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Content

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Human Rights and Peace-Building

After the war, with its egregious violations of human rights, it turned out that both victims and offenders had to continue to live in the same village as before the war. There was simply no other place to stay but in the valley and its small, half burned-down villages. Everyone was scared of "the other" – offenders feared retaliation, and victims feared their offenders. No one dared to talk in public, and each side avoided the other when the night came. Could the two groups ever become cooperating villagers again? Sharing ploughs and water, schools and markets? With recent atrocities in fresh memory but with a life-long experience of peaceful cooperation in common – what would their road to peace and justice look like?

This is just one of many situations emerging after gross violations of human rights, so common under so many different kinds of situations, whether during military dictatorships, internal armed conflicts, long-term authoritarian rule or in the silence of repression and endurance far away from publicity and international concern.

It happens, however, that even grim situations of this kind – for one reason or another – come to an end. Sometimes it happens without anyone really knowing "when and why", sometimes it is part of a for long negotiated peace process. While a new society in such situations waits to be realized, the truth of the past at the same time seeks its way into the public mind – sooner or later – in particular after traumatic experiences. The truth, which can only be shared since no one has the full truth, raises one question after the other to anyone involved, about facts, responsibility and recognition.

What does human rights and peace-building mean after systematic violations of human rights? Is the only acceptable road forward to let the process of legal justice have its course, taking its time, and bringing people into jail and after some years, probably, back to their village house

and families? Or should the whole war period be exposed to common reflection among both victims and perpetrators, where truth telling and sharing not only becomes the victim's role but everyone's, so as to prepare for a mutual rebuilding process – where legal justice is just one of many components?

These questions reflect somewhat different positions, often expressed by actors and organizations in a post-conflict situation. They are formulated here as a way of illustrating two different approaches to "the same" situation, knowing that formulated in this short way, they do not give justice to the nuances and additional views that their respective proponents would like to include for a comprehensive understanding of their position.

Nevertheless, the questions reflect an international debate, ongoing since a few decades back, a debate presented in this study. In general terms it concerns how to establish a balance in terms of "time and content" between legal action and social processes in the rebuilding of societies after mass violence. Both dimensions are necessary – no one denies that – but there is disagreement on what should be the components and how they should be put into practice. Local organizations, NGOs, are often working on a daily basis in a reality plagued by these questions, and have to relate to them in their policy and practice. At the same time, an international legal system is developed which addresses specifically, and for the first time in world history, crimes against humanity and other serious violations of human rights.

Human rights and peace-building represent two distinct approaches to the construction of a society where justice, security, and human dignity are fundamental political principles. Both human rights and peace-building rely on, for instance, effective institutions and a principled approach to individual and social life, and they also have a number of other aspects in common. For instance, they both deal with the relation between the

individual and society, and they indicate how human dignity could be interpreted and realised in a given society. At the same time, they are disparate perspectives – one is based on inter-state agreements, which in some cases are gradually taking shape as national legislation, the other one is a political process that tries to establish and secure peace by peaceful means.

Human Rights and Peace – too close concepts?

At this point it is appropriate to ask the question whether or not human rights and peace are so intertwined that it does not any more make sense to uphold a distinction between them? One view on this question, would be to say that the implementation of human rights is conducive to peace in a wide sense of the word, while peace in a narrow sense is a pre-requisite for the implementation of human rights. In addition to this at least double relationship, some would argue that "the status of peace as a human right is generally clear: We, the inhabitants of the earth, do have a right to peace, and since this is a right for all "peoples", then by definition it is a universal human right."[1]

This position sounds attractive, but it is neverthless criticised by Jack Donelly who argues that peace in this sense is a collective right, and that does not automatically extends itself into an individual right – no matter how attractive the idea might be.[2] A right requires per definition someone responsible for its realization, and the problem here is that of creating a duty bearer, i.e. someone who is responsible for realizing the right. Who is the duty bearer of particular individual right to, for instance, peace or love – or, why not, both.

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[1] Said and Lerche, p 130.
[2] Donelly, p. 152.

In this paper, we will accept Donelly's argument, that peace is not an individual human right. At the same time it needs to be stated what is commonly accepted, namely that human rights are a feature of peace, while at the same time it is true that some rights actually can be enjoyed also in wartime, while others are definitively violated during war, or as a consequence of, war.

Which level - individual or group?

A fundamental difference in the nature of human rights and peace-building lies in the fact that human rights have an individual approach (to human security), while peace-building almost per definition – since "peace" is understood not a "state of mind" but as a "state of society" – is a collective effort. This difference has wide implications for the policy and practice of creating security in a society, at any given point in time.

One such implication, to which we also will return later, is visible in weak, post-conflict societies in the process of rebuilding their social and political "infra-structure". In such situations, "peace organizations" often argue for collective solutions to security problems, relating them to dialogue, reconciliation, reconstruction and collective reparation. For "human rights organizations", on the other hand, the individual responsibility and its legal foundation and personal implications – both for the victim and the perpetrator – are key features of the reconstruction of security in such a society. In concrete situations, in particular societies with scarce resources, these differences can imply dilemmas for practitioners and politicians alike, who are advised very different approaches, depending on to whom they listen.

There is of course a wider scope of application, both of the human rights perspective and peace-building, then this example. For instance, human rights has – relatively speaking – recently become a tool for both defining and motivating development cooperation (rights-based approach to

cooperation). Although this approach does have its particular emphases, it sometimes have a lot in common with peace-building efforts in similar communities or situations. One uniting aspect if often the institution-building aspect, together with conflict prevention.

The humanitarian family

Human Rights and peace-building are deeply practical and political fields, besides their formal institutionalization through, for instance, a legal and/or constitutional system of a state. While the legality – or worse: legalism – of the human rights system is a matter of institutionalization and formalization of what initially were moral and ethical principles, also peace-building seeks the institutionalization of its moral principles so as to make any arbitrary application of decision-making procedures, or coup-d´etat-like actions, virtually impossible to undertake.

In line with the view of Colombian author Orozco (2005) one may say, that both Human Rights and Peace-Building as comprehensive perspectives, and the organizations representing them, are parts of the "humanitarian family". Both of them represent a framework for local organisations as well as the international community to secure peace, justice and development in the deepest sense of the words. This may require action in the midst of high-level violence/war, or as part of transitions from one political system to another, as well as during a long-term and slow process of small but visible steps towards improved life conditions under peace-time conditions.

Having this in mind we shall not forget that the two perspectives represent traditions that have been developed under very different conditions and historical circumstances. While, for instance, the emergence of the Red Cross/Crescent Movement, long over a century ago now, plus the result of innumerable international conferences, represent a combination of an, over the years, increasingly legally expressed humanitarianism, the peace-building community of organisations and movements has its roots either in a historic pacifism and critique against violence and militarism as phenomena, or from periods of reaction against threatening developments, such as the atomic bomb, nuclear deterrence, the arms trade or an increased general militarization of society.

This study addresses, and tries to develop, some conceptual approaches, for the analysis of issues currently discussed in the overlapping field of human rights and peace-building.

The overlapping of Human Rights and Peace-Building

Obviously, the field of human rights is today such a wide area, that it is difficult to say something general about the importance of rights for the emergence of conflict as well as the establishment of peace. The violation of different rights play different roles for the origin of conflict, and vice versa: to implement rights has varying effects – from fundamental to unnoticeable – on peace-building. Human rights is a content-oriented field, leaving open for those responsible for implementing them (mostly states) to choose the appropriate mechanisms. Peace-building, on its part, is both a matter of content (principles of conflict resolution and democracy, for instance) and of practice (such as techniques for conflict prevention, mediation, or reconciliation). These differences make the connection between the two fields rich and challenging. At the same time this situation requires some reflection on what the over-lapping between the two areas consist of.

One can make both an associative form of overlapping, and a substantial. An associative form would be to say that what makes human rights and peace-building overlapping is what binds together, in a theoretically meaningful way, components of the two perspectives. What does this mean? Let's consider three examples: If freedom of the press/media

reduces the level of violence in the streets, if capacity-building among women in villages increases school attendence of their children and therefore reduces the number of child soldiers, if post-conflict justice is established for at least the worst perpetrators of crimes, then safety is also improved in the village streets since the perpetrator's followers on local level no longer dare to act – if these three examples can be verified or proved (or disproved) by research, then we have three cases of direct relationship between human rights and peace-building that are theoretically meaningful.

There is also a substantial relation between the two fields, in the sense that they both have immediate "concerns" and relevance for certain situations where they in real life are challenged. They deal with the same problems, one may say. Thus, when human rights are violated, they "demand" to be respected. And when peace is fragile, or not at hand at all, measures of peace-building "wait" to be undertaken.

There is often a number of issues that can be addressed both from a human rights, and from a peace-building perspective, in post-conflict situations. Both the human rights system and the peace-building mechanisms have contributions that deal with the injustices, violations, etc. that come to light during and after dictatorships, armed conflicts, and similar situations, as discussed above, so both types of overlapping should be part of research, in particular since associative relations are useful for practical work. At the same time, the substantial relation seems more relevant for practitioners at a first glance, however in the long run establishing "best practice" requires more than dealing with "the same problem", it requires durable solutions to these problems as well.

One may put the question if there is reason to assume any contradiction between the two perspectives since they both aim at establishing justice, peace and general well-being for people? The debate, analysed in this study, is in itself a response to that question: yes, there are potential and

actual contradictions. In the most visible cases, I would say, these contradictions concern the timing and/or sequencing of certain initiatives. For instance: If an arrest warrant for crimes against humanity is to be issued by a court, should for instance the timing of this warrant be tuned to other than legal aspects if there is a process towards stability/peace where the indicted persons play a role? Is there a "most appropriate time" from a peace process perspective, for issuing an arrest warrant? Or another case: If development assistance should be human rights-based – which principle for the selection of human rights should be used as a basis for the resource priority that always is necessary in any project? Or should all resources be used as long as they last, in an equal manner with respect to the application of principles?

The point here is, that it is not possible to escape the need to make moral choices, and the reason is that there are limitations both to time and resources – be they money, people or ideas.

For some it goes against the nature of human rights, to ask for priorization of rights, but it is at the same time recognized in the human rights community, that a mechanistic application of rights – if this is a consequence of not being able to make priorities – is not what is intended in the human rights system.

Purpose and Structure

The purpose of this study is 1) to identify basic arguments in the debate on human rights and peace-building, to 2) contribute to this debate by arguing for some positions that, at this stage of research, seem adequate and useful, and 3) to use a human rights basis for linking the peace-building concept both to the origin as well as the settlement of conflict. The following three sections follow this thematic division of the study.

The themes treated in this study are full of concepts and acronyms. It is assumed, in this text, that the reader has a basic knowledge about some key features of the international system and issues in the development debate. Also, the purpose of this study is not so much to introduce and describe, it is rather to take forward an understanding of an ongoing debate. As the many four-fold tables indicate, an attempt is made to create a structure and relationship between corners in the debate, and to discuss where to go from this. Therefore, there is more of assumptions than conclusions in this text, written with the general purpose to create a framework for reflection on certain issues within the Research Program on Human Rights and Peace-Building, at Stockholm School of Theology.

The first section begins on the most general level. It uses Galtung's classical conflict triangle, turns it "upside-down" and in that way makes it into an indicator of peace-building components. From that transformation act we create a fundament for peace-building concepts that later on are possible to link with a human rights perspective.

The second section deals with the now well-known debate on post-war reconciliation vs. justice and accountability, and is analysed from two points of view: first the concept of reconciliation as a political concept, and secondly we identify different positions in the debate in order to understand where to go for the final section of the study.

In the final section we will deal with conflict prevention, a field where human rights by many are considered as a "given". Human rights are here seen as a main tool for both short-term and long-term prevention measures, connecting to the development debate on human rights "informed" or "based" development policies. This is a discussion in the wake of the "humanitarian intervention" debate – and in particular in the post-9/11 and post-Iraq situations - and goes into the "responsibility to protect " and recently, the latest "prevention" discussion, in order to see how human rights might contribute.

Relating Peace-Building to Human Rights

If we continue with the "family analogy" from the Introduction, it should be possible to link – empirically and theoretically – the various dimensions of life that might be threatened in any situation or in specific situations, such as under armed conflicts and wars.

"Peace-building" refers here to a social process which reduces the level of violence as behaviour or as mentality (="militarism") in a society, with the purpose of establishing long-term non-violent group relations, incl. mechanisms for conflict management and/or resolution. Thus we are linking relevant human rights provisions to such processes in this section.

There are three dimensions that traditionally are used as conflict dimensions at play in any conflict situation: the (destructive) behaviour, the attitudes of the parties, and their incompatible positions. These are the elements that Galtung (1971) once brought up, from basic sociological theory, as sine qua non components of any (social) conflict. His point was that social conflict could escalate through a process of mutually reinforcement between the three corners. In order to explain escalation, we needed all three concepts, he argued.

However, interest lays not only with escalation but its opposite, and in particular eliminating destructive conflict altogether, thus turning the triangle into a peace process of the opposite direction to the old one. In addition, the conflict triangle needs to be complemented with the existential dimension of social conflict, since such conflicts often deal with issues of life and death: why am I exposed to this? Is there a meaning behind events also of this kind? Anyone that has met a survivor from life-threatening situations, knows how serious such issues can be, for that

person. This means that we need to address both the "outside", and "inside" of a peace-building process, in order to – be likely to – achieve sustainability.

Taken together, we need to add this existential dimension to the three dimensions in Galtung's triangle, which we here are transforming. This is made so that Galtung's concept of "incompatibility" (of goals) is turned into a need for a predictable and just system for the treatment of different group's different goals, something we here will call "issue security". In the same way, the concept of "attitudes" in a spiralling process, needs to be transformed into a recognition of one's "attitudes", that is one's identity, thus we use the concept of "identity security". Finally, the concept of behaviour, meaning destruction of the counter-party's values, should be transformed into spatial security in all respects – no more fear, neither from people, nor from life conditions as a whole. In addition to these three concepts, we then add "existential security", making the picture a complete argument for conditions for peaceful relations. Thus they can serve as the conceptual basis for peace-building.

Such a sustainable situation is then a state of "positive security" and even "positive peace". In Fig. 1 the concept of "security" is used in this wide sense of the word, more or less as is used in "human security" – where it can be understood as "a stable provision of needs satisfaction". Also, since we stress the concept of "security" here, we can also make the observation, that from the history of the development of Human Rights, we could recognize this dimension as equal to Wilson's "freedom from fear".

The four dimensions identified above relate to each other as in the figure below. Existential security is at hand when a society is ready to meet and respond to issues of this nature among its citizens. Spatial security provides physical security, both in terms of short-term safety and social order, "safety on the street", as well as long-term stability and trust in

institutions responsible for law and order. Also the environmental dimensions of security – who also can be life-threatening – belong to this category. It is difficult to imagine a human space that is life-threatening (which is the issue this dimension deals with). All threats of that nature

Fig. 1. Four needs of security as a basis for peace-building
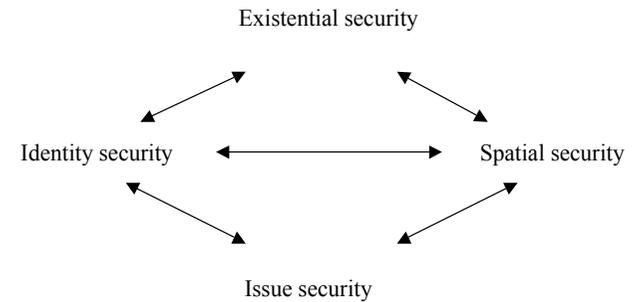
are spatial. Identity security is the dimension for which many conflicts today are fought. Recognition, acknowledgement are important factors here, but also reconciliation with (former) enemies, irrespective of ethnicity or religion. Finally, issue security refers to the functioning and trust in institutions that manage and decide about concerns, of any nature basically, that citizens may bring up on the public, political arena – through parties, demonstrations, media, or other non-violent methods.

As the Fig.1 shows, there is a direct link between existential and identity, and spatial, security, respectively, but not with issue security. This is so, since existential issues, empirically speaking, are empirically likely to refer to behaviour (killing, destruction) and identity (who am I?) rather then to democratic or other institutions, as such. If this proves not to be true, we need a better figure!

There are "providers" of human rights, in the sense of principles and institutions, relevant for each of the four corners in the figure. If peace-building is a multidimensional process – which Fig.1 implies – it would be interesting to identify some, a few, Rights whose realization are likely

Table 1. Needs and Providers of a Peace Structure

	Needs basis	Provider nature	Examples of a Human Rights basis
Existential security	interpretation and understanding of fundamental life conditions	philosophies, religions, belief systems	Universal Declaration of Human Rights
Identity security	recognition, education, expression of identity	legal protection, schools, multi-cultural society autonomy	minority rights, religious rights, non-discrimination (group rights)
Spatial security	territorial safety, "law and order", environmental security	state system: central or decentralised	1984 Conv Against torture, cruel,etc.
Issue security	expression of opinions; mechanisms of political influence, democracy	media, democratic education, normative structures of pluralism	rights of expression, freedom of assembly, thought, etc.

to (contribute to) establish a peaceful relation between two of the concepts in the figure. For instance, the right to freedom of expression, understood as a right to demonstrate peacefully, links the spatial and issue security corners to each other. Combining specific rights with the four corners and comparing real cases of peace-building – in a dyad approach or higher – would allow us to learn more about the linkage between human rights and peace-building. A more substantial description of possible contents is given in Table 1.

Another linkage?

The single most important finding in social sciences regarding violence and political systems, is the observation that democracies don't fight each other. The explanation for why it is in this way is however not a single one, but two major types of explanations exist. One is relying on the normative constraints that purportedly exists in democracies, i.e. e citizens in democracies simply don't "want" to go to war, they believe other methods are possible in particular if the "enemy" is a democracy as well. The second explanation talks about internal, institutional constraints within democracies. This means that it is such a complicated decision-making process in a democracy to initiate war, that the idea falls apart through its own impracticality, so to speak.

From a Human Rights perspective it is even more interesting to follow the debate that emanates from this originally inter-state-based observation. Could it be, that also intra-state democratic conditions as well provide for (at least) less internal conflicts, than non-democratic conditions? With a conventional – election-oriented – definition of democracy, this seems not to be the case. Also (even strong) democracies deal violently with certain internal issues (India, Britain/Ireland, Spain, Turkey, etc.). Here, the issue of human rights comes in as an interesting contribution to a generally social science discussion. Maybe the realization of certain human rights – rather then a particular system of elections – "democracy" – could explain under what conditions peace can be maintained. Basically, the idea is, that the substance of many human rights variables in a context of this kind, might be as explanatory as many more structural (social science) variables. Here is a field open, for more in-depth studies and multidisciplinary thinking.

I leave these ideas at this point. Through this approach to peace-building, one could test the explanatory value of human rights dimensions as contributors to peace-building. It sounds possible from a research point of view, given that some operational problems are overcome. That should be possible, and could be part of empirical research in this research program.

Emerging Crossroads

As is clear from the introduction, it is possible to approach the key issues of this program from at least two directions – a human rights and a peace building direction. From these vast areas of research we will here concentrate on the increasing body of studies that are relevant for addressing the dilemma of this project.

There are a few of studies about "peace agreements and human rights", with various approaches to this combination, including studies in transitional justice. Also, there are studies – mostly case studies – regarding the issue of reconciliation after armed conflict and human rights violations.

Even if these studies analyse and discuss aspects of the dilemma of this program, no one, to my knowledge, is specifically taking on the challenge of overcoming, in practical and/or theoretical terms, the dilemma created by two agendas with different advice to actors, trying to establish peace and human rights.

Christine Bell's study (2000) is a useful starter of an overview since it provides a context for the analysis and discussion on the relationship between peace and justice, while at the same time is developing a perspective on peace agreements, and the role of the human rights component in particular, in such agreements. Her research is more of a framework for analysis, than an attempt at synthesis of the two, i.e. agreements and human rights. Bell regards peace agreements as "transitional constitutions" and states that "the human rights provisions must be understood as an integral part of the constitution and as having particular transitional functions." (p. 9) Bell's study was published while the Rome Statutes, establishing the International Criminal Court, were waiting to be ratified of a sufficient number of states in order to take

effect. In line with this, she concludes that international law "is moving towards an increased notion of individual accountability and punishment during and after conflict" (p. 285). It is fair to say, that the transitional nature of peace agreements, envisaged by Bell, has been even further regulated in recent years, through the work of international criminal courts. This is true for peace agreements both in their role as semi-legal documents and "constitutions in-being", on the one hand, and their human rights provisions in this context, on the other.

In 2006, Bell is the author of Negotiating Justice? Human Rights and Peace Agreements, a study which in its structure and approach reflects the same theoretical framework as her study from 2000. The study begins promising, by stating that it is "examining whether human rights provisions assist or hinder the search for peace." (p. 3). However, the research questions of this study addresses the (textual) content of the analysed agreements, and this means in practice that the ambition of examining if the provisions assist or hinder the search for peace cannot be achieved, since this requires a certain distance in time to be achieved. Thus, this study is more an up-date of the work from 2000 than an original contribution on the topic. Still is a very rich and informative study on the problematique as such, for the moment the most up-to-date existing.

While Bell gives a structure of the legal and political framework for this development, Teitel (2000) stays within a legal framework and provides at same time a compelling argument that transitional justice provides "an independent potential for effecting transformative politics" (p. 213, Teitel's italics) and stresses that the modern forms of repression, with its systemic character, "implies a recognition of the mix of individual and collective responsibility." (p. 217). Thus, Teitel brings us beyond the legal sphere and implicitly into the arena of the overlapping agendas: dealing with the past is not only a matter of individual responsibility, but the society - in part or whole - has to re-establish itself as a just order. Differently expressed, this return means the realization of human rights, in

all its aspects.

From a human rights perspective and in relation to a post-conflict peace situation, research work has been done not the least about armed conflicts resulting in genocide, crime against humanity and war crimes.[3] Special attention has been put on the ICC[4], ICTY[5], ICTR[6] and the Special Court for Sierra Leone. Furthermore, Sriram (2004) discusses transitional justice in El Salvador, Honduras, Argentine, South Africa, and Sri Lanka, exploring factors making accountability for past human rights abuses more or less viable in transitional situations.

The infamous debate between an un-known negotiator, named Anonymous (1996) and Gaer (1997) is a background to many studies since it illustrates the dilemma in a succinct way. Basically, Anonymous (1996) was arguing, that the strong pressure from human rights advocates, during the negotiations to reach an agreement in the Balkans, de facto prolonged the armed conflict, thus taking lives during this period of prolongation, resulting in killings for which there is no justification. Gaer's response (1997) was basically that the Human Rights community has a duty to defend its principles, in every situation, and that it is not up to the community to make political considerations, or to make a trade-off. The Balkan experience became an issue not only for individuals and organizations, but for the global community as a whole.

Hannum (2006) follows up the debate in a specific study on the United Nations and how it deals with this matter. It shows clearly how "the left hand does not what the right hand does", in his study of two UN Offices[7] with respect to the promotion of human rights and peace and security,

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[3] See Robertson 2002; Ratner & Abrams 1997.
[4] See Shelton 2000.
[5] See Williams & Scharf 2002; Hagan 2003.
[6] See Magnarella 2000.
[7] Hannum studies the Office of the High Commissioner of Human Rights, and the Department of Political Affairs, both within the United Nations Organization.

respectively. Each of them are representing the two agendas but in an illuminating way, the relative isolation and lack of understanding between these two mechanisms of the UN, makes them working if not against each other, so at least uncoordinated and without fundamental appreciation of the other's work.

Abiri's study, commissioned by Sida, also from 2006, is an inventory of some positions in the debate, but it goes beyond that. Abiri proposes a way out of the dilemma, by suggesting the single use of a human rights-based language for all development cooperation policies, in order to settle the dilemma. This would be at the expense of a conflict or reconciliation-oriented approach. In practice it means avoiding the original dilemma of recognizing the validity of both approaches. It does not really seem to solve the issue as such then – neither conceptually nor practically.

An interesting position in this debate has also been developed by Feher (1999) who argues that a transitional process, from war to peace, is to be liked with a "civilizational jump". This implies, that justice before the "jump" is a different kind of justice, than after, and the same is the case with "reconciliation".

In a way, that is our observation, this view is mirroring the traditional view of (the need for) introducing and proclaiming war against an enemy – it means the introduction of the laws of war, without declaration of war, these laws were in principle not in force. Today's domination of civil wars, and gradual process of conflict, violence and a prolonged armed conflict and wars has made this principle obsolete. But Feher can refer to it, as an argument for his view.

A substantial overview and contribution to this debate has recently been provided from the Latin American horizon, through the study – already referred to in the Introduction of this study – of Orozco (2005), where he, and rightly so, labels the dispute between the "doers of peace" and the

"defenders of human rights" as a "family dispute" (p. 318). Departing from the Latin American experience of dictatorships and self-imposed amnesties, Orozco brings up the convergence in Europe between human rights defenders and the peace movement during the last decade of the Iron Wall.

The Wall's existence led to the convergence of views and actions of the two groups in a way that illustrated the complementarity of peace/pacifism, and human rights, according to Orozco. However and later on, through the wars of Cambodia, former Yugoslavia, Rwanda, and elsewhere, the tension within "the humanitarian family" became all the more visible, in the end dividing the family into various groupings with different characteristics. Orozco identifies "politicians" vs. "lawyers" as representing one conflict dimensions. Another one is between "pragmatics" and "purists", a third one between "the managers of conflict" and "the democratizers" .

Orozco argues for a balance between the two agendas, but ends his discussion in the midst of debating the current Colombian situation as of early 2005, without really stating a final position on the "family dispute".

A possible interpretation of Orozco can be made saying that a similar approach to the European experience of convergence between the peace and human rights movements could be developed in a generic way, i.e. as a way to overcome the striking injustices of Latin America – as was the Iron Wall. This is true not the least for Colombia, Orozco's home country, from which he had to flee some years ago.

Uprimny (2006) identifies in a useful way the gradual shift that different cases of transition from "war to peace" illustrate – from the legacy of Nüremburg and similar cases of imposed justice, to cases of a strong reconciliatory approach to the dilemma in focus of this program. While also, according to Uprimny, Nüremburg and Bosnia represent imposed

justice, Argentina and Chile are cases of self-amnesty, by the incumbent military governments. In Central America, on the other hand, it is possible to talk about reciprocal pardons, while South Africa, Uruguay and Northern Ireland represent cases of democratically legitimate transitions, again according to Uprimny (p. 33).

Often reconciliation in a political context – with variations – become defined as "a process where harm resulting from political violence, is repaired in such a way that trust again can be established between victims, perpetrators, and the society at large." (Nordquist, 2006, see also Thompson 2002). Such a definition does not exclude any method achieving such a result, and it works therefore more as a framework for introducing reconciliation as a political concept, than offering a precise method of reaching such a goal.

The scholarly literature on concepts such as "reconciliation" and "forgiveness" is obviously less developed than for human rights or international law, but a good exponent is Digeser (2001). His book was published in the wake of the work of the South African Truth and Reconciliation Commission (TRC).

It is probably fair to say, that Archbishop Desmond Tutu has become the most well-known exponent for the view that reconciliation rather than punishment in periods of transition can be justified. One can say, that the South African TRC members developed a language of forgiveness and reconciliation directly linked to the concept of truth and confessions. Neither the South African lawyers, formulating the law that established the TRC and related legislation, nor Tutu or his fellow members of the South African TRC, are representing any simplistic view of neither punishment nor human rights. It was an "early" – that is early in the 1990s – process that came to have many followers later on. Maybe one could say, that the concept of "punishment" that was embraced in South Africa had a wider meaning in the immediate post-apartheid context, then is

usual in political and legal discourses elsewhere. The critical formula was to forgive but not forget (Tutu, 2000).

Forgiveness, as a concept in political discourse has since the South African TRC become a political concept, as noted above (Digeser, 2001). Important here is to observe that this introduces an individualistic – and therefore not wholly positive – approach to understanding social situations, violations of human rights, and structural conditions in particular. How this relates to the dilemma which is part of this program remains however to be investigated.

Having arrived at this point, in the description of the two perspectives, we can make the observation, that there is not one single dimension along which all of these studies can be placed. Even if the main dimension remains, between a principled or a more pragmatic approach to the relationship between human rights and peace-building, there is another dimension emerging in the literature as well.

In addition to the principled view, besides a more pragmatic, there are also positions referring to the need to separate the peace, understood in practice as cease-fire and end of fighting, on the one hand, and as the full-fledged instrument for achieving human rights and legal justice.

From the overview above, we can choose views of four authors and let them be representatives of typical positions in this debate. This can then be summarized as follows.

The integrative view regards international law and human rights as far as law is concerned, on the one hand, and negotiations and peace processes on the other, as one single process and thus they should be represented by one, single integrated document. This is the essence of Gaer's response (1997) to the critique of Anonymous (1996) in the debate on the peace process in the Balkans. Bell (2000) takes a more pragmatic view in

arguing that peace agreements are transitional documents, and that human rights and international law provisions in this context need to be applied

Fig. 2. Four views in the debate on human rights and peace-building
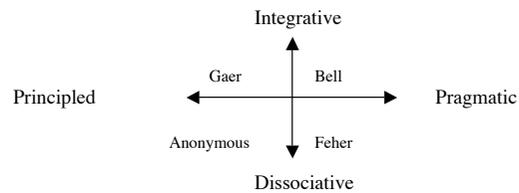
accordingly, which in practice often means adapting different instruments to different contexts in a way that alleviates a political solution which makes way for a more comprehensive legal and human rights application later. Feher (1999), finally, argues for different agendas in times of war and in times of peace: the transitional process means that a society makes a "jump of civilization" and, thus, reconciliation and justice is not the same before this jump, and after. Therefore one cannot integrate them into one single, document, event or process.

Fig. 2 above reveals interesting possibilities, and thus hints at how this program can develop. The potential richness of the field is clear, and given that, we can sketch, below, how we use the front line of existing research to model an approach.

In line with Bell (2002) we consider the triangular dimensions of power, social history, and international law as critical for the durability of a peace agreement, but we intend to widen and make explicit the underlying dimension of human rights in this triangular relationship. Bell describes the three dimensions well – and structures her account (2002) according to them. She does however not provide a hypothesis or theory on how to

balance these three dimensions against each other. Bell's structural conclusions are basically fine, but they in themselves do not provide for understanding their inter-relations, i.e. the issue of how to deal with the tensions between the various dimensions involved. Through an explorative and empirical phase in the first stage, and a conceptual and theoretical in the next stage, this program intends to go one step further towards understanding conditions under which human rights and international law can be respected while at the same time not be blocking its own over-arching goals of peace and security.

This is possible, we assume, since we have, so far, in the pre-studies to this program, seen how human rights makes a relevant contribution to understanding social history and power dimensions, as well as being part of international law. In the same way, the power dimension is often a dividing line for the most fundamental values of life and survival in a way that – whether we accept it or not – can interrupt the whole process towards peace. Finally, international law is developing, new cases are taken up in on-going processes, and interpretations of principles are subsequently unfolding as time goes by. Thus, there is a need for further research to sort out the inter-relationship between all dimensions involved.

Principle, Pragmatism, and Reconciliation

Human Rights and Peace-Building is overlapping on many fronts, as the previous sections have shown. A third one is the whole debate about peace vs. justice after armed conflict. I am aware we are here coming close to the issue to what extent Human Rights are relevant for war/war-like situations, but that is a separate issue.

Sometimes the debate is summarized as "principle vs. pragmatism", where reconciliation is one the one hand the extreme end-point of pragmatism, but on the other hand represents a debate in itself. I will make this clear below. This last section, then, will be dealing with various aspects of this debate, as understood in early 2007.

Changing conflicts – changing peace processes

The recently passed century demonstrated some fundamental changes in the nature of armed conflicts and wars. Three of them are important for the emergence of "reconciliation" as a political concept. One of the major achievements of the 20th century was the creation of legal instruments that bring the individual person into the realm of international politics. Milestones, each one in their own right, are of course the Universal Declaration of Human Rights from 1945, and the establishment of the International Criminal Court, based on the Rome Statute from 1998. Another observation is that, after the Second World War, armed conflicts and wars turned gradually into a blend of internal and inter-state conflict, only a few conflicts were open, inter-state conflicts. While internal wars

dominate as the typical war of today[8], they have at the same time become internationalized, often due to parties' international economic and political relations and support. This contributes to the protraction of such wars – a third observation. Protracted civil wars in particular are devastating for the civil population. This has obviously consequences for peace processes. The human loss and suffering during long-term dictatorships, or the social and physical destruction after a civil war goes far beyond the capacity that even any normally functioning state would have at its disposal; much less so in a post-conflict situation. This is where the political use of "reconciliation" started.[9]

Three reasons for reconciliation

In such situations, three different arguments for the introduction of "reconciliation" as a political instrument, are found in the literature. The first argues that a country with a shattered legal, political, and economic system cannot give an over-riding priority to instituting a costly legal procedure that runs over decades, at the unavoidable expense of other sectors. Another view is that on the moral level there is a morass of responsibilities in all directions, making it in practice an impossible task to create justice in any reasonable sense of the word after, say, a decade-long civil war. A third view is that legal procedures are backward-looking, they focus on the past and past grievances – the least what is needed in a country that needs to plan for its future, and create visions of a joint future – friend and foe together.[10]

Four components in peace processes

Peace processes since the end of the Cold War have developed a series of components, which in some cases are relatively new. Table 2 – on next

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[8] See Wallensteen, Peter & Harbom Lotta, 2005. "Armed Conflict and Its International Dimensions, 1946-2004" in *Journal of Peace Research*, Vol. 42, No. 5, SAGE
[9] A useful study making an overview of the emerging field is Hayner 2002.
[10] For an overview of positions see Bell, 2000, Teitel 2000, and Negotiating Justice (2006).

page – summarizes these components, in what could be called a "comprehensive peace process": the formal peace agreement, a process of individual legal responsibility, a mechanism such as truth and reconciliation commissions (TRCs), and finally, apologies by state or other leaders[11]. The Table indicates that mechanisms of four types are in principle available to deal with the impact of civil wars. At best, the four components could strengthen each other, be complementary and add to each other's legitimacy. Few processes, if any, show the simultaneous appearance of all these four, however.

Table 2. Four components in intra-state peace processes

| | | LEVEL | |
		Political	Individual
ASPECT	Legal	Formal peace agreement/equivalent	Responsibility according to national /international law. War Crime Tribunals
	Moral	Apologies from leaders	Truth and reconciliation process/Commissions (TRCs)

Before going further: a note on the cultural question

The conceptual overlapping that many observe between "reconciliation" and Christian teaching – doesn't it make "reconciliation" a Western phenomenon, in practice a part of Western cultural dominance globally, when applied in non-Western cultures? The critical aspect in a theoretical context is whether "reconciliation" represents a social phenomenon that is – at best - universal or not in character. The preliminary definition of reconciliation developed below seeks to identify a social process that can appear, in principle in any culture (where the words used in the definition have any meaning). Reconciliation, understood in this sense, may well carry the content of a global phenomenon. That is a point of departure, in this study.

Four reconciliation structures

It is important to identify the assumed emerging usage of the concept of "reconciliation" in peace processes. This requires, a. a., an identification of the potential structures within which the usage can – theoretically seen – be identified. The first and most common is intra-generational reconciliation, i.e. a process between person's who themselves have experienced, or committed, atrocities, in short: those that have suffered and carried the burdens related to that suffering. In inter-generational reconciliation processes, we deal with those individuals and groups who have to come to grips with prejudices, memories, and who have had to grow up in divided communities, due to past grievances and divisions. There is a growing literature on the question of "historic responsibility", i.e. if subsequent generations have the moral obligation to meet demands of reparation for injustices carried out by previous generations, for instance towards indigenous peoples, slaves, colonial peoples, etcetera.[12]

Besides this time-based distinction of generations, another distinction of fundamental importance is the nature of the relationship between the victim and the perpetrators, or rather: are victims always "only" victims, and are perpetrators always "only" perpetrators. Obviously there are situations where one can make this black-and-white distinction. There are probably other and more cases where the dominating impression is greyer. Thus we could distinguish between a unilateral and mutual moral relationship between the victim and perpetrator, i.e. a unilateral victim-hood and mutual victimhood.

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[11] For instance, when traveling in Africa and Rwanda, the then UN Secr-Gen. Kofi Annan apologized for the UN's inability to protect the Rwandans from genocide; Queen Elizabeth has apologized for British exploitation of the Maoris; the Japanese Prime Minister has apologized for what his country did in China, Korea, and the Philippines during WW II.

[12] A study arguing for transgenerational responsibilities, see Thompson, 2002.

Table 3. Four types of reconciliation settings and examples of cases.

	Intragenerational	Intergenerational
Largely one-sided responsibility (largely one side victim, other side perpetrator)	Massacres	Systems of segregation and oppression; racial laws
Largely mutual responsibility (both sides have inflicted injustices upon each other)	Armed conflicts/ wars	Protracted armed conflicts/wars

Structural dimensions related to reconciliation

The power dimension

There is a big difference for any legal process – or peace process on the whole for that matter – if the parties have agreed to the a result based on negotiation or a negotiated understanding (or an agreement) where neither side have been forced to give up militarily, on the one hand, and a situation where one of the sides can claim military victory, over the other. In the case of a victory of one side, it is not so that the loosing side does not have any bargaining power, but still, the situation is still fundamentally different from a negotiated one.

The gender dimension

The language of reconciliation, irrespective of it being used at a political or inter-personal level, is by some regarded as "soft", as an expression of weakness, thus often something women, or children or otherwise weak persons in general, are likely to be more prone of, than other groups. Some critics would claim that accepting reconciliation on a social or political level is basically a view of "the other" that risks becoming deceptive, in practice a meek and self-denying attitude. While it is not

uncommon that groups that have committed serious crimes in the name of machismo, masculinity, and power – such as for instance the Colombian paramilitary leaders in their today on-going demobilisation process – are among the first to accept possibilities of (degrees of) reconciliation. Their switch from one language to another is an obvious political survival strategy, and can be seen as co-opting the concept.

Close to the gender dimension lays the concept of "victim". It makes more profound the gender analysis by accepting also the theoretical possibility of making in one sense powerful individuals "victims" in another sense. While "victimhood" defines a person's status in relation to a particular conflict – (s)he can be victim, perpetrator and/or both – and thus expresses different levels of access to power at various moments in time, the gender dimension stresses the long-term roles of the same individuals. Both concepts – gender and victim, respectively – and their relationship, with changing gender roles as a possible consequence, needs therefore to be part of the analysis of reconciliation processes.

Reconciliation or forgiveness?

As an early and general reflection on the relationship between politics and reconciliation, an observation can be that reconciliation is not a "political process" of traditional type; it is rather a "pre-political" process in the sense that it is a de facto recognition that "politics" in its essence, up till that point, has failed to produce an acceptable social situation (=war), and that in order to avoid something even worse, one or another form of "reconciliation" is necessary. By nature, reconciliation is not a totally individual process – as can be forgiveness. There has to be at least two individuals that can reconcile with each other. In this sense, reconciliation is a relational concept. Reconciliation is thus providing a tool for building relationships. It is, to use sociological language, a structural concept, which for that particular reason can serve in a political context, and not only in a private or individual setting. It is this structural, relation building

capacity of "reconciliation" which makes it relevant and useful in a political discourse and practice. The latter is however not the case for "forgiveness". Forgiveness is – or can be – a one-sided act that can be expressed without any reciprocal action from the intended recipient's side. In practice there can very well be cases of mutual forgiveness, but the concept as such does not require this to happen, in order to be meaningful. As a consequence, forgiveness, when used in a political vocabulary, can at worst function as a kind of imposition on individuals, something that goes against the democratic nature of the whole process.[13]

The Content of Reconciliation

Reconciliation, in order to be a useful concept, also has to relate to the content, the nature of the relationship. I would argue, that it is too weak, to equal reconciliation with "being nice". This would place the concept among fundamental rules for social interaction. There has to be some more to it. In sum, reconciliation cannot be forgiveness, and cannot be just to be friendly.

The relational component

A legal process does not normally involve any form of message or interaction between victim and perpetrator. In court proceedings the two sides try to convince the court, not each other. In a reconciliation process it is "the other side" – being it a victim or a perpetrator – that primarily addresses each other, not, for instance, a commission for truth and reconciliation. A major purpose of reconciliation is however to influence relations, not necessarily on a personal level, but on the level where it was before the injustices etc. started. The assumption, then, is that the moral balance in a society is probably best restored on the level where it was broken. Without this relational component, again, it is hard to call a process of reconciliation; it would be counter-intuitive to the general

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[13] See Shriver, 1995, and Digeser, 2001.

understanding of the concept.

Changing mind?

A perpetrator before an awaiting legal process does not, from a legal point of view, have to change his/her mind in the direction of contrition, in order for him/her to pass the process, including its judgment. It is however hard to imagine as meaningful a process of reconciliation where there is no change of mind. At the same time, this is something that cannot be forced upon anyone without violating fundamental rights of integrity; it is difficult to deal with on the political level. Thus, a process of "reconciliation", or a TRC, that organizes such a process, needs to seek out to which extent a change of mind is present.

Moral and legal claims

There is an ethical dimension as well, in "reconciliation", which makes it representative for the message that individuals and others would like to send when they reconcile. The fundamental message is, that an individual, a group, or even a country is prepared to overlook, at least to some degree, legitimate claims (moral, legal, material) against the other person/side, for the sake of re-establishing relations based on the perpetrator's acknowledgement of the victim's suffering and a responsibility in this connection. The various components mentioned above, making up a "reconciliation process" – such as acknowledgement, contrition, truth telling, reparation, and justice – are all instruments for this. Reconciliation processes, with their different mechanisms, deal with a situation that a society's regular institutions are not built for, and therefore not able, to deal with effectively, neither legally, socially, nor ethically.

Defining "political reconciliation"

"Reconciliation" as a general phenomenon can be defined as a process where harm is repaired in such a way that trust again can be established.

"Harm" is then a consequence both of injustices in a legal sense as well as of violations of human dignity that may not be covered by law. "Repaired" refers to a variety of acts and processes that various mechanisms in a process can provide, each of them hopefully tailored to a specific context. "Trust" is a key word in the definition. It refers to what can be described as "social trust" meaning the fundamental type of relationship in a society that, without it, there are no valid promises, no fundamental security in the street, etc. "Trust" in this sense lies between "confidence", which includes sharing of information, and "acceptance" which is what is demanded from everyone towards a third person, irrespective of their personal differences.

Now, "political reconciliation" is a somewhat different thing then "reconciliation" on a general level. First, "political" reconciliation is a process dealing with injustices due to political conflict. Secondly, since it takes place on the political level, it has to be cognizant and respectful of its limitations when it comes to integrity and respect for the individual dimension in reconciliation processes, as we have noted in relation to the concept of forgiveness, and "over-looking" above. A more developed, but still pre-study, definition of "political reconciliation" would then read: a process where harm resulting from political violence, is repaired in such a way that trust again can be established between victims, perpetrators, and the society at large. A political reconciliation process, finally, has a societal dimension to it, which is different from inter-personal reconciliation. An issue on the political level is not only a matter between the victims and a perpetrator, for instance. If they have reconciled it is also a matter for the society – everyone has the right to know, that reconciliation has taken place.

Reconciliation in a legal framework

In the introduction the question was asked how it could be that "reconciliation" made its way into the political discourse and language at all. The literature in the subject tends either to deal with the justice dimension, the socio-psychological dimension or the forgiveness/remorse dimension.[14] The above stated assumption for the discussion here is that reconciliation has a component that includes the re-establishment of broken relations. A legal approach to these situations has been developed through the concept of transitional justice, which is a temporary legal order that besides its ability to try violations in court(s), often includes systems of reparation, truth telling and reform of the security sector as parts of a package for institutional reforms. Its relation to reconciliation is a matter of debate in itself, and is not in focus of this study; however, it is part of the political and conceptual context of reconciliation.[15]

The question of impunity or amnesty

The question of amnesty – and impunity as well – lies in the tension between the morally unique position that a victim has to be able to grant amnesty morally speaking, on the one hand, and the legal and well-founded social principle that everyone should be treated in a similar way, on the other hand: an individual person's freedom should not depend on a victim's personal judgment. Thus morally and ethically, amnesty or impunity is a matter for the victims, but legally it is a matter of parliaments and courts. There is a risk that state leaders, from en economic or populist perspective and dealing with a weak police and court system, including prisons, are likely to consider reduced punishment as a way of dealing with weaknesses. This is easy to criticize from a legal point of view, but the interesting question is what will happen if this weakness is disregarded, and things are set to move on as if the situation was "normal". The concept of "reconciliation" does however emerge from

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[14] In another context a literature review would be appropriate. Here, this statement is just an impression from the author's reading. The authors in the first group are not seldom lawyers interested in transitional justice, in the second group social workers and NGO-persons, and the third group theologians (academics, Church-based, or politicians).
[15] Teitel, 2000, is still a standard work. See also Barahona de Brito, 2001, and Negotiating Justice (2006).

situations that are not "normal".[16]

Truth telling

One of the most well known truth and reconciliation commissions was the one in South Africa. Truth telling was a most significant part of its work. Many believed at the time, that the mere telling of the "truth" in itself would work reconciliatory, that it would help healing people on the individual level.[17] The purpose with the truth component is, according to many authors, not to heal but to acknowledge hidden parts of a society's past.

With regard to the relation between truth telling and healing, one should make the observation that, as is known from court processes in general and in particular over cases that involve a person's dignity and deepest feelings, witnessing as someone being offended, i.e. targeted by the perpetrator, is a hard and often hurting experience. It does not in itself bring healing - unless the telling was sought for by the witness as a form for acknowledgement. If so, the conditions are different. Reconciliation commissions, then, are not courts, and if a healing dimension should be able to develop, this healing comes rather from the perpetrators actions, than the victim's. Through a meeting, in the deep sense of the word, one can imagine a healing dimension to develop under certain conditions, but, again, it cannot be based on only one side's truth telling.

Finally: an important second aspect of truth telling is the history-making part of it. The statements in themselves speak for themselves, but sometimes more political conclusions are drawn, with recommendations for how a society in the future can avoid a development of the same kind, again.[18]

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[16] This themes is developed in Abu-Nimer, 2001, and Humphrey, 2002.
[17] See for instance Tutu, 2000.
[18] In East Timor, where the report from the Commission for Reception, Truth and Reconciliation was handed over to the president on October 30, 2005, more than 400

The Reconciliation debate

It seems that from the vast debate over issues of reconciliation, and subsequent demands and debates over compensation, reparation, restoration, pardon, acknowledgment and recognition, that two main issues penetrate the whole discussion. As of now, I think it is possible to integrate all cases of debate issues in this particular formula, described in Table 2 below.

It takes its point of departure in the moral complexity of a situation, and the extent to which a society or a state is able to manage – legally, socially etc. – its own crimes/processes, etc. A "morally complex" situation is a situation where both/all sides in a conflict have committed serious crimes/violations of human rights against each other, often over a long period of time. A "state's ability" refers to the material, institutional and political capacity of a state to undertake systematic and fair prosecutions and/or rectifications of committed crimes/violations, given its resources and development needs and prospects. Here we deal with OECD countries, as well as the poorest 25 in the world. Situations of "reconciliation debates" are found "everywhere". Thus the examples are quite diversified, however, in common they have the introduction of "reconciliation" as a politically valid concept, and relevant for a given situation under debate.

The most visible debate today is held in square 4 in the Table on the next page. While South Africa and East Timor have chosen a path that used reconciliation commissions – for reasons of avoiding continued internal conflict/war – Uganda has withdrawn its initial support to the ICC for arresting five LRA top leaders, claiming it interrupts a possible peace

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statement-takers travelled around the country and collected thousands of stories. An early example is the Guatemalan Commission for Historical Clarification.

process.[19] In all these situations, the moral complexity of the situation is low – the perpetrators are well known, largely one-sided and their general (not personal) responsibility is questioned neither nationally nor internationally.

Table 4. Reconciliation Debates – Examples of Issues

		A State's/Community's Ability to deal with violations is…..	
		High	**Limited**
The Moral Complexity of the Situation is…	**High**	Present day management of historical discrimination	Internal conflict of Colombia today
	Low	Current, on-going discrimination of indigenous groups, ethnic minorities etc.	South Africa apartheid liberation process; East Timor independence process; Uganda (LRA and ICC indictments)

Square 1 is in a way "the opposite". It deals with our (generation's) responsibility for historic wrongdoings of previous generations. This debate touches as well on the responsibility of anthropology to contribute to return of objects, as it relates to how to deal with historic monuments, and – more important – to what extent, if any, has a living generation a responsibility for wrongdoings by its predecessors?[20]

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[19] I am well aware of the Special Panels in East Timor, but their short period of work, with a minimum of material and weak nationally based resources, have made their contribution to justice on the whole quite limited, in the East Timorese case.
[20] Thompson (2002) is an excellent overview of the issues raised in these debates, referring to the Australian case of Aboriginal population and Australia.

The two other squares do not need any further comment here. They illustrate two other well-known cases. The point with Table 4 above is to identify dimensions that seem to bring a structure to the phenomenon of "reconciliation" in a political context. This is still an emerging debate, and approached from a variety of positions.

I have tried to go through some literature on the subject, with particular emphasis on the peace-building agenda, and how human rights overlap with it.

Reconciliation and Structure

It is easy to think that reconciliation is "the same" in all situations. This may be true on the personal level, but everything personal also has a social, or structural, component – from gender roles to making coffee. All four views presented in Fig. 3 need to reflect on the conditions under which their respective positions are to be taken into account, not necessarily for changing them, but for understanding their relevance, as a first check.-point. Therefore we need to bring in also some structural conditions into the reconciliation debate analysis, as a last tool.

It is possible to identify a major division between cases that arise from conflict between elites (i.e. dictatorships), and internal armed conflicts (with two or more internal parties). Another structurally important dimension is the power relations between the actors at the formal ending of violence, sometimes possibly in a peace agreement[21], creating a dichotomy with cases like the following:

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[21] It is good to remember that in cases like South Africa or East Timor, a peace agreement was not signed.

Figure 3. Two Dimensions of Reconciliation Conditions

It would be interesting to develop an hypothesis over the impact of structurally different conditions on the outcome of peace-building attempts, and, to what extent human rights are affected in each and everyone of the four positions. In some positions Human Rights are likely to be possible to realize relatively "easier" than under other conditions. As a second step, the interesting issue is of course, if Human Rights realization that is done "easily" also means it is effective, from a peace-building point of view. It could be the opposite.

Prevention as Protection? A Debate for Human Rights and Peace-Building

The notion of a "responsibility to protect" (R2P) was during the first years of the second millennium, a key idea in the discussion over possible reformation of the United Nations. It continued a debate over the meaning both of "sovereignty" and "international justice" that in the 1990s started with the concept – and practice some would say – of "humanitarian interventions". In particular the question was how to implement the responsibility that the UN and the global community as a whole (might) have, when facing systematic violations of Human Rights in, and often by, its member states.

In the deliberations in 2005 in the UN[22], it was a clearly expressed Third World point of view, that the R2P concept is not at all an acceptable approach for any country to show or take "responsibility"; the critique was basically saying that the "responsibility to protect"-concept is nothing more than a re-writing of the earlier (1990s) used and at that time often criticized "humanitarian intervention" concept. The critique came from governments critical to alleged neo-colonial ambitions of "the North" disguised in R2P. In addition: no one talks today about "intervention", that concept cannot be "sold" any longer in the wake of the US-British invasion of Iraq in 2003.

This critique, and the stalemate it lead to internationally regarding the question of how to execute "international responsibility" on a multi-lateral basis, also brought the dimension of human rights into the same

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[22] This refers to the adoption at the 2005 UN World Summit, of the report A More Secure World: Our Shared Responsibility, Report from the Secretary General's High-Level Panel on Threats, Challenges and Change. This report recommends "responsibility to protect" (R2P) as a viable approach to deal with some of its issues. The R2P was developed in 2001 by the International Commission on Intervention and State Sovereignty (ICISS).

stalemated situation – at least to the degree it had been linked to the motivations for both humanitarian intervention and/or responsibility to protect in the previous years.

What could be an alternative starter in such a situation? Here I shall try the concept of "prevention", by comparing it to "protection" and then discuss how it eventually could open avenues for strengthening Human Rights. Let me go through this in a rather theoretical way.

Similarities and Differences

There are some interesting similarities and differences between the concepts, which merit to be developed. The two concepts are here compared and interpreted with the help of two different discourses. This makes them dynamic and interesting to develop further, jointly and separately. This dynamic relationship needs to be developed by the international community at large, not the least for developing of a new basis for the protection of peace and human rights.

It is often said in the medical profession that "prevention is better than cure". It is widely held that so is also the case in the international political arena. As the debate before the UN summit in September 2005 showed, reaching an understanding over the meaning and utility of a "responsibility to protect" is quite a difficult thing. It is fair, given that specific experience, to ask whether would it then have any relevance for political action at all, to discuss the "responsibility to prevent", something that seems even "further" away, then "protect"? Wouldn't it simply be too idealistic, too much of wishful thinking?

Distinctive features of the two concepts

Protection can be seen as undertaking measures to ward off direct or indirect threats, or threatening situations. The Responsibility to Protect Report from 2001 argues that states need to shift from the conventional thinking, i.e. in terms of "justification of intervention", to a "responsibility to protect" where the basic idea is that a responsibility lays with governments to protect their own people - as well as other peoples, subject to other governments. The root of this responsibility comes with the concept of sovereignty: any government that is recognized as sovereign is at the same time assuming a protective role vis-à-vis its population. Sovereignty and responsibility are then two sides of the same coin - that of being a legitimate government.

When a government fails to live up to this responsibility, it may be necessary for other governments to intervene against the will of this failing government, due to existing or imminent threats to a group or a whole population, at worst an imminent genocide. Such a failure can come for instance from a protracted civil war, an external invasion, an epidemic situation, a predatory dictator or rebel leaders, and the like. Seen in this way, "protection" is a reactive initiative, based on an actual or perceived threat – direct or indirect. To "protect", then, is in its most simple form to stop a negative development and reduce or eliminate its impact of suffering upon a group, a community, or a whole population.

Prevention, on the other hand, is a different thing. It should be understood – briefly and ideally – as attempts to change conditions so that a negative development does not begin. Prevention is thus future-oriented and therefore partially imaginative. This is not necessarily a problem. Rather, we know that certain conditions breed injustice, poverty, and human rights violations. To "prevent" is then to create a reformed or totally new situation with the help of a combination of imagination - of what could happen if preventive measures were not taken - and of

experiences about what is possible to do through reforming societies.[23]

As a summary: "prevention" is a pro-active and pre-emptive initiative built on a combination of imagination and a grounded experience of social change in order to establish conditions that make violence and human rights violations less likely to happen, while "protection" is here seen basically as a reaction to the (near-in-time) outbreak of such violations.

Real-politik for protection

From this observation it is not far to see that there is much in common between the old-fashioned, traditional power politics ("real-politik") in international relations and the protection idea. Borders, for instance, are in traditional thinking created for the purpose of control and protection. Without borders it was unclear who was to be taxed and who was – therefore – to be protected. The point now is, that there is a responsibility for governments to protect both their own and other countries' populations, if necessary. This implies an understanding of protection that goes beyond the traditionally limited and inward-oriented view. And, as mentioned above, the duty is not only to protect oneself, also other populations that suffer is within one's sphere of responsibility.

A second observation is, that "protection" – as a consequence of the argument above - becomes linked to the just war-theory in the sense that it deals with the conditions for external action – war/intervention – when there is a broken order, or when injustice is made, in another state.

However there is also an important difference between traditional "just war-theory", on the one hand, and "responsibility to protect-thinking" on

the other. The latter signifies a move from conditions when it is right (or justifiable) to intervene, to conditions when it is a moral obligation to do it. This is of course one of the purposes of bringing "responsibility to protect" into the discourse of international organizations, such as the United Nations.

The reasons for intervention are in both all cases of this tradition, the restoration of peace, justice and the elimination of major threats to local and global communities. This is what should be protected in both traditions. The scope of the responsible actors has increased. But how far goes the responsibility? On the whole, just war-theory is weak on the issue of "what should be protected", and the "responsibility to protect"-thinking of the ICISS report and elsewhere, follows the same line as the examples mentioned above, albeit doing it in a more developed and thorough way.

If we accept the difference between "prevention" and "protection", we see that the idea of protection is an approach within the realm of "action and reaction"-thinking. An old-fashioned way of doing international relations, both structurally, and from the point of effectiveness: global problems need pro-action, not re-action.

With this observation, let's look at the fundamental problem for both concepts: a responsibility both to protect and to prevent are then of a twofold nature: What should be prevented/protected? and: Which means are justifiable for these tasks?

General and specific prevention

In order to undertake structural as well as social and political reforms – which is what preventive action is about – and thereby addressing areas of vulnerability, a consistent policy from actors in the international community is necessary. A framework for this policy is what the

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[23] From a linguistic point of view, it is also interesting to note that in the Swedish language, there is a difference between "prevent" as "förebygga" and as "förhindra", a difference not developed in English. While "förebygga" normally referers to long-term measures – often in a medical context – "förhindra" is more direct and active, at times it can almost mean "stopping" something from happening.

international community now is debating.

The "responsibility to protect" becomes - in a world based on the UN Charter's principle of prohibition of illegitimate use of violence - a "last defence"- line since it addresses the last phase in a violent spiral of actions. If there is wide/global agreement we can justify intervention against the will of targeted governments that do not protect the fundamental interests (=Human Rights) of its people. That is the idea. And the reason is not an interest in intervention, but an interest in protecting people.

The "responsibility to prevent", however, leads our thinking one step further: which spirals of violence – direct and indirect - can we identify today? In doing so, it needs to keep in mind the nature of international challenges. Let's consider one type of division of challenges.

Table 5. Differences Between General and Specific Prevention

	General	Specific
Long-term	Structural injustices; Human Security issues	Eradication of: aids; of child soldier recruitment, etc.
Short-term	Preventive security deploy-ment; maintain peace and security in post-conflict areas	Explicit security threats (cf. terrorism) eliminated

While many leaders and scholars recognize the differences in the nature of problems indicated above, it is nevertheless the linkage between short- and long-term that seems to dominate the debate. Short-term measures, for instance against terrorism, are debated against the view that they will not solve the problem. And long-term change, like climate changes, are not short-term enough to motivate strong action – even if the likelihood of

catastrophic effects within a time period are as high as that for terrorist act - in the same place.

To combine seemingly contradictory perspectives of time and of level of action is a most challenging intellectual task. Languages that can deal both with short-term and long-term processes are needed, in particular since this double time perspective is also important for the concept of peace-building.

Violence and its justification

Prevention is often thought of as non-violent. However, prevention can be very harmful. Sanctions, for instance, taken against states are intended to harm, not necessarily to kill, but to harm, in order to cause action. This is true also for the newly developed idea of "targeted sanctions".

The introduction of targeted sanctions is an adaptation by the international community to the same reality that has prompted rethinking of the "just war-theory" into a "responsibility-theory". The fact that there are leaders in states who do not feel or act responsibly towards their own populations, but rather the opposite, requires other methods on part of the international community.

The traditional thinking around sanctions was assuming that responsible leaders should change their policies when realising that their people was suffering. However, irresponsible, and sometimes predatory leaders, who don't care about their population, can only be influenced from outside – it seems - through a specific targeting of them, as individuals.

The line between prevention and protection is then not effectively placed between violence and non-violence. Protection could well happen without violence, and prevention might need violent action to be working. The difference between prevention and protection is a matter of type and

timing of action, not of degree of violence.

This means that we need a comprehensive set of criteria both for the right to prevention as well as to protection, a "jus ad" for both situations. In the same way we need a "jus in" for both prevention and protection. As of now, the international discussion is in reality limited to "jus ad" and the case of protection.

Table 6. "Jus ad" and "Jus in" Related to Protection and Prevention

	Protection	Prevention
"Jus ad"	Gross HR violations - or threat of such	If necessary even imposed reforms for more justice within states;
"Jus in"	Defending a human dignity principle, i.a. "least harm to those that are protected"	A preferential treatment of those that suffer from HR violations; trust-based approaches preferred before threat-based;

The right to go into protective measures – "jus ad" – is developed by the ICISS report and shall not be repeated here.

The table indicates that prevention may require imposition and a quick reaction against also short-time violations of human rights. This points to a climate of international commitment for upholding fundamental values. It means a systematic address of issues that normally are quelled by force but which in a longer perspective threatens peace and stability both within and between states. It sounds as a zero-tolerance approach to intransigent violators.

The ICISS report in a way equals "sovereignty" with "responsibility". A state which is unable to fulfil its responsibility to protect its population, has lost its (legitimate claim to have) sovereignty in the eyes of the international community. This argument focuses that sovereignty is something given to a state by others (directly by states normally, but sometimes indirectly by states through an international organisation, such as the UN). It cannot be taken, only given. A territory and its population can claim to be sovereign, but it is not a God-given right. The final word lies with states outside the territory in question, not with the state itself

Human dignity

When developing a contribution to a re-defined approach to international relations between states and nations, what would be the specific contribution to human life and reflection, in order to find a concept and reality that projects their fundamental beliefs?

One possible point of departure can be the concept of "human dignity". As an answer to the question "what should be defended", the principle of human dignity is a starting point – as a principle from which the construction of states, of international relations, and of human rights and duties could be developed. An ethical and also theological contribution to the idea of a responsibility to prevent, as well as to protect, may have as its foundation in the principle of human dignity. As long as sovereignty,

Table 7. Action-reaction or Pre-emption?

	Action-Reaction	Pre-emptive Initiatives
State interest-based	Just War-thinking	Preventive diplomacy
Rights-based	"Responsibility To Protect"	Targeted actions against violence (direct/structural). "Responsibility to prevent"

intervention, protection and prevention are effective tools for maintaining

and strengthening human dignity, they could very well be legitimized instruments. However, it is important to remember who is the composer, as much as who is "playing the instrument".

For prevention, and protection as well, this could mean the following way of thinking. We have noted above that protection basically a "reaction" to events, while prevention is a type of "pre-emptive" measure.

One important reason for states <u>not</u> to get involved in preventive action – not even in situations of evident humanitarian crises – is the lack of visible connection between action and outcome, the need to have ones interests unhurt, and – still – a lack of operational alternatives: what is the best way to act?

A double Human Rights role

So, what is then the connection? The nature of the connection between establishing Human Rights norms and a change towards peace and development can be identified on two levels, described below in Table 8.

Instrumental application is a targeted realization of specific norms, related to the needs of the situation and purposely chosen to show impact. On a longer term, such an instrumentalist view can be taken on certain concrete measures as well. Capacity-building implementation is a general and broad improvement, without the purpose of targeting a specific area, rather targeting them "all".

Table 8. Time Perspective and Types of Application

	Type of Application	
	Instrumental	**Capacity-building**
Short-term	Selected norms realized	Education for successive improvement
Long-term	Building a HR monitoring capacity	Institutionalization of HR mechanisms

Time perspective

Binding Pieces Together

It is now possible to bring things together: where are the risks for tension and where are cooperation possibilities, given the points of view in the perspectives, as we have identified them – irrespective of whether we talk about prevention or post-conflict initiatives. This is an attempt to identify the structure of relations between the two perspectives.

Fig. 4. Tension risk areas in relations between human rights and peace-building perspectives, on top and grass-roots levels, respectively, with references to tables and figures of the study.

Levels of relations		Type of Measures	
		(cooperation potential)	
Top Level	Peace-Building structures for security (see Fig 1)		Human Rights provisions implemented (see Table 1)
	tension risk		tension risk
Grass-roots	Human Rights claims (see Table 4)	(cooperation potential)	Peace-Building practice (see Table 2+5)
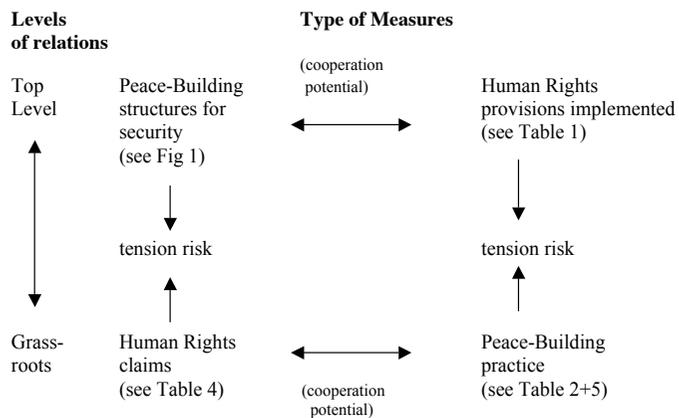
While human rights claims by nature in most cases are referring to (the rights of) individuals, the provider of rights is normally the State, which in crisis situations – such as the ones described in this study – is not functioning well. The most important provider for human rights is not at work when it is needed most, one could say in a somewhat lapidary way.

Thus there is a tension risk between the two perspectives when the human rights provider does not function, and what is often seen as a first replacement on top-level, i.e. the structural peace-building efforts, tries to establish conditions for the State to be effective, although it is a long-term effort.

However, there are instances when the international community can replace the State in certain functions (the right-hand column in Figure 4), something that in such situations can interfere with grass-roots' peace-building initiatives, both from a development and legal perspective. Thus there is a "tension risk area" in these relations as well.

Having identified these "risk areas" it is however more interesting to focus on the potential cooperation areas that exist, also in the situations of asymmetry and post-conflict resource scarcity that we are basically dealing with here. These potential cooperation areas are indicated in the figure, and refer basically to the possibility of cooperation "on an equal level" – grass-roots are expected to cooperate "better" since they understand their own conditions, and have similar resources.

Whether this holds true or not is not obvious, but at this point we should not leave the hypothesis that local organizations and practitioners may more easily cooperate between themselves, than between them and the national level, also on issues of human rights and peace-building.

On the whole, and as a final reflection, the two debates that arise in the two tension risk areas in the figure is a debate that by many is seen as "useless" or without possibility of progress, and therefore needs to be handeld in a constructive and mutually respectful way. In this research program a number of dimensions will be put to test, by local organzations as well as academics and policy-creating groups, in order, at least, to develop a larger share of understanding and perspectives on how to go forward.

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The Crossroads of Human Rights and Peace-Building – an ongoing debate

Building sustainable peace with justice is a major challenge not only for the involved states, but also for the international community as well as local organizations and communities. Human rights and peace-building represent two perspectives and approaches to such processes, and therefore also two ways of dealing practically with concrete situations. Even if there is agreement on the general level between representatives of the two perspectives, there is often disagreement on questions of "how and when". This study identifies and discusses different positions in the debate between the two perspectives.

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