other words, to work towards the prevention of violent conflicts is to build peace.

Defined in this manner, conflict prevention activities are clearly placed at the beginning of a conflict before it has turned violent or at the end of a violent conflict as illustrated below in Figure 1.<sup>3</sup>

FIGURE 1

STAGE OF THE CONFLICT	Pre-violent Conflict	Violent Conflict Occurs	Post-violent Conflict
AIM AND TYPE OF CORRESPONDING CONFLICT PREVENTION ACTIVITIES	Conflict Prevention Activities Aimed at Preventing the Outbreak of Violent Conflict	--	Conflict Prevention Activities Aimed at Preventing the Reoccurrence of Violent Conflict

It is important to note that conflict prevention, defined in this manner, thus has two main parts. First, there must be some type of awareness or warning that a nonviolent conflict will likely become violent. Secondly, this warning must be followed by specific activities aimed at preventing this from happening. Thus, conflict prevention is comprised of both *warning* and *response*.<sup>4</sup>

Much work has been done on the warning aspect of conflict prevention. For example, entire early warning systems, sometimes based on very complex methodologies, have been constructed in the past and scholars have now defined multiple generations of these systems. The most recent type of early warning system is defined as being fourth generation (4G) which can be understood as a system of people centered information gathering and solution creation (Public Entity Risk Institute, 2005). Fourth generation systems rely heavily on crowdsourcing, in which local actors input their observations into a common platform which is then accessed by other residents and non-residents. Local and international resources are mobilized according to risk and situation.

Currently there are several operational 4G systems. The Humanitarian Early Warning System (HEWSweb) at the World Food Programme tracks the development and progression of floods, storms, volcanic activity and other natural hazards in almost real-time. This facilitates the transmission of weather related information to participants so that they may reposition or relocate resources to handle damage to infrastructure or crops (Humanitarian Early Warning Service, World Food Programme). This helps residents and field workers link environmental hazards to human security needs, and indirectly contributes to peacebuilding, as it reduces stresses on weakened human security infrastructure.

<sup>2</sup> Likewise, Michael Lund states that, "conflict prevention applies to peaceful situations where substantial physical violence is possible, based on typical indicators of rising hostilities." See Michael Lund, "Conflict Prevention: Theory in Pursuit of Policy and Practice" in *The SAGE Handbook of Conflict Resolution* ed. Jacob Bercovitch, Victor Kremenyuk and I. William Zartman (Thousand Oaks: Sage Publications, 2009), 288.

<sup>3</sup> The *Human Security Brief 2007* also makes a distinction between stages in a conflict. The brief found that one area in which conflict prevention had a clear and positive impact was in helping prevent a relapse into violence. See Human Security Report Project, *Human Security Brief 2007* (Vancouver: Human Security Report Project, 2008), 36.

<sup>4</sup> Likewise, Jacob Bercovitch and Richard Jackson define conflict prevention in a similar manner. They state that, 'conflict prevention is essentially about means and ends: how to identify situations that might become dangerous, violent, and very destructive and how to stop them from becoming so.' See Jacob Bercovitch and Richard Jackson, *Conflict Resolution in the Twenty-first Century: Principles, Methods, and Approaches* (Ann Arbor: The University of Michigan Press, 2009), 89.

Another 4G system is “Ushahidi”, which means “testimony” in Swahili. It too uses crowdsourcing mechanisms. Anyone can participate in the platform, either by text message, email or directly inputting the information via the website. It is currently being used to monitor the Indian elections and the progression of swine flu (Ushahidi, website). Elections are often events which draw sharp public criticism. If state institutions are weak, there is a greater likelihood of political violence. In situations in which there is an epidemic, members of the public may try to forcibly gain access to medical centres, grocery stores and be in a state of general unrest. Ushahidi facilitates the transmission of information in efforts to monitor for potential sources of conflict. This then encourages the active participation of on the ground resources to reconcile a dispute before it becomes violent or escalates to a point where it is no longer manageable by local officials, representatives or conflict resolution practitioners.

While the above examples of various 4G early warning systems are important to consider in terms of the different ways that these systems can actually be constructed and the different focus of their monitoring activities, ranging from the collection and analysis of crowdsourced election-related information submitted via SMS text messages to the monitoring of floods and droughts, it is also important to consider in much more specific terms how resource scarcity itself can actually be monitored.

The Country Indicators for Foreign Policy (CIFP) project based at Carleton University, Ottawa provides a practical example of how to monitor resource scarcity. This project has several objectives, the first of which is to develop, “...a number of wide-ranging tools that encompass, among other things, the monitoring, forecasting, and evaluation of failed and fragile states, as well as the assessment of supporting policies intended to address the development, security, and economic challenges they represent” (Country Indicators for Foreign Policy [CIFP], Carleton University). To this end, the CIFP undertakes conflict risk assessments and as part of their efforts to construct these risk assessments, they examine a number of indicators that are used to measure “environmental stress.”

The three indicators of environmental stress that the CIFP uses are as follows: 1) Rate of Deforestation, 2) People per square kilometre of Arable Land, and 3) Freshwater Resources (cubic meters per capita) (CIFP, no date, p. 18-19). Data for measuring each of these three indicators is derived from various existing sources and for each indicator the CIFP Project has developed a scale from 1 to 9 in order to quantify the measurements (CIFP, no date, p. 18-19). For example, with the Rate of Deforestation variable, one (1) would indicate “low deforestation” and nine (9) is “high deforestation” (CIFP, no date, p. 18-19). In sum, it is possible to accurately quantify and then monitor different indicators related to environmental stress and, more specifically, resource scarcity in order to assess the role that this and several other factors might play in the possible outbreak of violent conflict. The risk assessment generated during this analysis would then be used to issue a warning that new violent conflict is likely to occur.

The response aspect of conflict prevention has also been well-defined and numerous tools which can be utilized to help prevent violent conflicts from emerging from those which are nonviolent have been developed. Some examples of these tools include fact-finding missions, economic sanctions, inter-group dialogue, and security sector reform (Eds. Bercovitch, Kremenyuk and Zartman, 2009, p. 292; Carment, 2003, 419-420).

Having established the definitions of peacebuilding and conflict prevention, we can now examine the role of resource scarcity on the task of preventing violent conflicts.

### **Resource Scarcity**

Resource scarcity can be defined according to three principals. The first is basic human security. A resource is deemed scarce within a specific location if the human population cannot meet its basic dietary requirements. This is known as the minimalist approach, the absolute minimum of resources required to sustain human life. A second interpretation can be defined as current resource availability to meet rising or projected increased demand. A resource in this scenario is considered scarce if there are insufficient resources

to meet projected demands. The maximalist approach considers both human and non-human demands on a particular resource (Matthew, 2008).

Resource scarcity can further be conceptualized as one of three structural issues: 1) supply induced scarcity, in which environmental degradation occurs; 2) demand induced scarcity in which there is increased consumption of a commodity; or 3) a structural scarcity in which infrastructure and distribution mechanisms unevenly redistribute the resource in question (Kameri-Mbote, 2004, slide 4).

Resource scarcity, it should be noted, is not the same as environmental degradation. That is, “resource scarcity can occur without environmental degradation, simply because a nonrenewable source runs dry or demand exceeds what a renewable source can supply. In the event of environmental degradation-usually conceived as a man-made disturbance of the ecosystem-the supply of the resource will become insufficient more quickly” (Crooker et al, 2007, p. 179). Defined in this way, what role might resource scarcity have on the two distinct types of conflict prevention situations described earlier?

### **Resource scarcity during the pre-violent conflict stage**

Resource scarcity can play a role in both types of conflict prevention situations which were discussed earlier. In the first case, resource scarcity can exacerbate a conflict thus increasing the likelihood that it might become violent. For example, it has been found that natural resources play role in at 40 percent of all [violent] intrastate conflicts (United Nations Environment Program [UNEP], 2009). This fact creates important implications for both conflict prevention warning and response.

Resource scarcity is an important factor to consider in both conflict prevention warning and response. In terms of warning, resource scarcity can be used as an indicator, that when combined with other indicators, might help to predict the occurrence of violent conflict. In terms of response, for those conflicts where resource scarcity is a potential cause of violence, responses which address this cause of the conflict may help to avert the outbreak of violent conflict. Both of these situations are more fully described below.

Resource scarcity may serve as an important warning indicator that violent conflict may erupt from a nonviolent conflict. There are limitations, however, with using this as an indicator. Le Billon, for example, notes that, “the term of resource war often implies an exclusive analytical focus on resources, and asserts a direct link between conflicts and resources. Such narrow engagement overlooks the multidimensionality of conflicts and resources” (Bercovitch et al., 2009, Part II, Chapter 2). In other words, this factor alone may not be predictive of whether violent conflict will erupt or not.

Furthermore, Le Billon states that, “the mere presence of resources should also not be simply understood for the current or future stakes that they represent. Rather, the influence of a resource in conflicts needs to be understood in historical terms” (Bercovitch et al, 2009, Part II, Chapter 2). Hence, we can conclude that any conflict prevention warning system that uses resources as an indicator should place a strong emphasis on the analysis of what this indicator means in the context of this particular conflict at this particular time as well as provide longitudinal data to track historical changes of resource use.

Addressing resource scarcity may also play an important role in the response aspect of preventing violence in conflicts. For example, Lund lists several conflict prevention tools and one of the “hands on” targeted structural actions (which are those that address basic societal, institutional and policy factors affecting conflict and peace) that he lists is natural resource management (Bercovitch et al., 2009, Part III, Chapter 1).

What exactly is meant by natural resource management and what types of management may contribute to the prevention of violent conflicts? We posit here that there are two distinct types of natural resource management policies and mechanisms that may make a meaningful contribution to the prevention of violent conflicts: 1) those that divide resources in a fair and equitable way between those parties that desire said resources (i.e. resource sharing), and 2) those that manage natural resources in such a manner that they will alleviate poverty.

There are several situations in which an abundance of resources is likely to trigger violent conflict. Much of the violence in the Democratic Republic of Congo, especially the Kivu's, can be attributed to the perceived need to control Kivu's resources. The conflicts in Sierra Leone and Angola were prolonged as many of the parties to the conflicts vied for control over diamond mines. The violence in Nigeria is in part attributable to the abundance of petroleum reserves and the competition between groups for access to oil rents. The separatist conflict in Katanga, Republic of Congo can also be partly attributed to the discovery of significant copper, gold and uranium deposits. It must also be taken into consideration that the type of abundant resource can have an impact on the method of fighting. An easily lootable resource, such as diamonds, tends to create situations in which warlords emerge to oppose government forces. Warlords are most likely to arise to power in regions with easily lootable resources and that are away from the centre or seat of government power (Tschirgi, 2004, pp. 379-380). Resources which require extensive extraction and transportation practices, tend to spark separatist conflicts.

Conversely, in situations in which there is resource scarcity, the trigger to violent conflict is not necessarily the scarcity of the resource rather the lack of social capital to use that resource more wisely and effectively. Tamas argues that researchers and early warning systems must distinguish between the causes of the scarcity and whether it is a perceived scarcity, or an actual scarcity of a resource. There are situations in which there is intentional reduction of access to a particular commodity, be it a resource, a political deliverable, or a social resource (Tamas, 2001-2003, p. 11).

This provides monitors, researchers, aid agencies and governments with insights as to kinds of indicators necessary for early warning systems. The types of resources available in a given region need to be considered as well as the availability of specific kind of social capital. The knowledge and skills required to further develop a particular resource in an appropriate manner need to be taken into account. If there is water scarcity in a given locale but sufficient human capital to use that resource in an innovative way, and distribute that resource along broadly equitable lines, then the likelihood of violent conflict is reduced. The intersections of political, social, economic and ethnic competition for possession and exploitation of particular resource, to the exclusion of everyone else, significantly increases the likelihood of violent conflict. Weak social capital also tends to be an indication of high poverty levels, as there is little skill diversification. Again, poverty in and of itself does not cause violent conflict. The perceived inequality of distribution of social goods and economic goods, can in some situations, serve as class mobilizers or ethno-class mobilizers, which may contribute to the formation of violent conflict.

The reasoning here is simple. In the first case, violent conflict over access to and control of natural resources will not likely occur because those parties that would likely wage the conflict no longer have a valid reason for doing so. In the second case, the reasoning is that if the parties are wealthy they will not wage violent conflict and this notion is based on the findings of one recent study which argues that:

the most robust finding on the causes of war by researchers is that the higher the per capita income a country enjoys, the lower its risk of armed conflict. This is why most wars take place in very poor countries. The evidence for this war-poverty association is overwhelming (Human Security Report Project, 2007, p. 6).

What examples, if any, are there of these two types of natural resource management policies effectively being used to help reduce the outbreak of violent conflict? Four examples are presented here.

One example stems from the case of Haiti:

For years, severe environmental problems have been among the roots of Haiti's social, economic and even political crises. Following the devastating floods of May and September 2004, which killed approximately 3,000, Crisis Group warned that the ecological disaster was a "time bomb" that needed

to be addressed to prevent new instability. Subsequent governments have not had sufficient commitment and strength to tackle the situation comprehensively. Consequently, Haiti in 2009 risks further economic decline and possible political destabilization, compounded by the impact of the global financial crisis (International Crisis Group, Briefing No. 20, 2009).

Consequently, the same report argues that, “beginning to halt the depletion of the natural environment and factoring the social and economic consequences into national policy must be an integral part of the strategy to prevent new instability” (International Crisis Group, Briefing No. 20, 2009).

Another example arises from the experience of the Green Belt Movement, throughout Africa. The Green Belt Movement started in 1977 by planting seven trees on World Environment Day. The Green Belt Movement identified rural African women as being some of the most vulnerable populations of resource depletion. As these women were extremely dependent on water and forest resources for their basic survival, the Green Belt Movement taught simple environmental stewardship techniques to rural African women:

The experience of the Green Belt Movement underscores the link between the environment, development, democracy, and peace. A country cannot develop where there is no peace; peace, in turn, will not prevail if resources are mismanaged or put in the hands of a few at the expense of many. Finally, sustainable development and peace can only be ensured if citizens participate in protecting and restoring their environment and demanding a place at the decision-making table. Understanding these indivisible links is critical to promoting sustainable development. [...] The goal of the partnership is to promote economic development and alleviate poverty through conservation programs in the region, improve local governance through natural resource conservation, and enhance resource management through control of illegal logging and wildlife poaching (Maathai, 2008, p. 27).

The third example stems from the case of the Nile Basin:

The Nile Basin is an unlikely example of conflict prevention. Many of the countries in the volatile region are beset by high levels of civil conflict, and their widespread dependence on the Nile’s waters have led many to flag this river basin as the most likely to experience international water wars. Yet for the past nine years, the basin’s riparian states—Burundi, the Democratic Republic of the Congo, Egypt, Eritrea, Ethiopia, Kenya, Rwanda, Sudan, Tanzania, and Uganda—have convened the ministerial-level Nile Basin Initiative (NBI) to develop a shared vision of sustainable use of those waters. The initiative centers around eight “Shared Vision” projects—including the Regional Power Trade, Water Resources Management, and Efficient Water Use for Agriculture projects—meant to foster trust and encourage investment. While formally framed as a development enterprise, these efforts also implicitly serve as a means to prevent conflict predicated on environmental interdependence. However, the NBI process is not without its critics, and issues of transparency and wider stakeholder participation remain concerns (Dabelko, 2008).

The fourth and final example is based on Lake Tanganyika:

The multi-country Lake Tanganyika project was designed in the early 1990s as one of the first GEF projects. The East African lake is the second deepest lake in the world, with globally significant biological diversity. [...] Of additional significance is that since the end of 1999, the Lake Tanganyika region governments were discussing the fourth draft of an international treaty (entitled, 'The Convention on the Sustainable Management of Lake Tanganyika') to affirm their political support for the restoration and protection of the Lake Tanganyika ecosystem. The draft convention would establish a Lake Tanganyika Authority consisting of a joint Management Committee and a Secretariat to assist

the nations in operationalizing sustainable management of the lake, in conserving its biological resources and in reversing degradation of the catchment area draining to the lake (Uitto and Duda, 2003, p. 369).

In sum, resources have played a role in the trajectory of many different conflicts around the world. The four cases above also illustrate that an equally diverse number of resource management policies have been utilized. Despite the wide variance in the specific details of these policies, they all appear to be centred on two common themes: 1) sharing or dividing resources in an equitable manner, and 2) utilizing resources in a way that aims to build broad based wealth.

### **Monitoring of Resource Scarcity**

In a previous section, it was argued that resource scarcity in addition to weak social and human capital, collectively contribute to an increased likelihood of violent conflict. In efforts to monitor these conditions, there are several variables which are situation-specific which need to be taken into account. The first set of variables pertain to the resources themselves. Which resources are physically available on location and what is the nature of the nature. The available or scarcity of resources can be measured according to use or need on a per capita basis, the amount of people per square kilometre and size of mineral or oil deposits, as measured in cubic meters or tons. The size of a mineral or oil find is important as it serves as an estimate of current or future worth of a resource. The larger the finds which remain to be economically exploited, the more likely a group will want to control the resource. If a particular mineral deposit or oil find is small, and requires intensive development, there may be less interest from groups in controlling it.

As argued in the first section, the type of resource has a direct impact on the type of violence, should a situation escalate to violence. Easily lootable resources tend to create circumstances in which warlords emerge and resources which require significant capital to exploit, such as the building of large mines or pipelines, tend to generate separatist conflicts. A second series of variables pertain to social capital and social composition of specific region. These variables include the quality of relations between ethnic groups, diversity of skills, power relations between genders, classes, ethnic groups, and other social categories, as well as social infrastructure, meaning the degree to which the people living within a particular region feel as though they are one group. This may also be called social cohesion.

Tamas presented several types of resource scarcity Early Warning Models. Four models of early warning were identified (Tamas, 2001-2003, p. 11). They are:

1. Correlation Model such as the Minorities at Risk
2. Sequential Models which follow a particular series of events which increase or decrease the likelihood of violent conflicts.
3. Conjunctual Models which identify alternative scenarios. The purpose of these models, according to Tamas, is to focus on how a conflict can intensify.
4. Response Models, which according to Tamas, intend to anticipate responses and identify ways of strategic intervention.

In terms of monitoring tools, UN Water has a set of key indicators used to determine access to water, water scarcity and sustainable development of water resources. While this model was not designed for the express purposes of monitoring water resources for the prevention of violent conflict, this model may serve as a good basis to further develop such a model. The UN Water indicators are divided into three categories: i) context, ii) performance, iii) governance. Each of these categories is further specified for purposes of monitoring. In the "Context" category, the following indicators are monitored (UN Water, website):

1. Total actual renewable water resource
2. Storage capacity
3. Importance of national expenditure for water supply and sanitation

In the “Function” category of this index, the following sub categories are monitored:

1. Intensity of use
2. Relative importance of water to other sectors
3. Change of inland fish production (which takes into consideration aquaculture)

In the “Performance” section, UN Water monitors the following variables:

1. Percentage of population using improved drinking water
2. Percentage of population using improved sanitation facilities
3. Change in water productivity in agriculture
4. Change in water productivity in industrial sector
5. Change in hydropower productivity
6. Change in the quality of aquifers
7. Waste water treatment
8. Trends in freshwater species

### **Resource scarcity during the post-violent conflict stage**

Resource scarcity is not only a relevant concern before a conflict has turned violent, but it is also a consideration for preventive work which takes place after a violent conflict has already occurred. That is, if this factor was a major cause of the violent conflict in the first place, then it must be adequately addressed in order to minimize the chances that it may play a role in the re-eruption of further violent conflict.

This is an important consideration as it has been found that, “intrastate conflicts that are associated with natural resources are twice as likely to relapse into conflict in the first five years” (UNEP, 2009, p. 8). Moreover, less than a quarter of peace negotiations aiming to resolve conflicts linked to natural resources address resource management mechanisms (UNEP, 2009, p. 30). Clearly, natural resources should be managed in order to help prevent the reoccurrence of future violent conflicts in cases where this was a factor in the outbreak of the violent conflict, and one of the simplest steps to take towards this end would be to build resource management mechanisms into the peace agreement.

However, to further appreciate the task of preventing the recurrence of violent conflict when resource scarcity is a concern, it is necessary to consider how the conflict itself contributed to the scarcity of resources and environmental degradation in the first place. For example, a growing body of research indicates that conflicts in and of themselves contribute to environmental degradation, for reasons indirectly related to the fighting. One way in which this occurs is that the displacement of internationally displaced people and refugees puts additional strains on local environmental resources and infrastructure.

In 2005, Tanzania was home to the world's fourth largest refugee population. Tanzania has hosted refugees for several decades, particularly Burundi and Congolese refugees. It was noted in a 2008 United Nations High Commission for Refugees report, that deforestation and significant degradation of forest resources, had been consistently reported in Western Tanzania, where most of the refugees were located. The additional population coupled with lack of basic human infrastructure worsened environmental conditions. An increase in forest fires, water scarcity and illegal harvesting was reported in four villages, though not all environmentally harmful activities were attributed to the refugees (Berry, 2008, p. 7).

The situation in Guinea is equally concerning. Guinea has hosted thousands of refugees fleeing the conflicts in Sierra Leone and Liberia for nearly two decades. Refugees have located in both urban and rural areas. As a direct consequence of hosting so many refugees, local customs around land use have been modified. Land is lying fallow for far shorter periods of time, leading to soil depletion. The significantly higher demand for arable land has led to an increase in deforestation and a diminution of water resources. This has been coupled with a loss of biodiversity due to loss of habitat (UNEP, 2000, pp. 10-12).

Thus, the environmental consequences of war should not be thought of as being location-specific – of where the bombs drop. Rather, the environmental consequences of violent conflict should be thought of in horizontal terms, following those fleeing the carnage and violence. Moreover, the social aspects of conflict, human security concerns, and the potential for flash points of violence, should also be considered along a horizontal axis – following the internally displaced and the refugees. Significant influxes of populations, particularly into socio-economic conditions with weak human security infrastructure, places additional hazards and risks onto the local populations. How the conflict impacts their human security, well being, and environment should also be taken into consideration when fully assessing the consequences of a conflict.

The above discussion has illustrated that conflict can contribute to resource scarcity and environmental degradation, and thus any efforts to prevent the re-occurrence of violent conflict need to take this past history into consideration. Also, as noted earlier, resource management mechanisms should therefore be built into a peace agreement and there are a few, but not many, examples of this.

For example, Article 26, Section H of the 1996 Peace Agreement between the Republic of Sierra Leone and the Revolutionary United Front of Sierra Leone (RUF/SL) specifically states that monopolies will be prevented from forming in the resource extraction sector. Additionally, Article 26 states that the parties agree to cooperate on general socio-economic improvement for all of Sierra Leone's citizens.

In another example, a resource distribution mechanism was included in the peace settlement with the separatist movement in the province of Aceh, Indonesia. In this case, the Indonesian government agreed to remit seventy percent (70%) of Aceh's petroleum revenue (PILPG, 2007). Aceh then has full control and authority on how to disburse those funds.

A third and final example of building a mechanism for natural resource management into a peace agreement stems from Sudan's *Agreement on Implementation Modalities of the Protocols and Agreements* which forms part of the March, 2005 Comprehensive Peace Agreement, which is, in turn, a collection of agreements agreed to December 31, 2004 and signed, in a formal ceremony, on January 9, 2005 (United States Institute of Peace, *Peace Agreements: Sudan*). Most notably, for our present purposes the agreement on wealth sharing is of particular interest. Within this agreement there are a number of activities related to wealth sharing which are listed under the following headings: Land Ownership, Oil Resources, Existing Oil Contracts, Sharing of Oil Revenue, the Sharing of non-Oil Revenue, and so on (United States Institute of Peace, 2004, pp. 43-66). Under the heading of Oil Resources, the agreement calls for consultation and participation of communities in the management of natural resources plus the establishment of a National Petroleum Commission (NPC) which is tasked with the duty of reviewing current relevant legislation in oil sector so as to bring it in line and to comply with the Comprehensive Peace Agreement (United States Institute of Peace, 2004, pp. 44-46). Moreover, under the heading of Sharing of Oil Revenue, the agreement calls for a fairly elaborate sharing system to be established by completing the following steps:

1. Define net revenue from oil.
2. Establish a system to monitor daily production of oil in all Sudan.
3. Reveal to the Sudanese Peoples Liberation Movement (SPLM) production sharing formula between Government of Sudan (GOS) and oil concessions.
4. Agree on a mechanism to monitor Oil Revenue Stabilization Account (ORSA).
5. Agree on the benchmark price for 2005.
6. Agree on the annual benchmark price.

7. Establish a system to calculate and monitor net oil revenue.
  8. Transfer of (2%) of producing State share of net oil revenue.
  9. Transfer of the GOS share of 50% of net oil revenue.
  10. Establish Future Generation Fund.
- (United States Institute of Peace, 2004, pp. 47-52).

### Monitoring of Resource Scarcity Costs

The costs for monitoring a particular resource depends on several factors, including but not limited to the number of variables which need to be monitored, the method of monitoring, the frequency of data input and whether or not there is local expertise which can be utilized for the purposes of monitoring. Danielsen et al argue that the costs of a bird monitoring project in the United Kingdom would take \$40 million USD annually. However, that particular project is undertaken by volunteers who contribute more than 1.6 million hours annually, effectively reducing the costs of monitoring (Danielsen et al, 2009, pp. 35-37). Other monitoring programs, such as the Water Action Volunteers, extensively use local residents for active participation in the monitoring process of local water ways (Water Action Volunteers, 2009).

The examples of volunteer-driven monitoring do focus on one particular resource in a very specific region. While these projects are done in locations with sufficient infrastructure for the communication and tally of results, other methods of combing the collaborative efforts of volunteer activities, community groups and professionals for the targeted micro-grants, targeted interventions and peace building. As society is composed of many different actors, collaborating with a broader array of local actors, not only for data collection, but also solution implementation, may yield broad, positive and long terms impacts. Relative (in)access to one resource may be insufficient to motivate local groups for violent conflicts. Relative (in)access to a local resource, in combination with other factors such as class power or isolation of a social group, may be sufficient in some cases to generate a violent conflict. Designing such a monitoring tool and tailoring it to meet specific local needs may prove beneficial for the monitoring of not only the likelihood of a violent conflict developing but also the charting the development of social capital and social linkages required for more comprehensive sustainable development.

To summarize, resources clearly play an important role in the lasting resolution of violent conflicts which is achieved, in part, by aiming to prevent further violence from erupting. When considering these effects, a broad perspective should be employed. Then, based on this broad perspective, specific preventive actions such as building natural resource management mechanisms into the peace agreements can be identified. The examples above further illustrate that the exact shape and structure of these resource management mechanisms can vary widely.

### Policy Recommendations

Broadly speaking, the policy recommendations stemming from the above discussion of resource scarcity and the prevention of violent conflict are quite simple: reduce poverty through profitable environmental stewardship and equitable access to resources while continuously monitoring the situation for warnings that violent conflict may become more likely because of resource scarcity. In other words, there is a need to build *Environmental Security*, which Gleditsch has defined as, "...the freedom from environmental destruction and resource scarcity" (Crooker, 2007, p. 178).

Similarly, Le Billon states that:

based on most of the available literature, poverty alleviation is an essential ingredient in reducing conflicts. Doing so in a way that address group-based inequalities is also important, even if debates

about linkages with conflicts remains debated. A strong growth rate thus appears as one of the best avenues to avoid conflicts, especially with respect to the long-term security poorest countries. This is where attention should be mostly devoted (Bercovitch et al, 2009, p. 220).

Moreover, in-line with the philosophy guiding the design 4G early warning systems, the monitoring of the situation should be the responsibility of local actors. This consideration becomes especially relevant when the statement made earlier in this paper that resource scarcity, as a conflict warning indicator, needs to be interpreted within the context of that particular conflict and its previous history is factored in. This, of course, being two specific types of information that local actors may be more privy to than their international counterparts.

In more practical terms, however, achieving these three inter-related objectives would likely be difficult to achieve. As with any effort to prevent violent conflict, mobilizing the needed political will in order to seize opportunities for undertaking new preventive activities will likely be a challenge.<sup>5</sup> Thus, for any given conflict that currently has a resource element associated with it, the proper groundwork will need to occur in order to ensure interest in monitoring the conflict is built and funds are secured for undertaking the preventive work. Moreover, even if sufficient funds and interest could be generated, another obstacle to consider stems from the actual process of undertaking poverty reduction through environmental stewardship while working for equitable access to resources. For example, multiple case studies illustrate the difficulty with effectively addressing conflicts with some sort of natural resource dimension and this has been well-documented.<sup>6</sup>

In sum, while the policy recommendations may appear to be simple, their implementation may prove to be much more challenging because of the various obstacles that must be overcome. Nevertheless, despite these challenges to effective prevention we remain optimistic. Accordingly, we share the view of Lawrence Woocher from the United States Institute of Peace who states in a recent report that, “preventing violent conflict is, indeed, difficult, and the challenges to advancing the prevention agenda are formidable. But they are not insurmountable. Consistent deployment of effective conflict prevention strategies is possible” (Woocher, 2009, p. 15).

## Conclusion

Resource wars have occurred in the past, are occurring now, and will likely continue in the future -- they may even become more frequent in the coming years as the demand for resources spikes while the supply diminishes. Conflicts in which resources play a role present unique challenges and opportunities for those interested in preventing the outbreak of violence in these situations. First of all, the effective prevention of violent conflicts requires that there is some type of warning, and resource scarcity can become an indicator, that when interpreted historically and contextually, can help predict the possible outbreak of violent conflict.

Secondly, resources should be managed in order to help prevent the outbreak of violent conflict and to prevent the reoccurrence of more violence in those conflicts which have been previously resolved. In the first case, dual policies aimed at fair and equitable resource sharing plus managing resources in a manner that alleviates poverty may be most effective for preventing the outbreak of violent conflict. In the second case,

<sup>5</sup> See Alice Ackerman, “The Idea and Practice of Conflict Prevention,” *Journal of Peace Research* (2003); Lawrence Woocher, “Deconstructing ‘Political Will’: Explaining the Failure to Prevent Deadly Conflict and Mass Atrocities,” *Journal of Public and International Affairs* (2001); and I. William Zartman, *Cowardly Lions: Missed Opportunities to Prevent Deadly Conflict and State Collapse* (Boulder: Lynne Rienner Publishers, 2005).

<sup>6</sup> United Nations Environment Program (UNEP), *From Conflict to Peacebuilding: the Role of Natural Resources and the Environment* (Nairobi: UNEP, 2009). For violence between groups who had competing livelihood strategies and thus different use for resources see El Faith Siddig and Khalid El-Harizi, *Managing conflict Over Natural Resources in Greater Kordofan* (Sudan: International Food Policy Research Institute, 2007), 9-13 and Stephen R. Tyler, “Policy Implications of Natural Resource Conflict Management” in *Cultivating Peace: Conflict and Collaboration in Natural Resource Management* ed. Daniel Buckles (Ottawa: IDRC/World Bank, 1999).

violent conflict may be prevented if the peace agreement can address natural resource management by building mechanisms for this into the agreement.

Furthermore, these concepts can be integrated into a specialized warning and response system whereby local actors are primarily responsible for monitoring warning indicators that violent conflict may erupt and then enabled to act should the warning signs tell them that responses are warranted. One recent report concludes that, “integrating environmental management and natural resources into peacebuilding, therefore, is no longer an option – it is a security imperative”, and based on the discussion presented in this paper on resource scarcity and the prevention of violent conflicts, those charged with this task would be well-advised to give consideration to the environmental and resource factors (UNEP, 2009, p. 6).

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## The Moral Responsibility of the United States: Reading Barack Obama's Prague Speech

Kenji Urata\*

### Hradčany Square

Shortly after taking office, President Barack Obama visited Prague, the capital of the Czech Republic, and delivered a 28-minute speech to a crowd of over 20,000 in Hradčany Square, starting at sometime past 10:00 a.m. on April 5, 2009. According to the White House Press Office, the speech was part of “a strategy to address the international nuclear threat.”<sup>1</sup> In his remarks, the president said that for its atomic bombings of Hiroshima and Nagasaki the US has a “moral responsibility to act” to bring about a world without nuclear weapons. This is an historic landmark in American politics. Not only did the president set forth a strategy to address the nuclear threat to nuclear powers and allies, but he also pledged to the world's people that the US bears a “moral responsibility to act.”

For two days, beginning on April 6<sup>th</sup>, the Carnegie Endowment for International Peace hosted the 2009 Carnegie International Nonproliferation Conference, “The Nuclear Order—Build or Break,” in Washington, DC, with the attendance of over 840 people from 46 countries, including high-ranking government officials, policy and technology experts, academics, and journalists.<sup>2</sup> But at least from listening to and reading through the record released on the website, there was not a single panelist who delved deeply into what “moral responsibility” the US has for having used atomic bombs, or into the nature of that responsibility and how it should be assumed. Was this because it was a “nonproliferation conference”? Or was it because Obama's new thinking was absent from the Carnegie Endowment for International Peace's plan from the outset?

President Obama's Prague speech forces the world's people to consider the moral responsibility for using nuclear weapons that the US has admitted to and accepts, so that humankind may survive the current nuclear age and into the future. When it is perceived in this way, the Prague remarks have a significance for the history of humankind. I can say this: The responsibility spoken of here is a new responsibility for the nuclear age, and is also the biggest responsibility. Well, then, what are the moral, political, and legal meanings of this new responsibility for the nuclear age? That is what I want to explore. If the verb “read” in my subtitle, “Reading Barack Obama's Prague Speech,” is taken to mean decipher, then that would mean “read while

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<sup>1</sup> [http://www.whitehouse.gov/the\\_press\\_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered/](http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered/)

<sup>2</sup> The 2009 Carnegie International Nonproliferation Conference: “The Nuclear Order—Build or Break,” <http://www.carnegieendowment.org/events/nppcon2009/>.

interpreting.” And interpretation is also the task of pinning down the meaning of words within a certain context. Following a correct interpretation is a necessary condition for correct practice. I shall now proceed to the subject at hand with that awareness.

### Getting to the Heart of Obama’s Remarks

Obama’s speech contains the following two paragraphs:

Just as we stood for freedom in the 20th century, we must stand together for the right of people everywhere to live free from fear in the 21st century. (Applause.) And as nuclear power — as a nuclear power, as the only nuclear power to have used a nuclear weapon, the United States has a moral responsibility to act. We cannot succeed in this endeavor alone, but we can lead it, we can start it.

So today, I state clearly and with conviction America’s commitment to seek the peace and security of a world without nuclear weapons. (Applause.) I’m not naive. This goal will not be reached quickly -- perhaps not in my lifetime. It will take patience and persistence. But now we, too, must ignore the voices who tell us that the world cannot change. We have to insist, “Yes, we can.” (Applause.)<sup>3</sup>

There have been only two other times when the president of the United States proposed the abolition of nuclear weapons. Harry Truman, in his proposal to the United Nations General Assembly in 1946, just after the Second World War, argued for putting all nuclear energy under international control, and using it solely for peaceful purposes, but it did not come to pass. The Soviet Union under Stalin had decided to develop the atomic bomb and had no interest in accepting that proposal. The second such proposal was made at the Reykjavik Summit in Iceland in 1986. U.S. president Ronald Reagan and Soviet Premier Mikhail Gorbachev came within an ace of agreeing to full nuclear disarmament, but it fell through because of Reagan’s Strategic Defense Initiative. Reagan wanted to persist with the SDI, which was unacceptable to Gorbachev. Since that time it has been generally agreed that the nuclear deterrence strategy is unavoidable for the greatest civilizations.

On this recent occasion, Obama stated unequivocally to the world that the US has a moral responsibility to act to bring about a world without nuclear weapons. He admitted the “responsibility of the US” at a time when the survival of humanity is an urgent imperative. This is the third such proposal by a US president, and a landmark in US political history. But that is not all — it is a landmark event in the history of the world and the history of humankind. What does this mean? Some people express views which earnestly praise the proposal,<sup>4</sup> but there are doubts about whether that alone is all right. I would like to read the implications of these words in the context of the nuclear age.<sup>5</sup>

### The Nuclear Age at Present

More than a year before the nuclear age began, the Danish nuclear physicist Niels Bohr foresaw the terrifying destructive power of the nuclear bombs under development, and discerned that it would create a world where humankind faced a crisis of extinction.

<sup>3</sup> Op. cit., note 1.

<sup>4</sup> See for example, C. G. Weeramantry, Response to President Obama’s Prague Speech: Bridging the Vision and the Corridors of Power, April 20, 2009. <http://lcnp.org/disarmament/2009April20Weeramantry.pdf>

<sup>5</sup> On the concept of the nuclear age, see especially Shingo Shibata, *The Nuclear Age I: Thought and Outlook* (Aoki Shoten, 1987), pp. 113–118. On the formation of the concept of “nuclear age” in the Soviet Union, see pp. 280–288.

So, what is the nuclear age? As this is related to views of history, it is a matter of whether historians recognize the concept of a nuclear age. Those who started working with this concept early were natural scientists (such as Albert Einstein, Hideki Yukawa, Mitsuo Taketani, and Toshiyuki Toyoda), the literati (Kenzaburo Oe), and international political scientists (Yoshikazu Sakamoto). A historical scientist dealing with this was Seiji Imahori, but in historical science it appears that this concept has yet to gain acceptance. However, the concept of the nuclear age should be clearly specified in the history of philosophy, as argued by the philosopher and sociologist Shingo Shibata in the January 1984 issue of the *Journal of Historical Studies*.

The concept of the nuclear age can be described as follows along the lines of Shibata's summary.

- The emergence of the milestone scientific revolution called nuclear physics
- The emergence of nuclear energy as a technological revolution by applying nuclear physics
- Existing production relationships — including that of existing socialism — cannot mesh
- Therefore, the political superstructure — including that of existing socialism — cannot mesh
- Further, ideologies cannot mesh, and people are bound by old-fashioned ways of thinking
- As a result, the rulers and power-holders of the nuclear powers are capable of using nuclear energy only as the absolute violence of nuclear weapons, or more accurately, a “world system for exterminating humanity.”
- Such an age may perhaps be specified as a time when all life and cultures go extinct, and history ends.

This is how Shingo Shibata explained how the “nuclear age” concept comes into existence based on the “formula of the materialistic view of history,” but he said he wanted people to understand that the formula itself requires a number of reservations.<sup>6</sup> He made the following statement on “the possibilities of world history” in 1980:

Since August 6, 1945 the history of the world has been that of unlimited struggle between “the first crime of humankind’s extinction” and “acts to stop humankind’s extinction.” [...] We must re-conceive world history as a struggle between the two possibilities of “extinction” and “survival,” reform the image of world history, mobilize all of humankind in a “mobilization for survival,” and by that means abolish the “world system for exterminating humanity.”<sup>7</sup>

There is something here which appeals to people who are living the present as historical entities: We are shown the importance of choosing the theme of social struggle in the real world by knowing the world-history possibilities of the nuclear age.

Here is how I see it. At this time, 64 years after the atomic bombings, the Soviet Union nuclear superpower has already been dismantled. Nuclear weapons, that is, the “world system for exterminating humanity,” have brought forth a new view of the “nuclear threat” among the rulers and power-holders of the US nuclear superpower. The US and Russia together have 95% of the world’s nuclear weapons, but the current situation no longer allows their maintenance. At the same time, it has also become evident that the existence and reinforcement of nuclear weapon systems can no longer avoid the intensification of contradictions in domains such as imperial economy, politics, society, and culture. The US dollar, which has been the key currency of the post-Second World War world, is no longer subject to the management and control of the US government amid economic globalization, and that created an unprecedented financial crisis. This indicates that the conditions for the continuation of the US-style capitalist system no longer exist. Can the mode of control by the capitalist system stop the advance of a global panic by transitioning from the G8 to the G20? In this nuclear age it appears that the prospect for sustainable development has vanished, and nuclear weapons could suddenly bring the end of human society. In this context, the sense of crisis about humankind’s survival,

<sup>6</sup> Op. cit., p. 123.

<sup>7</sup> Op. cit., pp. 88-89.

including the “nuclear threat”<sup>8</sup> as a catalyst to help realization, was partially reflected in Obama’s Prague speech.

### A New Issue in the Debate on Responsibility

Various religious, political, scientific, and legal institutions have contributed to the debate surrounding the issue of nuclear arms and responsibility to date. The Vatican, for example, clearly interested in questions of morality, lamented the atomic bombing of Hiroshima immediately after it happened – much earlier than other European or North American institutions; however, the Catholic Church’s stance on the responsibility for the bombing is still somewhat unclear. For their part, the Japanese government (the government of the Japanese Empire) issued a statement saying that the “new type of bomb” violated present international law on war.

In time, scientists advocated a new theory of responsibility in various forms. A scientific view of social responsibility emerged, with a strong moral character.<sup>9</sup> Beyond a general code of ethics for professional associations and the cultural influence of key scientific personalities such as Albert Einstein, however, scientific concepts of morality and responsibility regarding the creation and use of nuclear weapons have remained marginal to the legal and political debate.

Over 30 years after the 1963 Shimoda Case Decision in Japan, the International Court of Justice (ICJ), a specialized body of the UN, issued an advisory opinion in July 1996,<sup>10</sup> but legal scholars used a method of identifying legal infringements associated with the bombings, and published research that affirmed the tort liability of the atomic bombings.<sup>11</sup> Further, an international people’s tribunal found that those who dropped the bombs had committed war crimes, and crimes against humanity.<sup>12</sup> A very small number of scholars of international law have long pointed out the criminality of using nuclear weapons.<sup>13</sup> But in the area of international law dealing with state responsibility, it appears that international law studies has yet to delve deeply into the matter of responsibility for nuclear weapons use.

On the usual thinking about responsibility, I would like to focus on the following point because I think it is important for an in-depth discussion on moral responsibility at this time:

Since early modern times human autonomy has been emphasized, and finally in the modern period, when the “death of God” was pronounced, the essence of the concept of responsibility of course had to change. In considering responsibility as response, the question is who, to what, and before what... Further, as basic conditions for constituting responsibility, [the objectivity] of values and the identity of personal character are requirements.<sup>14</sup>

<sup>8</sup> It is notable that according to the White House, Obama’s Prague speech “announced a strategy to address the international nuclear threat.”

<sup>9</sup> Junzo Karaki, *A Memorandum on the “Social Responsibility of Scientists,”* (Chikuma Shobo, 1980) (in Japanese); CG Weeramantry, *Nuclear Weapons and Scientific Responsibility*.

<sup>10</sup> John Burroughs, *The Legality of Threat or Use of Nuclear Weapons*.

<sup>11</sup> For example: Kenji Urata, “A Study of the Illegality of the Use of Nuclear Weapons: An Overview of Charles J. Moxley’s International Law and Nuclear Weapons,” *Comparative Law*, 39:1 (Waseda University Institute of Comparative Law, July 1, 2005) (in Japanese).

<sup>12</sup> Held by the Executive Committee of the International Peoples’ Tribunal on the Dropping of Atomic Bombs on Hiroshima and Nagasaki on July 15–16, 2006, it found that the atomic bombings of Hiroshima and Nagasaki were serious “war crimes” and also brutal “crimes against humanity.” The entire text of the judgment was handed down on July 16, 2007. See: <<http://www.k3.dion.ne.jp/~a-bomb/indexen.htm>>

<sup>13</sup> Francis Boyle et al., *In re: More Than 50,000 Nuclear Weapons: Analyses of the Illegality of Nuclear Weapons Under International Law*, Northampton, MA: Aletheia Press, 1991.

<sup>14</sup> Wataru Hiromatsu, ed. *Iwanami Dictionary of Philosophy and Thought* (Iwanami Shoten, 1998), p. 938.

However, if one assumes that these two conditions cannot be advocated in a forceful manner, “it would be necessary to fundamentally transform thinking on values, personal character, and responsibility.” An example of that would be considering the responsibility for a war that happened before one was born.<sup>15</sup>

Incidentally, the 2009 Carnegie International Nonproliferation Conference, which I brought up at the beginning, had a panel discussion on its first day, April 6, called “International Expectations of the Obama Administration.” This lasted nearly an hour and 20 minutes, and one of the speakers (the second-from-last man) made the following statement:

I don't represent any government, but since we are talking about challenges and international expectations before Obama administration, there are two discrete steps Obama administration can take. This first one does not require going to Senate. It just requires some executive order by the president of the United States. And that is extending of formal, sincere, unconditional apology to the people of Japan about use of nuclear weapons in their country. That would be one model confidence booster that will generate confidence in the rest of the world. And that action has not been taken after five decades of the first use. And actually it's time for change and hope is now. It's on President Obama to meet that kind of sincere, formal apology which U.S. government has not given so far. It's symbolic, but it is important.<sup>16</sup>

The person spoke English with an Indian accent, and his name was inaudible, but I felt that he articulated one important way in which state responsibility for nuclear weapons might be assumed. There are two possible levels in the debate on responsibility for using nuclear weapons: that of moral responsibility, and that of state responsibility under international law. I hope that on both levels discussion will proceed further while taking a hint from the above statement.

Below I shall explore “the viewpoint of international law studies” and “political demands” for the purpose of gaining an awareness of the objectivity of new values, while learning from the achievements of axiology.

### The Viewpoint of International Law Studies

International law studies divide the obligation for disarmament into two categories. One is related to substance, and is the “obligation for conclusion,” meaning the achievement of abolishing nuclear weapons. The other is procedural, and is the obligation for an “implementation method” that will bring about this result, in other words, the obligation to negotiate in good faith.<sup>17</sup>

The obligation to bring about the result of nuclear disarmament was set forth in the 1996 International Court of Justice advisory opinion. This is shown with the term “unequivocal undertaking” in the 13 steps set

<sup>15</sup> For example, if one looks for the characteristics of Obama's doctrine of moral responsibility, one characteristic would specifically be the link with the doctrine of responsibility in Christianity. This approach should be used in a careful examination of whether the *The World Crisis and American Responsibility* (1974, first edition 1958), by Reinhold Niebuhr, a Protestant theologian who served as President Truman's unofficial advisor, upholds the preexisting thinking on this kind of responsibility, or changes it fundamentally.

<sup>16</sup> Op. cit., note 2.

<sup>17</sup> Mohammed Bedjaoui, “Good Faith, International Law, and Elimination of Nuclear Weapons,” translated from the French by Linda Asher and Peter Weiss (2009). III. The Double Obligation: to Negotiate and to Bring to Conclusion, pp. 11-18. <http://lcn.org/disarmament/2008May01eventBedjaoui.pdf>.

Also, in the book entitled: *Legal Obligation To Nuclear Disarmament?*, edited by Mohammed Bedjaoui et al., and distributed by IALANA-Germany, 2009, pp. 146-157. ISBN: 978-3-8370-9885-3.

See, Peter Weiss, “Remarks on Judge Bedjaoui's Keynote Address. ”

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<http://lcn.org/pubs/IALANA2009/Berlin%20Talk%20PW2.pdf>.

forth by the 2000 NPT RevCon. Obama's April 5<sup>th</sup> speech has the possibility of linking with this "unequivocal undertaking," specifically his statement that the US has a "moral responsibility to act" for nuclear disarmament.

Next, it is important to note that the duty to negotiate in good faith also appears in the ICJ advisory opinion, and is expressed in the 13 steps with the words "systematic and progressive efforts" to reduce nuclear weapons. Another job with regard to Obama's speech will perhaps be to understand his words "responsibility to act" in connection with this obligation, or interpret them in relation to it.

But because Obama's speech goes no further than identifying a "moral responsibility," much caution is required on this point. The task we are presented with is to once again undo the connections of the concept "responsibility" with the distinctions of morality, politics, and law, examine it logically, and build it anew. At the same time, another urgent and crucial task with regard to the nuclear weapons system, that is, the "world system for exterminating humanity," is to conduct an historical inquiry from a history-of-humankind perspective aimed at abolishing nuclear weapons.

### Political Demands

There is the question of what, for the time being, discharging the "responsibility to act" would entail. For example, after Obama, in his speech, calls for further nuclear arms reductions by the US and Russia, he says that "we will seek to include all nuclear weapons states in this endeavor." But Obama mentions nothing about his thoughts on when he would propose convening all nuclear weapons states for nuclear disarmament negotiations. He has indeed said that he will hold an international summit meeting next year to address the nuclear threat. But what is the substance of this pledge? We need an answer to the question of whether that summit will concentrate on the nonproliferation or nuclear weapons, or recognize that nonproliferation and complete nuclear disarmament are closely linked, and indivisible.<sup>18</sup>

David Krieger, president of the Nuclear Age Peace Foundation, makes a proposal for this conference to be held by Obama: "Organize to convene a meeting of all nuclear weapons states prior to the 2010 Nuclear Non-Proliferation Treaty Review Conference to negotiate a new treaty for the phased, verifiable, irreversible and transparent elimination of nuclear weapons." As a statement that in a political sense makes good use of the core of Obama's remarks, I think this is an appropriate proposal.

After Obama had been elected but before his inauguration, the Nuclear Age Peace Foundation proposed a 100-Day Nuclear Disarmament Agenda for the first 100 days of the Obama Administration. This agenda had three areas: First, "secure loose nuclear materials from terrorists"; second, "strengthen the Nuclear Non-Proliferation Treaty"; and third, "move toward a nuclear free world."

As soon as Obama took office, his administration published an agenda on the third area. The agenda established the goal of a nuclear weapons-free world, and said that the administration would pursue it. On April 1, in London, President Obama had his first talk with Russia's President Medvedev, and discussed nuclear disarmament and reductions. They agreed to perform their duties under Article 6 of the NPT. That was followed on April 5 by the landmark speech in Prague.

However, the Nuclear Age Peace Foundation expressed concerns about these two commitments: (1) "These include [Obama's] indication that the timeframe for achieving a world without nuclear weapons may be a long one, perhaps not in his own lifetime"; (2) "his emphasis on nuclear deterrence in the interim, although without indicating who is being deterred"; and (3) his full support for nuclear energy for the development of renewable energy sources.<sup>19</sup>

<sup>18</sup> Jonathan Schell, "Obama's Nuclear Challenge," April 15, 2009, *The Nation*, [http://www.thenation.com/doc/20090504/schell?rel=hp\\_picks](http://www.thenation.com/doc/20090504/schell?rel=hp_picks).

<sup>19</sup> "A 100-Day Agenda for Nuclear Disarmament: President Obama Scores High," by David Krieger, April 16, 2009, <http://www.wagingpeace.org/menu/resources/obama100day/>

These three are serious concerns about the Obama Administration until early April. Much wisdom and concrete action will be needed to put those concerns to rest. Such a struggle is being steadily advanced at the currently in-session Preparatory Committee meeting for the 2010 NPT Review Conference.<sup>20</sup>

## Conclusion

The core of Obama's Prague speech is revealed in the following words: "The United States has a moral responsibility to act [to bring about a nuclear weapons-free world]." The doctrine of responsibility appearing in these words is the first such commitment that has been public acknowledged by the US in the nuclear age. In the sense that it will be of use in spreading the objectivity of a new value — assuring the survival of humankind — it could define a new era in world history.

Unfortunately, the doctrine of responsibility itself is merely words, and is further limited to morality. Furthermore, throughout this speech as a whole, the overall message is that maintaining the status quo will be the Obama administration's way of dealing with the "nuclear threat" for the time being in the areas of military affairs and diplomacy, or politics, law, and culture. The Prague speech demonstrates hardly any proper awareness regarding the essential nature of the nuclear age.

As such, what is the question being put to us? It is the job of accurately determining, in a certain context, the meanings that can be implied by this doctrine of moral responsibility. Moreover, a policy-formation awareness is also needed. That would, for example, extend from the US budget,<sup>21</sup> Quadrennial Defense Review, Nuclear Posture Review, and the like to dismantling the very "world system for exterminating humanity." Only when we actively link this doctrine of moral responsibility to the doctrine of political and legal responsibility will it have the enormous significance it should.<sup>22</sup>

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<sup>20</sup> <http://www.un.org/disarmament/WMD/Nuclear/NPT2010Prepcom/PrepCom2009/Events/events.shtml>.

<sup>21</sup> A New Era of Responsibility: The President's 2010 Budget Proposal, <http://www.scribd.com/doc/12919170/A-New-Era-of-Responsibility-The-Presidents-2010-Budget-Proposal>.

<sup>22</sup> Also see, Douglas Roche, "Obama Needs Friends on Nuclear Weapons" published August 19, 2009, [embassymag.ca](http://www.embassymag.ca). [http://www.embassymag.ca/page/printpage/obama\\_nuclear-8-19-2009](http://www.embassymag.ca/page/printpage/obama_nuclear-8-19-2009).

## President Obama and a Nuclear Weapons-Free World: A Dialogue

David Krieger and Richard Falk\*

Krieger: The last time that we got together to discuss nuclear weapons issues we were still in the final year of the Bush administration. Our dialogue focused on being at the nuclear precipice. We were reflecting on whether we were headed toward catastrophe or transformation. Now the Bush administration has left office, and been replaced by the Obama administration. President Obama has made a number of statements that reflect a different tone and a different set of objectives than were being pursued by the Bush administration. The question that I'd like to explore with you today is this: How seriously should we take the changes that are being proposed by the Obama administration? Do you see these proposals as a serious turning away from catastrophe toward transformation?

Falk: I think that this is a much more hopeful time to consider these various issues bearing on nuclear weapons and, at the same time, it's a rather confusing and complicated time. Of course it's appropriate and accurate, I think, to welcome the kind of rhetorical leadership that President Obama has so far exhibited, particularly in his Prague speech of April 5<sup>th</sup>. One has to hope that this is more than a rhetorical posture, but represents, as he said in the speech it did, a serious commitment to take concrete steps toward the objective of a world free from nuclear weapons. But one has to look at two other factors here that make me, at any rate, somewhat less optimistic about the real tangible results. The first is the continuing confrontation with Iran as a potential nuclear weapon state on the unspoken assumption that we still will be living in a world where some countries are allowed to have those weapons and others are forbidden. It would be a very different confrontation, from my perspective, if it was coupled with a call for a Middle East free from nuclear weapons altogether or a dual call to Israel and Iran that would take account of the existence of a nuclear weapon state in the region already. But as far as I can tell there is no disposition to do that.

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A second concern, it seems to me, is the degree to which the bureaucratic roots of the nuclear weapons establishment are still very deep in the governmental structure and very dedicated, as near as I can tell, to pursuing a path that has some of President Obama's rhetoric, but really aims at managing and stabilizing the nuclear weapons arsenals of the world and, particularly, the US arsenal. This would, in that sense, maintain this geopolitical structure of a world where some have the weapons and supposedly the great danger comes from the countries that don't have the weapons. I find that an untenable and basically unacceptable conception of world order in relation to this challenge posed by the continued existence of nuclear weaponry.

Krieger: You raise important concerns, and I think we should explore these. I've just returned from the 2009 Preparatory Committee Meeting for the 2010 Non-Proliferation Treaty (NPT) Review Conference. One of the things that I took note of there was that many of the countries in the Middle East were drawing attention to the fact that when the Non-Proliferation Treaty was extended indefinitely in 1995, at the same time there was a pledge on the part of all the parties to the NPT to work for a Middle East Nuclear Weapons-Free Zone. And these countries in the Middle East are now saying that in their view the indefinite extension of the treaty was contingent upon fulfilling the other promises that were made at the time, including a Middle East Nuclear Weapons-Free Zone. So I think that issue is going to have more and more salience because there are another dozen or so countries in the region that now want to pursue nuclear energy programs in their countries and are making reference to Article IV of the Non-Proliferation Treaty, which calls for them to get assistance in doing so. With regard to nuclear weapons, the Middle East remains one of the more unsettled regions of the world.

I agree with you that it's a significant problem that the United States and other leading countries in the world don't make reference to Israel's nuclear weapons, while at the same time trying to shut down Iran's program. One way of interpreting what is going on with the new administration, with President Obama, is that he is saying the right things rhetorically to give the impression that the United States seeks a world free of nuclear weapons, but he is not yet prepared—and it's a big yet—to make the difficult decisions that involve treating those we see as friends or potential foes with a single standard rather than a double standard. It is clear that if nonproliferation is an objective of the administration, it will not be obtained without doing away with double standards on the one hand and showing by action that the United States and other nuclear weapons states are serious about fulfilling their Non-Proliferation Treaty (NPT) Article VI obligations of actually moving toward a nuclear weapons-free world within a reasonable timeframe.

Falk: That is all very persuasive, but even in the Prague speech there's no hint of concern about this double standards problem as I read the speech. At a time when the new prime minister of Israel is visiting the United States and there is a discussion of the future of the relationship between our two countries, they talk about Iran and they talk about the Palestinians, but there's no willingness to raise the question of the regional nuclear weapons-free zone. Nor is there pressure for Israel to do something about its nuclear weapons arsenal if it expects the United States to exert pressure on Iran to forego that option. And from the point of view of the region, it's perfectly tenable to view Israel as a greater threat than Iran. Israel has attacked its neighbors on a few occasions, it has kept these weapons, it has even put them at the ready apparently in the 1973 war, and yet it's been given a kind of silent pass as far as retaining its nuclear weapons arsenal. So it's an important issue and I believe that it's our role in civil society to raise those uncomfortable issues that Congress is obviously unwilling to raise, the media is not very willing to discuss, much less press the issue of double standards or Israel's exemption from scrutiny with respect to nuclear weaponry. Unless

independent voices in civil society raise these issues effectively they won't be raised at all in my opinion.

Krieger: I agree with that. The question is: Should we be pushing for President Obama to call for a Nuclear Weapons-Free Zone in the Middle East and for Israel to be a party to that zone? Is that where our efforts should be focused, or should they be focused on taking some large steps, such as negotiating a new Strategic Arms Reduction Treaty with Moscow? The United States and Russia have most of the nuclear weapons in the world, so that is where a good deal of progress could be made at this moment. Other issues have been stalled for the eight years of the Bush administration, including the Comprehensive Test Ban Treaty, a Fissile Material Cut-off Treaty, gaining control of loose nuclear materials, and dealing with the potential threat posed by nuclear weapons falling into the hands of non-state extremists. There is space at this time for considerable progress on those issues before moving to some of the tougher issues. I would put a Middle East Nuclear Weapons-Free Zone into that tougher issue category, and a Northeast Asian Nuclear Weapons-Free Zone as well, dealing with concerns in North Korea, South Korea, Japan and China. There are many practical questions, such as which issues should we be focusing on now, which ones can come later, as we actually move towards zero? There seems to be some momentum now, at least in comparison to what we've had for the Bush years and largely for the Clinton years as well.

Falk: Yes, I think certainly there is a case to be made in favor of moving forward on these avenues of arms reduction and stabilization that have been blocked over a period when the conservatives controlled security policy for the US. But I'm convinced that unless the difficult issues are raised alongside these other issues, they will never be raised, and there is, I think, a quite serious urgency in the Middle East, to some extent in the Indo-Pakistan region, central and south Asia, as well as in the Korean peninsula that you referred to. And maybe one perspective to bring into the debate about next steps is to talk about these kinds of regional conflict zones, because they pose immediate problems that could lead to serious deterioration. There is the possibility that Pakistan could come under the control of very extremist leadership and that India would be very nervous by such a development, and one could have the first war between nuclear weapon states easily taking place. So I'm not convinced myself that these general denuclearizing steps should be privileged at this early stage of the Obama presidency. I think they should certainly be supported, but to allow them to dominate the political agenda at this stage is, in my view, a tactical as well as a strategic mistake.

Krieger: In the Prague speech, President Obama talked about the importance of moving toward a world free of nuclear weapons, but he didn't really indicate that it was something that needed to be done with a sense of urgency. He said something to this effect: "I'm not naïve; this may take a long time. It may not happen within my lifetime." Surely there is cause for concern in that lack of urgency because it's a deferral of the end state until some time in a future that can't yet be foreseen. And that's a similar point of view to what former officials like Kissinger, Shultz, Perry, Nunn and others are also articulating. They think that a world free of nuclear weapons would be a good thing, but they can't see "the top of the mountain," as they put it.

Falk: I disagree with you a little bit there. I think there is a difference between the visionary approach embodied in Obama's Prague speech and the very realist assessment of the status of nuclear weapons in the Kissinger, Shultz, Perry and Nunn statements. In their case, ironically, they see getting rid of nuclear weapons as a strategic benefit to the United States at this stage. They're

worried about the spread of nuclear weapons, which they don't think can be contained by the present nonproliferation regime, and they further believe that any further proliferation will neutralize whatever benefits nuclear weapons have had up to this point in serving American security interests since the end of World War II. Kissinger initially made his career as a policy advisor on the basis of advocating the reliance on US military superiority when it comes to nuclear weapons in confronting the Soviet Union, even endorsing the Cold War idea of 'limited nuclear war.' I believe Kissinger hasn't changed his worldview; he just sees, and I think probably correctly from a realist point of view, that the US military dominance would be less inhibited in a world without nuclear weapons.

Krieger: And the United States would be less threatened in a world without nuclear weapons because of the power imbalance that nuclear weapons make possible?

Falk: Yes.

Krieger: I agree with you that they're looking at nuclear disarmament from a realist point of view, and I think their greatest concern is that nuclear weapons could end up in the hands of extremist groups, which could lead to the destruction of United States' cities, inflicting serious harm on the country.

Falk: They're also concerned about proliferation because they don't want to see a lot of other countries having these nuclear weapons because then it would likely make the United States much more cautious in pursuing its overseas interests, especially when these involve military intervention. So it's partly vulnerability, but it's also partly military asymmetry that favors the United States that is at risk if further proliferation takes place.

Krieger: But nonetheless, I don't see that they have articulated or even suggested that this is something that can be done relatively quickly. Mayors for Peace have an agenda that calls for a nuclear weapons-free world by the year 2020. The Kissinger group only talks, at this point, about building a base camp to get to the top of the mountain. It has not talked about achieving the goal by a certain time, or even delving into that to look at what might be needed. Two things are needed if there is going to be a serious attempt to go from where we are now to zero nuclear weapons—whether driven by the former officials' view of the world or by President Obama's view of the world. The two things that are needed are: first, *political will* to go beyond a rhetorical commitment to actual action; and second, US leadership. Without US leadership the project is going to be stalled. If the US doesn't lead, Russia won't be particularly inclined to change its reliance on nuclear weapons more than it is being forced to do by economics, and other states won't be pressed to move in that direction. So, I see the real starting point is the United States now moving from the rhetoric that Obama has put on the table to the actual steps that will move us closer to a nuclear weapons-free world, not only in numbers of weapons but in how we treat the weapons, how we view them in our strategic outlook, and how much we rely upon them militarily.

Falk: Yes, I think those are certainly good ways of assessing the motivations associated with whatever steps are advocated by the United States in its natural position of leadership. I am a little bit less convinced that the US has this special vocation of providing the leadership. The most successful setting for real momentum toward the goal of elimination would be for mutually reinforcing developments to occur in the other nuclear weapon states, because that would both create a kind of encouragement here as well as not make others suspicious that this was a kind of US tactical,

Kissinger-like move to shift the pieces on the global chess board so as to give the US a tighter grip on world politics. So I would put a lot of emphasis on engaging the other nuclear weapon states in a more global process of denuclearization. I think it would be very good, for instance, to have speeches by other leaders that responded in some way to the Obama Prague speech, and to have civil society alerted and mobilized to a much greater extent than it is at present in these other countries to see this as a moment of opportunity—stark opportunity. I think as long as the climate in civil society is as passive as I believe it still remains, even here, there will not be much significant progress toward zero. There will be some progress toward stabilization and management and reducing the risks of unintended use of nuclear weapons or perhaps making them more secure in relation to non-state actors and other essentially managerial initiatives.

I believe quite strongly that without a movement from below there will be no challenge to the nuclear weapons establishment that is well situated in the governmental structure that operates from above. I think President Obama's political style is very much one of responding to pressure and not being willing to take big political risks to get out ahead of what he regards as the relation of forces within society. I think he's shown that in everything he's done so far, including his appointments to important positions, the way he has handled the economic crisis, the way he has handled the Palestine-Israel conflict. In all these areas he's taken a very low-risk, low-profile strategy except rhetorically.

Krieger: So that leaves us with an important question: Whether it's possible to generate such a citizen movement around this issue? Of course, that's the reason for being of the Nuclear Age Peace Foundation, and we've struggled with generating such a movement for 27 years and continue to struggle with it. I sense that Obama's rhetoric has made our job somewhat easier because it has alerted people to the possibility that there may be some hope. I think the years of Bush and to a lesser extent also Clinton before him, were on the side of the scale that tipped toward despair. When you tip toward despair of change, it's very difficult to engage people in action. So now, with Obama, because of his rhetoric, we have a better chance to build a movement from below. But, as you know, it's a difficult challenge to get people to directly confront nuclear issues and believe that they can have an effective voice in those issues. Even for civil society groups, like ours, that have been engaged for nearly three decades, it's not so easy to believe that we can have a strong influence on policy, partly for the reasons you mentioned earlier having to do with the entrenched bureaucracy that surrounds this issue and seeks to maintain at least some level of superiority, if not dominance, with regard to maintaining the weapons.

Falk: Yes, I think it is difficult, but unless that difficulty is overcome I think we have to guard ourselves against an orgy of wishful thinking because over this kind of issue it's very difficult to achieve meaningful change unless there is a sufficiently altered climate of opinion in the society. Some of that has occurred, as you point out, but I think there's a long way to go. It's not an issue that currently is very high on the public's agenda. There are other concerns that seem more immediate, and pressing, and in the past when the nuclear issue has become briefly prominent, the prominence has resulted from fear rather than hope. I don't know how strong a political pillar hope is as the basis of change. I'm not sure about fear either, which evinces concern but not often any transformative actions. When one considers where and when change does occur and where and when it does not occur, it seems to me to be very dependent on some kind of significant mobilization of civil society that exerts pressure on the government and alters the way in which political officials in positions of responsibility understand and interpret these kinds of issues, and how they weigh the political consequences of their various policy options.

- Krieger: Ordinary people need to understand that this is an issue of self-interest for them to push forward. But the complexities of the issue are such that it's very hard for ordinary citizens of the United States, and I'm sure of other countries, to make informed decisions about what's in their interest regarding nuclear weapons. There are important psychological issues at play. One, and this is long-standing, is a mistaken sense that nuclear weapons actually protect people. This idea has been sold by the nuclear weapons bureaucracy fairly well, so that people really have to stop and think to grasp that these weapons don't protect them. In fact, nuclear weapons make them and their families vulnerable to a counterattack if they happen to live in a country that has these weapons. The other side of that coin is that when somebody like Obama comes along and says that he wants to move toward a world free of nuclear weapons, and it's profoundly in American's interest and the world's interest to do so, the people who already have the glimmer of understanding that nuclear weapons aren't in their interest are immediately mollified. They have the sense that the problem is now taken care of because the president tells us that he sees the problem and he is going to do something about it. They think that we can check that problem off and move on to more immediate and pressing problems having to do with the economy, health care, and other issues that are more tangible.
- Falk: Yes, I think that's a good way of describing the challenge and difficulty, and I think those of us that are involved in trying to make this rhetorical moment into a real political project are ourselves challenged to figure out what is the best way to do that. How do we take this rhetorical moment given to us by President Obama and in a different way by the Kissinger group, how do we make this into something that is more than rhetoric, that becomes a political project that envisions a real process that ends with the elimination of nuclear weapons? There's no plausible reason that I understand why, if the project is meaningful at all, it needs to be treated as something that can only happen in the distant future. If it can happen at all, it can happen in a meaningful chronology that is well within the dimensions of a human generation, which allows for reliable verification of a disarming process, for confidence to be built and trust to be established, and for international institutions of inspection and verification to gain respect and experience. One way of testing the seriousness of the commitment to zero is to find, to concretize the process by which one moves from where we are to where we would like to be. As long as zero nuclear weapons remain purely an abstract goal, I'm very suspicious about the contribution of small steps taken to this goal, even if these steps are not so small from a stabilization perspective. Unless there is an influential roadmap to zero that has been adopted by political leaders and known to the public, I don't believe these steps are likely to lead us toward the elimination of nuclear weapons.
- Krieger: I think a roadmap is a litmus test of whether a country is serious. If you say you want a world with no nuclear weapons, the logical next step is to figure out how we get from here to there. That's been done by civil society groups. They've worked out a Model Nuclear Weapons Convention, a treaty similar to the treaties banning chemical and biological weapons. I recently created a roadmap to satisfy my own curiosity about timeframes, and I think that a generous timeframe at the outer end would be somewhere around 17 years or perhaps 20 years. But, at the same time, with the proper political will and leadership, the elimination of nuclear weapons could be accomplished in a 10-year timeframe with far lower risks of cheating than currently exist. If there was a serious desire to move to zero nuclear weapons that was driven by an understanding that the people of any nation would be more secure in such a world, then I think it could happen relatively quickly. There would be adjustments that would be necessary, and it would open up a lot of discussion about changes in the international system so that some countries wouldn't end up being bullied by those countries with the strongest conventional power. But you would end up, at

a minimum, with an international system in which nuclear weapons would not continue to threaten the destruction of civilization, if not the species, and that seems like an intelligent starting point for moving this project forward.

Falk: Yes, I think it is. It still raises the question of where an organization like the Nuclear Age Peace Foundation should put its major emphasis: Whether it should be primarily developing a framework and support for the process of total nuclear disarmament, or it should be reinforcing and encouraging the support for the initial steps in a denuclearizing process that would hopefully build some sense of momentum that would carry forward beyond that? I feel that one needs some rather clear benchmarks that would give the Obama presidency both a kind of test of whether the goal of zero is merely rhetorical, or whether it was something that they are willing to fight for politically. That's why I would put stress both on the roadmap as something to be endorsed and look toward an early and largely symbolic renunciation by the United States of discretion to use these weapons as instruments of statecraft. That's why I feel the No First Use declaration by the U.S. would be an extremely significant affirmation of the claim that Obama is pursuing nuclear disarmament as well as reviving nuclear arms control. I think such a pledge would also encourage other nuclear weapon states to join us—if the US has made a firm commitment to not use these weapons as instruments of statecraft, but temporarily retained only as instruments kept available for ultimate survival purposes until the end point of a roadmap is achieved.

Krieger: For the United States to commit publicly to limiting the use of its nuclear weapons under any circumstances to retaliation for a nuclear attack, that it was adopting a No First Use policy, would be a major step forward in demonstrating actual leadership toward diminishing the military importance of nuclear weapons. Once there's been sufficient diminishment of the importance of the weapons in any country's military doctrine, then it would seem to me that the next steps toward actual abolition would be much easier to take. China currently has a No First Use policy and it actually backs up that policy by not keeping its warheads attached to its delivery vehicles. It would have to put them together in order to use them. It has a declaratory policy that it will not under any circumstances use nuclear weapons first. India has made a statement similar to that. So, two of the nine nuclear weapon states have already taken this position. At one point, the former Soviet Union had that position as well, but when the United States refused to adopt that position and as the Soviet Union was losing conventional military power, it withdrew its No First Use pledge. It would be a significant area for leadership by the Obama administration to join China and India, and make a declaration of No First Use and urge others under our influence—which would include Britain, France, Israel and Pakistan—to adopt similar positions. I think that would be a landmark step from which a roadmap would certainly follow.

Falk: But you have to ask the question, because it seems so persuasive, why hasn't it been proposed? It's a no-brainer from a moral, legal, and political perspective to insist that if you are genuinely dedicated to a world without nuclear weapons such a step should be taken. It also follows from the 1996 International Court of Justice advisory opinion. It follows from any kind of moral calculus of the role of nuclear weapons, recollecting Hiroshima and Nagasaki, giving a sense of what it means humanly to use these weapons, and even to contemplate and plan for their use. So the refusal and the failure to move toward such a declaration has to raise questions about whether this whole rhetoric that President Obama has deployed, whether wittingly or unwittingly, is really a blueprint for stabilizing the nuclear weapons arsenals of the world so as to avoid accidental and unintentional use or the diversion of these weapons to non-state actors. These may be, no doubt are, desirable goals, but they should not be confused with a project to get rid of the weapons

altogether. Until we have more indication from the Obama administration that their substantive commitments go beyond arms control, we should mount pressure to reinforce our enthusiasm for his visionary rhetoric.

Krieger: Another possibility is that President Obama doesn't necessarily understand the implications of a first use policy. That may be an area he hasn't considered to any serious extent because the issue of No First Use hasn't come up in any of his statements. His administration has been more focused on bilateral engagement with Russia, strengthening the Non-Proliferation Treaty, gathering up loose nuclear materials, and preventing terrorists from getting nuclear weapons. But it seems to me within the realm of possibility that even an intelligent individual like President Obama hasn't given serious consideration to what it means to have a policy that allows for first use. I think he may understand that a policy that allows for preemptive use is a bad policy, but I wonder whether he fully understands the implications of a first use policy.

Falk: If this is a matter of oversight or ignorance, then it provides a good reason for anti-nuclear activists to convey a deeper understanding to the society as a whole and hopefully to the leadership in Washington. As I say, I think it's a very good litmus test of what the real intentions are behind the advocacy of this new approach to nuclear weapons. The embrace of a No First Use posture would be, it seems to me, a very specific departure from past American policy on nuclear weapons, and it would be a very powerful signal to other nuclear weapon states the US doesn't intend any longer to base its military planning on a nuclear weapons dimension. Until that is done, there is an inevitable ambiguity as to what the US is up to in trying to prevent its adversaries from getting these weapons, while sheltering its friends from criticism about possessing them and continuing to develop them. What does it mean to enter a positive relationship with India on nuclear technology, which seemingly rewards the country for becoming a nuclear weapon state in defiance of nonproliferation goals? Such developments confirm that, as far as nuclear weapons are concerned, geopolitics is alive and well, and as long as it is alive and well, I don't think there's been a real break or rupture with past American approaches to its nuclear weapons agenda, and if this is the case, then it is time for vigilance and criticism, not cheerleading.

Krieger: Most of what you refer to and particularly the US-India agreement, for the United States to supply nuclear materials and technology to a known proliferator of nuclear weapons, occurred primarily under the Bush administration. So it's too soon to tell whether that's a policy that President Obama intends to follow.

I think we agree that a No First Use policy would be a strong signal to the world that the United States is serious about moving toward a nuclear weapons-free world. I think that we also agree that another signal would be for the United States to end its silence about Israel's nuclear arsenal, and to be more proactive about a Middle East Nuclear Weapons-Free Zone.

Falk: A third point that I think is important is the serious commitment, either in collaboration with other governments or on our own, to develop a roadmap that sketched in a process that leads toward a world without nuclear weapons.

Krieger: I was just moving to that. One of the actions that President Obama called for in his Prague speech was a Global Summit on Nuclear Security. When he called for that global summit, what he was saying was in essence that we want to prevent nuclear terrorism. If this Global Summit on Nuclear Security could be broadened, it could be a really valuable project. The United States has the convening power to bring together the nations of the world that would be needed, including the

nine nuclear weapons states, for such a global summit. These states could actually look at the security issues related to nuclear weapons in all their dimensions, including the dimension of the existing nuclear weapons in the hands of the nine nuclear weapons states, and the potential for accidents, proliferation, and all of the other security issues that nuclear weapons pose. It could include nuclear policy issues, such as No First Use. It seems to me that if the Global Summit on Nuclear Security were broadened, that could actually be the place to initiate a joint effort at developing a roadmap on the way to a new treaty that would lead, with the appropriate confidence-building measures and assurances against cheating, to the phased, verifiable, irreversible, and transparent elimination of nuclear weapons.

Falk: I suspect that there will be a lot of pressure to keep the global summit narrowly focused on the terrorist issue, making the argument that if the focus is diluted nothing will come out of the summit.

I think it's important to bring into the discussion the role of the UN system and possibly regional groupings of states, as well as to look at what groups in civil society can do in relation to their own governments. One of the important achievements in the latter stages of the Cold War was the transnational peace movement in Europe, which had a very strong, positive effect on opposition politics in Eastern Europe and created a kind of collaboration that was often described as *détente* from below. A public climate of opposition was built through the mobilization of civil society that created a context able to take advantage of other opportunities for fundamental change. The most notable of these opportunities was presented by the new style of leadership in the Soviet Union under Mikhail Gorbachev. Important changes that were completely unanticipated began to take place. One has to try to think through the conditions under which a movement for the elimination of nuclear weapons can take shape and reinforce this kind of rhetorical initiative that President Obama has inserted into the whole dialogue on the role of nuclear weapons.

Krieger: His rhetoric provides a point of focus for civil society, a point of focus that wasn't there previously. The question I'm wrestling with is this: How can we make use of that point of focus, how can we take it as a serious commitment on his part and enlist civil society to stand up and support it with a strong enough voice that, even if it was more rhetoric than intention on the part of the administration, they won't be able to back away from the expectations that they've engendered? But, still, we're faced with questions of how do we more effectively encourage more people to engage in this issue: How do we awaken people to the importance of the issue and the need to engage? I think already at some basic level most people would agree that we would be better off in a world without nuclear weapons. Then the question is: How do we get those people to engage in doing something about that and not simply deferring to leaders taking it in their own direction at their own pace? That would require a very proactive citizenry and a democracy that was really working. The Nuclear Age Peace Foundation was formed on the basis that democracy can work and, at its best, does work, and that people do awaken to issues of importance to themselves and don't always act against their interests, but can find a way to act in their interests. I think our job continues to be to point out to more and more people and to create more and more enthusiasm for the idea that a world free of nuclear weapons is in the common interest of all Americans and all people of the world.

Falk: Yes, I completely agree, but we have to acknowledge that the place where democracy seems to be least effective is in relation to the national security agenda, and that ineffectiveness has been reinforced now for by decades of an essentially militarist state having emerged out of first World

War II and then the long decades of the Cold War and intensified after 9/11. In all these situations, what one has observed is a continuity of a governmental structure that is organized around the primacy of using military power in the world. Eisenhower, of course warned long ago, about the military-industrial complex in his farewell address, but that's almost 50 years ago and we now spend as much as the whole world put together on our military budget. It's an extraordinary thing. I mean Defense Secretary Gates was quoted recently as saying that the American navy is stronger than the navies of the next 13 powers in the world, but despite this disparity we must still make it even stronger. One needs to understand that a leader like Obama is faced with that enormous antidemocratic, militarized, bureaucratic structure and that he would probably receive a vicious backlash from this military establishment if he makes clear that his advocacy in favor of eliminating nuclear weapons is intended to become a real political project. At the same time, such a move would be very, very reinforcing for his leadership and for US leadership, but it would almost certainly involve a fierce struggle with the national security bureaucracy and its links to the media and to certain think tanks and so on. I think this entrenched militarism is a formidable obstacle astride the path to a nuclear free world. It's not so much just that the public is ill-informed; it is a matter of a hidden, unaccountable power structure that does not want to make basic changes. Incremental changes are acceptable, but seeking basic changes invariably arouses formidable bureaucratic resistance.

Krieger: We've seen some examples of that in the aftermath of Obama's Prague speech. There have been a number of opinion pieces that have taken the position that Obama is engaging in a fantasy, that his thoughts on a nuclear weapons-free world are an illusion, that there's no possibility of achieving such a world, and that we should get back to reality as they see it. Their reality is based on the premises that we're the dominant military power, we'll continue to be so, and nuclear weapons are essential to that dominance. However, Obama's rhetoric and his Prague speech seemed to be popular with a majority of Americans, if not with that bureaucratic elite. To succeed, what Obama probably needs to do is to enlist elements of the military in support of his position. That seems possible to me. Without knowing the players specifically, it seems to me that a military leader, as opposed to a civilian bureaucrat, would be less likely to think that nuclear weapons are useful as a matter of national defense to the United States.

Falk: Yes, I hope so. We'll have to wait and see whether this issue is sufficiently alive on his policy agenda to elicit this sort of more constructive response and to what degree he follows up on the Prague rhetoric with a renewal of that kind of rhetoric, and gives evidence of a serious intention to move toward implementation. We need to recall that there have been past well-intentioned attempts by American leaders to talk about getting rid of nuclear weapons in a serious way. Jimmy Carter did it at his Notre Dame speech. Very early in his presidency he said he would work every day of his administration to get rid of nuclear weapons, but the backlash from the national security establishment was so strong that he dropped the issue altogether, and even moved in the opposite direction by issuing Presidential Directive 59, a thinly disguised threat to use nuclear weapons if provoked by the Soviet Union in the Middle East. Of course, this was during the Cold War. And then Reagan, even Reagan, had the backlash experience after Reykjavik where he and Gorbachev seemed to have come very close to an agreement on getting rid entirely of strategic nuclear weapons. As soon as he returned to Washington he was savagely attacked as naïve about the role of nuclear weapons and their importance for national interests by bipartisan circles. So we have to see first, whether zero nuclear weapons is a policy priority and second, whether the assured backlash from places like *The Wall Street Journal* and elsewhere will be sufficiently intimidating.

Perhaps even then Obama would not explicitly abandon the disarming goal, but would likely signal an intention not to challenge any further the nuclear weapons establishment.

Krieger: Another signal may be what comes out of the US-Russia negotiations that have begun. The last agreement that Bush made in 2002, which is still being implemented, is to reduce the deployed strategic arsenals on both the US and Russian sides to between 1,700 and 2,200 nuclear weapons each. Under the Bush agreement with Putin, the strategic weapons that are taken off deployed status can either be put in storage—the core can be placed in storage—or they can be dismantled and destroyed. There’s no limit to the number of weapons that can be kept in reserve. The Bush-Putin treaty only dealt with deployed strategic weapons, so there’s no limit to the number that can be kept in reserve. Right now the US does have, as does Russia, a number of weapons awaiting dismantlement, but they also have a number of other weapons that are considered strategic reserve weapons. How to count remains an issue. Should there be one overall number—strategic, tactical and reserve—or should there be several numbers? Under the Bush plan, there was one upper limit specified (2,200), but only for deployed strategic weapons. Other numbers, for the overall arsenal, for instance, were unspecified and unknown. They were not subject to accounting. I think there should be one number of nuclear weapons, and it should be the same formula for each country. It should include reserves and deployed weapons.

Falk: That seems to me essential to the credibility of any kind of disarming process in relation to other nuclear weapon states.

Krieger: We don’t yet know how the new negotiations will handle the number, and we also don’t know if they’ll actually make any significant reduction below the current level that has been agreed to. There have been a number of people who have suggested that going down to 1,000 or less would be a good next step, but the numbers that I’ve heard referred to in relation to the Obama administration are around 1,500, which would be a rather minimal incremental step downward. I’m not sure how much emphasis to put on that kind of incrementalism, or even on the number itself, when in the bigger picture it is not the number that is critical as much as it is the demonstration of political will to achieve zero. At the same time, if it turns out that it’s not a very significant reduction, I think that may be a warning sign that the bureaucrats working on stabilization and wanting to continue American nuclear dominance are in more control than perhaps Obama is.

Falk: That’s always a question as to how much leadership is possible in the national security domain of policy because of the strength of the permanent bureaucracy—its nonaccountability and its links to influential media. That’s why I feel it is so important to have this counter pressure mounted by a mobilized civil society to the extent possible. The question is whether it is possible to mobilize civil society around this kind of issue in the absence of existential fear of the sort that existed from time to time in the Cold War. When the American or European public became very scared about the prospect of a nuclear war, then the climate of opinion changed in favor of denuclearizing initiatives and visions.

Krieger: But it was mobilized for lesser objectives. It was mobilized last for the nuclear freeze, and that was a minimalist demand. It was only to stop the increase in the size of arsenals. One thing that I do take heart from is that there is at least a discussion going on beyond civil society and into the level of former policymakers and, in Obama’s case, up to the presidency, talking about a world free of nuclear weapons as though it is a serious possibility. You mentioned Carter and Reagan as also

taking it seriously at some level in their presidencies. In both cases the presidents appeared sincere in their desire and were stymied by the advisors and bureaucracies that surrounded them. If we had to make an informed guess at this point, it would be that there will be a serious attempt by the advisors and bureaucracies that surround Obama to limit his degrees of freedom in moving toward a nuclear weapons-free world.

Falk: Do you think the Obama speech would have had more resonance if it had been given, let's say, at the commencement at West Point or in the United States rather than at Prague?

Krieger: That is a good question. It seems to me he chose Prague because he saw it as a global issue, and I think he saw it as an issue that would have resonance for people around the world. I suppose, though, that had he given that speech at the Air Force Academy, for example, it would have focused far more attention in the country on the speech and on his expressed desire to eliminate nuclear weapons. My guess is that cadets would have reacted quite favorably to it.

Falk: That would have been very positive. Doesn't that suggest that one objective of anti-nuclear activists should be to encourage some kind of follow-up speech here in the United States, preferably delivered in a national security venue. Such an undertaking would convey a seriousness of intention that went beyond making a rhetorical appeal to world public opinion. It would give more ground to believe that we have a president who is dedicated, as I believe Obama may be, to serve the global public interest, and not just a champion of American national interests.

Krieger: The negotiators are acting right now on the US-Russian talks, so there is going to be a need for President Obama to speak to the public about those negotiations. When he speaks to the public about the progress that's been made and that he hopes to see achieved in those negotiations toward a new treaty, he can also take that opportunity to reiterate that this is a step toward a nuclear weapons-free world and that it is only a step. As important as negotiations may be after these many years without them, we in this country need to view the progress as only a next step on the way to going to zero. I'd love to see him do that, and I'd love to see him do it in front of the cadets as well. I can't think of a better audience for him than the Air Force Academy.

Falk: There are a number of places where it would be more or less equivalent, but I think doing that in the United States, especially in a security-oriented venue, would be a very clear indication that this is a genuine and principal commitment of his presidency.

Krieger: When you expand the conversation to look at the larger picture of US militarism, you have to also ask what is the relationship of nuclear weapons to the build-up now taking place in Afghanistan. I think that deserves some more thought and exploration. The other issue that I think deserves more thought and exploration is built into the Non-Proliferation Treaty, and that is the promise of assistance in spreading so-called peaceful nuclear technology, particularly nuclear power plants, around the world. The question that comes up is whether that is compatible with actually moving to zero nuclear weapons; whether there is a means of oversight that could be implemented that would sufficiently control fissionable materials so that countries could feel assured that they could go to zero nuclear weapons without the risks of weapons proliferation stemming from nuclear power plants being too great.

Falk: In order to do that convincingly, it would be necessary to begin treating equals equally. In other words, it is untenable to have some of the older nuclear states retaining this capacity to convert

fissionable materials into weapons while insisting that other states are not entitled to develop a full nuclear fuel cycle.

Krieger: I think it's a given that, if we're going to get anywhere with any of these major global issues related to nuclear weapons abolition, double standards need to be eliminated from the international system.

Falk: But double standards are deeply embedded in the structure of the Nuclear Age.

Krieger: Right. I think the greater problem in relation to nuclear energy is the intense desire of many countries around the world to proceed with development of nuclear energy, in part because they believe it shows a high level of technological achievement. They have bought-in to the promotional arguments that nuclear power will provide a country with its energy needs at a relatively low cost. I don't think that's a correct understanding, but it's widespread. When I was at the 2009 Non-Proliferation Treaty Preparatory Committee meeting, I didn't hear one country denounce the idea of the spread of nuclear energy technology, and most of them were continuing to enthusiastically embrace it.

Falk: I think the oil squeeze with rising prices and the prospect of supply scarcities, as well as skepticism about the contribution of solar and wind energy, is making opposition to nuclear energy a losing battle. I don't think you can stop the spread of nuclear energy capabilities. What can be done is to insist on a safeguarding and monitoring superstructure that makes diversion for military development much more difficult. Even this will be difficult to accomplish without reciprocating denuclearizing moves by the nuclear weapons states.

Krieger: You absolutely have to stop the production and use of highly enriched uranium; convert existing stockpiles of highly enriched uranium to low-enriched uranium only for power plants; have safeguards that involve international challenge inspections; and control all fissionable materials, including any reprocessing of plutonium. It will be a major undertaking. It will make the job of achieving a world free of nuclear weapons harder by many degrees.

Falk: Incredibly difficult, and it will be very difficult to get countries, like the US, to accept the same kind of regulatory standards that it would want to impose on others and without mutuality nothing very significant can be achieved.

Krieger: We're very accustomed to such double standards. But going back to Obama, he's a pretty good dad, and in that sense he must understand something about double standards. If he gets it at a basic level, maybe he will be able to apply it to global politics.

Falk: He may get it at a level of equity and fairness, but he's also a person that is very adept at the power game and he may conclude that unless he feels very strong counterpressure from peace groups, that the only way he can be effective as a leader is by adhering to this two-tier, double standard structure. It is built very deeply into the way in which world politics has been practiced for centuries, and especially in the Nuclear Age where membership in the nuclear club has operated as such a prime geopolitical status symbol.

Krieger: I'd like to end on a positive note. Even should it prove that Obama's statements are only rhetoric, which I don't believe they are, he has raised the expectations of civil society and hopefully

energized civil society to believe that there is a greater opportunity now than we've experienced in decades, perhaps ever, to end the nuclear weapons era. Hopefully these expectations will be transformed into a larger level of public support and a course of action on the part of the Obama administration that will prove to be irreversible.

## **An Asian Perspective on Mediation**

*Reviewed by Kevin Avruch\**

Joel Lee and Teh Hwee Hwee, editors. *An Asian Perspective on Mediation*. Singapore. Academy Publishing. 2009. 236 pages.

A project of the Singapore Mediation Centre, this book is a welcome addition to the growing literature on non-Western modes of conflict resolution (negotiation and mediation in particular), as well as a contribution to the broader debate on “Asian values” generally. Editors Lee and Hwee wrote several of the chapters, including an introduction that differentiates traditional, “indigenous” forms of mediation found in East Asian societies from modern conceptions of the practice. Modern practice, they note, has been heavily influenced by Western conceptions of ADR, particularly facilitative mediation based on the Harvard Program on Negotiation (PON) model of interest based negotiation. Many have raised the question whether such a Western form is appropriate and effective in other cultural settings. Lee and Hwee’s answer to both is in the affirmative. Practitioners in the Singapore Mediation Center, they write, adopt the interest based model of mediation. But they recognize that in actual practice mediation in Asia differs significantly from standard Western practice. They assert the relevance of interest based mediation by making a distinction between what they call the “functional aspects” of the model and its “operational” aspects. The former, defined as getting disputants away from positional bargaining to recognize their underlying interests, is universal. However, for actual practice to be successful one must pay attention to the model’s “operational level,” which is highly “context sensitive” (p. 22).

Another chapter by Lee and Hwee summarizes some of the modifications needed at the operational level to ensure successful practice. One of the prime modifications demands moving away from the purely facilitative conception of mediation – the mediator is a powerless neutral whose role is only to facilitate interest based problem solving between disputants, allowing them to “own the process” – to a more authoritative and directive role. If this was the only modification one could readily agree with the functional/operational divide. But the differences, rooted in East Asian values and cultural ethos, are greater than that, and the modifications needed to practice successfully seem to multiply. Chapters that follow (by Ian Macduff, Melanie Billings-Yun, John S.K. Ng, and Law Siew Fang), discuss in rich detail the nature of these modifications in relation to their Asian context.

The approach to culture taken by the authors – after acknowledging regional diversity and the problematic lumping of so many East Asian societies and their subcultures into one “Asian” rubric – is based first on noting three “core themes” in Asian culture that differ from the “cultural assumptions” intrinsic to the Western model. These are (a) Confucianism and its main values; (b) collectivist *versus* individualist orientations, and; (c) prevalence of concerns with “face” (p. 54). Secondly, in keeping with the individualist/collectivism dichotomy, the various authors use such well known distinctions as high and low context communication styles and high and low power-distance or hierarchical/egalitarian orientations to social status. One of the several virtues of the book is that none of the authors conceives of these distinctions in rigid binary terms. Another is that they all see how these cultural dimensions are interconnected -- collectivism “goes with” face concerns and hierarchy, and all affect such crucial dimensions of negotiation/mediation as trust-building, commitment making, valuing procedural *versus* distributive justice, and free information exchange – and how, in turn, all reflect underlying Asian core themes.

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The chapter by Law Siew Fang, for example, skillfully deconstructs “collectivism” and its implication for Asian mediation through the lens of multiple forms of *guanxi* (usually translated from the Chinese as “relationship”). After reading this it would be difficult to imagine “collectivism” as a single monolithic form. (The same, of course, could be done for “individualism” in a Western context.)

Building on Stella Ting-Toomey’s work, John S. K. Ng, discusses “four faces of face,” and how face concerns and face-work affect level of trust and information flow between disputants and mediators, and the implications of this for effective practice, particularly with regard to mediators’ use of “indirect” (high context) speech. Melanie Billings-Yun also focuses on trust in mediation, the requirement for open exchange of information being so crucial to effective problem solving, and connects collectivism with trust-building and the strong preference for “insider-partial” as opposed to “outsider-neutral” third parties.

Two chapters by Ian Macduff analyze the implications of high power-distance for a number of areas in practice, including the expectation that ideal mediators are persons of relatively high status who actively participate in and authoritatively direct the process. Beyond techniques of practice, Macduff moreover argues that high power-distance means accepting the legitimacy of social inequality, being committed to its maintenance, and that disputants may therefore see the conflict in terms of powerful cognitive and affective categories of hierarchy, authority, and deference, such that “not all participants will see the issues at stake in the same interest-oriented terms; they will also see disputes as values-based” (p. 118). Once values and affect enter the dispute alongside interests, the waters of problem-solving interest based negotiation turn muddy. In a second chapter, Macduff critically compares cultural assumptions of Western mediation, including neutrality, confidentiality, disputant autonomy, and the making of commitments, with Asian assumptions, and ends up arguing for a “distinctly Asian mode of mediation” (pp. 194-195).

After reading these chapters I ended up agreeing with Macduff, and not entirely with Lee and Hwee. If what is “universal” is that people often say (and think) they’re arguing about something when they’re really arguing about something else – and we name that deeper something else “interests” – then it is a thin conception of universality we have adopted, and perhaps an even thinner one of interests. The question this fine collection raised for me is where “functional” models of negotiation and mediation are so affected and constrained by “operational” ones – the ones that determine whether they work at all or not -- that the distinction loses meaning, existing in this book mainly to pay respect and “preserve face” for the venerable elders, and some of the youngsters, at Harvard’s PON.

## Dirty wars, databases, and indices

Reviewed by C. Maria Keet\*

Hicks, M.H.-R. & Spagat, M. (2008). The Dirty War Index: A public health and human rights tool for examining and monitoring armed conflict outcomes. *PLoS Medicine* 5(12), e243.

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Peace research looks at the topics of what makes a society peaceful as well as how to go from a (post-) war situation to a peaceful society *sensu* positive peace. Concerning the latter, it is important to have an understanding about the (preceding) conflict, which includes the kind of atrocities committed and the extent of these acts. It is known to be difficult to find and interpret such data in line with the reality. Hicks and Spagat (2008) tried it nevertheless, not only with a few examples, but devising a specific measure, the *Dirty War Index* (DWI), to synthesise into one value the dirtiness of any given war, which is intended as “a data-driven public health tool that identifies rates of particularly undesirable or prohibited, i.e., “dirty,” outcomes inflicted on populations during war (e.g., civilian death, child injury, or torture)” (p1). To qualify the intention of what is “dirty”, the authors link the DWIs explicitly “to international humanitarian law to make public health outcomes directly relevant to prevention, monitoring, and humanitarian intervention for the moderation of war’s effects” (p1). The principal calculation is [Number of “dirty,” i.e., undesirable or prohibited cases/Total number of cases] x 100, where the dirty/normal cases can follow along the lines of existing conventions and laws, such as with respect to child soldiers, torture, prohibited weapons, and so forth.

The idea of multiple DWIs can indeed be interesting—an opinion amplified by the editorial of *PLoS’s* flagship journal (Sondorp, 2008)—but only to give a *rough indication* and the ratio should be taken in conjunction with the absolute numbers, because there is the real danger of misuse due to unfair sanitation of data. It can easily fall victim to, or even stimulate intended, misinterpretation by showing some neat aggregated numbers without having to assess the source data and by brushing over the reality on the ground that a bean-counting person may not be aware of and more readily can set aside in favour of the aggregated numbers. Taback (2008), in the same journal issue, already voiced reservations about the feasibility of the DWI by focusing on issues with data collection and statistical issues, and on selection bias, missing data, and censoring in particular; similar problems have been observed and documented elsewhere as well (Weinstein, 2007). I would like to add two more issues to these reservations. One is to demonstrate the easiness of “colouring” a DWI to support one’s political preference through two different approaches, the other is to expose the hidden issue of the *databases themselves* on which tools such as the DWI rely.

Let us first take at face value the database(s) on which the data for calculating a DWI relies. Hicks and Spagat provide a relatively extensive example for Colombia (text and table 1, p2, in the paper), which supposedly illustrate the usefulness of the DWI. One of their DWIs is the measure of [nr. of civilians killed] / [total nr. of civilians killed + combatants killed] \* 100. The “guerillas” (presumably FARC) have a DWI of 2498/5444\*100=46, the “government forces” 593/659\*100=45, and the “illegal paramilitaries”

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6944/6985\*100=99, where these numbers as reported in the article are taken from the Colombia conflict database (CERAC 2009), which the authors are involved in.<sup>1</sup> Hicks and Spagat explain that “Guerrillas rank 2<sup>nd</sup> in killing absolute numbers of civilians”, as if the government forces deserve a laurel for having the best (closest to 0) DWI—with a mere 1-point margin—and as if paramilitaries are independent of the government whereas it is the norm, rather than the exception, that governments tend to arrange for a third party to do the dirty work for them (with or without external funding) so as to look comparatively good in the international spotlights. For the sake of illustration, let us aggregate by “opponents of FARC”, then we obtain a DWI of  $[593+6944]/[659+6985]*100 = 98.6$ , which is substantially more dirty than FARC, which cannot be explained away anymore by data collection biases. Put differently, FARC is, in both DWI and absolute numbers, the “cleaner” one and one could use this DWI to argue FARC has good reason to be annoyed with the current violent governance in the country. Such a difference in results of calculating the same DWI that is entirely dependent on preferred (dis)aggregations do not provide a useful service to devise policies for achieving a lasting peace, whichever calculation one prefers.

The issue of aggregations scratches on the surface of more fundamental problems: the database itself. As the authors already note, “DWI analysis can use any data source (media reports, epidemiological surveys, coroners’ reports) *as long as the data are adequately valid, accurate, and comprehensive*” (p4, emphasis added), and even those qualifications are rather stretchable notions; e.g., who decides what, and when, the data collection is sufficiently comprehensive, and what may be sufficiently comprehensive for one purpose may not be for another. The front-end of a database may have an easy form to be filled in by the data entry clerk, but that hides what data can be stored, how it is stored, and how feasible it is to analyse the data through querying the database. Although one should not assume a database designer intends to impose his or her political preference through the design of the database, it is, in fact, very easy to do—also unintentionally. For instance, one can aggregate creatively (e.g., lumping together all Sunni and Shia organisations in Lebanon, be it during data entry or as “permissible access” for querying the data) or for specific sections report much more detail (e.g., the function of the building bombed, such as “water purification plant”, “electricity plant”, “medicine factory” and so forth, instead of just “industrial facility”). A notorious aggregation is that of “civilian”, in particular because there is no uniformly agreed-upon definition of civilian and where the fine line lies, if any, with, to name a few categories and terms: combatants, soldiers, paramilitaries, ex-army officials, police, and those who provide the logistics for the operations.

Related to aggregation, but more subtle, is under- or over-representing geographical information: one can play with granularity (by city, region, country, continent), with the categorization criteria of administrative or otherwise coherent regions (e.g., state borders, language, parish, “ethnicity”), and include or exclude notions such as “occupied territory” that are related to the actors, or that a particular area may, or may not, be categorized or named differently at the same time and be stored as such in the database. In addition, conflicts change through, among other factors: changing alliances, new types of arms used, regions affected, and types of violent acts. It then depends on how the database is implemented if it can adequately deal with such changes, be it changing values, changing attributes (e.g., adding a finer-grained categorization of arms), or new relations among the entities (later on deciding one also wishes to record, say, the coalitions of actors throughout the conflict) and how to record such temporal aspects of the structure of the database and its contents, if at all.

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<sup>1</sup> Both Hicks and Spagat are research associates of CERAC; the database is available after registration, which has substantially less types of information and less explanation than the CAIN Web Service database.

Further, one can facilitate pollution of the data in the database by using no or very limited database integrity constraints, which leaves the database inconsistent. For instance, one can enforce that for each occurrence of rape added to the database, there must be a corresponding police record; or one can precisely omit this constraint to obtain an estimate of reported incidences versus officially recorded incidences in the crime statistics, but then a query for “retrieve the amount of rape cases” most likely will not yield the same total number. Such issues and pitfalls as outlined here are, from an ICT perspective, first and foremost dealt with during the *requirements analysis* stage (informally: what is the purpose of the database, what is it supposed to do) and the *conceptual modelling* stage, where a diagram is made of what kind of data should go in the database. Going through these stages will not solve all problems of “war databases”, but can certainly ameliorate it. Moreover, if a given database has a clearly stated purpose *x*, then using it for purpose *y* should at least alert the data analyst to be careful before drawing conclusions.

With these database issues in mind, let us now return to Hicks and Spagat’s other main illustration: the protracted conflict in Northern Ireland. The source data are taken from the fine-grained CAIN web service (2009) and is used to calculate two complementary DWIs (table 4 and related text, p5): “aggressive acts (killing civilians) and endangerment to civilians (by not wearing uniforms)”.<sup>2</sup> The “British Security Forces” (BSF) have a “Civilian mortality DWI” of 52, the “Irish Republican Paramilitaries” (IRP) 36, and the “Loyalist paramilitaries” (LP) 86. One first has to observe the chosen naming and aggregations; e.g., does this title refer to the IRA, or are they lumping the IRA together with the Real-IRA and Continuity-IRA, and likewise for all UFF, LVF, and so forth? Consulting the CAIN web service to ascertain what is going on, it, interestingly, lists *29 groups*; that is, the details are there, but the article authors preferred this particular aggregation for the DWI calculation. In addition, Hicks and Spagat’s “number of civilian + civilian political activist” total to, respectively for each aggregate,  $190+738+873=1801$ , but the CAIN source data has a total of 1797 civilian+58 civilian political activists=1855, and then a series of statuses such as “ex-British army”, “ex-IRA” and so forth, who, while being “ex-” are not real civilians according to the CAIN database; either way, the two totals should be the same, but they are not. The other one, “Attacks without uniform DWI” are, according to the table, “approaches 0” (BSF), “approaches 100” (IRP) and “approaches 100” (LP) without actual values to do the calculation with; despite the vagaries, for the IRP the authors prefer the adjective “extremely high rate” but for the LP it is only “very high rate” even though the given values are the same. They offer a comparatively long explanation for the nastiness of the IRP, but it is obvious that the BSF and LP have the dirtiest civilian DWI and that LP killed most civilians, no matter how one wants to explain it away and dress it up with DWIs (maybe not so coincidentally, the authors are affiliated with UK institutions).

I will leave Hicks and Spagat’s “female mortality DWI” of the Arab-Israeli conflict and the “child casualty DWI” of Chechnya for the interested reader to analyse (including the term “unexploded ordnance” that injured or killed children—by exploding). More generally than the examples of “multiple-interpretation” in favour of one actor or another, is that a DWI perhaps will do more harm to conflicts than contributing to resolution precisely due to its oversimplification and blind (uninformed?) reliance on the underlying databases it uses; misuse by politicians and headline-media is all too easy to imagine.

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<sup>2</sup>As mentioned earlier, the latter DWI is theoretically problematic, because the distinction between actors who use violence and their supporters in the population is often not that clear, and off-duty soldiers are not necessarily automatically civilians; but the argument is long and I shall not digress further on the topic here.

However, an easy way out to the problems with data collection, database design, and subsequent data analysis does not exist. Partial solutions are proper requirements analysis, database development, and, above all, *transparency* of the data analysis that should not be ripped from its context and simplified into a uni-dimensional index. Another partial solution may be to develop a generic categorization of types of victims, types of violent acts, types of arms, etc. and how they relate, so that each empirically-oriented peace and conflict researcher can take part or all of such an openly available application-independent categorization (also called a *domain ontology*) and use that for developing the database. In the meantime, one is strongly advised to check the source data carefully before calculating or propagating any DWI.

Allow me to make a final remark in that my comment “stated purpose x, then using it for purpose y should at least alert the data analyst” might be applied to this review, because the DWI was presented as a “public health tool” whereas I cast it in terms of peace & conflict research and ICT. Public health facilities are a scarce good in conflict zones and allocating limited resources based on DWI values may well prolong the conflict, depending on how the DWI value is constructed and who is therewith perceived to be the most virtuous or less vicious or most in need of health care and deserve to be served first. Health care policies are not necessarily neutral and should not be seen in isolation; hence, despite – or, perhaps, thanks to – its flaws, Hicks and Spagat's paper can be useful in education to sensitize students to this topic and for researchers to delve deeper into the influence of health care as well as better addressing the problematic of dealing with raw data and quantifying and synthesising it.

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