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A conflict resolution perspective

Ram Manikkalingam | Working Paper 7 | June 2006



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## Is there a tension between human rights and conflict resolution?

A conflict resolution perspective<sup>1</sup> | Ram Manikkalingam<sup>2</sup>

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The relationship between pursuing Human Rights and resolving conflict is by and large complementary and one generally advances the other. This is because violent conflict invariably leads to severe violations of human rights – death, torture, imprisonment, destruction of livelihoods, deterioration of health, to name a few. Similarly violations of human rights, when people are imprisoned, tortured, discriminated against on the basis of class, ethnicity, or religion by the state, and excluded from political participation, can lead people to oppose the state, generating conflict. So protecting human rights is generally good for making peace and making peace is generally good for protecting human rights.

This is both historically and politically well established. For example, when John Locke argues in the *Second Treatise* for constitutional government that protects the basic rights of individuals as a framework for civil society that helps avoid a state of war, he is drawing on this connection. Similarly, the UN charter, born out of destruction of World War II took the relationship between war and the violation of human rights as self-evident – that systematic violations of human rights are not only a consequence of war, but can also be a cause of it.

“We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind and, to reaffirm our faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women, and of nations large and small,..”<sup>3</sup>

This observation was in 1945 almost self-evident as human rights themselves were then said to be. Still it is striking that the basic lesson of WWII and a principal thrust of the charter have been lost on many contemporary leaders. So it is important not only to retain the lesson of 1945, but also to grasp it more vigorously through a better understanding of the relationship between human rights and conflict resolution.

It is therefore still useful to specify more precisely the links between the two and to get a better sense of the areas where there is a tension between human rights and conflict resolution. Understanding the potential tensions can also help those seeking to resolve conflict to better address them in a way that promotes both peace and human rights.

## How are human rights good for resolving conflict?

1. Human rights can be good for resolving conflict because it can contribute to the long-term stability of a conflict settlement. The effective protection of human rights is usually associated with justice. This is because we expect that in a just society human rights will be protected. And citizens of a country, the world community and even political leaders tend to accept solutions they view as just. Thus a political settlement embedded in *human rights can help make solutions more durable*.
2. A human rights informed approach can also contribute to *identifying the “root causes” of the conflict and potential means for addressing them*.<sup>4</sup> Human rights standards can help provide indicators for when a state has failed to address the reasonable concerns of a group of its citizens. For example, human rights standards regarding discrimination on the basis of race, ethnicity or gender can indicate when a state has failed to protect groups of citizens. When groups make human rights claims along the lines of inadequate education, health, or civil and political rights, they are generally good indicators that tensions will arise, if the state fails to engage with these claims.<sup>5</sup> While the fact that a claim is made need not indicate discrimination or failure to treat a group as equal, failure to engage politically with those making such a claim and either redressing it, or explaining why it does not require redressing can lead to a feeling of exclusion and potential problems for the state.
3. Human rights can also help *identify potential mechanisms* to help resolve a political conflict. In the case of minority rights, for example, these can range from electoral arrangements and autonomy measures, to different types of anti-discrimination laws or positive discrimination efforts. By also emphasizing the importance of equal treatment, human rights standards provide a benchmark for the limits of accommodating claims of groups or individuals where they interfere with other important civil and political rights, or the reasonable concerns of other groups.
4. Human rights can also contribute to *resolving conflict in the short term*. It does this first by *protecting bridge builders*. Initial efforts to resolve conflict are usually the most sensitive and extremists can block these efforts by targeting moderates on their sides. These moderates tend to be bridge builders among communities. Human rights activists usually tend to be among them, because human rights activists generally affirm universal values, rather than the particular ones of groups alone. Protecting human

rights in volatile situations that usually are associated with initial move towards peace can strengthen those who argue for accommodation among groups and thus contribute towards resolving conflict.

5. Protecting *human rights can also contribute to international support* for a peace process and political settlement. Most international and regional organizations from the United Nations (UN) to the Organisation for Security and Cooperation in Europe have mandates for protecting human rights. Many are bound to uphold human rights in political solutions. For example, UN mediators are expressly barred from endorsing political solutions or agreements where international human rights obligations are not upheld. By protecting human rights therefore parties can increase support for a process of resolving conflict. This support can also translate into political support for a party that upholds human rights, economic assistance to the country and international support for the peace process.
6. Human rights can also provide a neutral standpoint that can help resolve disputes between parties in conflict. While international human rights standards may be controversial, they are not viewed as one or another party's standards in a civil conflict. They are free-standing obligations that parties can be asked to uphold. This is particularly helpful when addressing knotty problems and allows mediators, in particular, to point to some set of obligations other than the interests of one or another party, or even the suggestions of the mediator. By suggesting that there are standards that ought to be upheld irrespective of the context, international human rights standards can facilitate dispute resolution when two parties differ on the outcome.

How are human rights bad for resolving conflict?

There are some ways in which human rights may be viewed as being in tension with conflict resolution. But these tensions between human rights and resolving conflict are not inevitable and can be reduced.

1. States and armed entities engaged in a process of negotiations generally would like to maintain influence, if not control, over their populations. *When they violate human rights and they are condemned for it, they lose legitimacy among their constituencies and internationally.* In addition when human rights are protected, their political opponents can speak out and this can *undermine their control over their populations.* This would be a

2. Another way in which human rights can be in tension with resolving conflict is the *perceived inflexibility of human rights*. Human rights are generally viewed as non-negotiable and absolute. Conflict resolution is usually about finding the common ground between political actors who hold different positions, including about what is right and wrong. So the effort to find a compromise is seen as detrimental to the absolute adherence to human rights standards that is critical to international human rights. But this view of human rights, particularly international human rights is mistaken. If human rights were indeed clear and absolute, there would be no need for judges, lawyers and international commissions or tribunals. Conflicts persist precisely because human rights standards are not always clear. And often *parties to a conflict will view their respective positions as being fair and justified in terms of human rights*. This is precisely why mediation and conflict resolution is required. While there are clearly certain practices, such as desisting from killing civilians, that are inescapable human rights requirements in any conflict, this is rarely the case for the political differences that form the basis of the conflict. So *the perceived rigidity of human rights is less of a challenge to conflict resolution than it is often said to be*. It is also rarely the case that only one side violates all human rights in any particular conflict. Rather all parties to a conflict tend to be responsible for violating some human rights, if not the same ones. This permits room for getting parties to adhere to human rights standards in a way that does not necessarily make it one-sided politically.

3. Finally, human rights and conflict resolution are in tension when issues of *culpability for past violations* are raised. Resolving conflict mainly involves getting parties who have fought each other violently to agree to engage with each other in a non-violent and political manner. Those parties who have resorted to violence are also typically those who have seriously violated human rights. It is rare for political actors who are engaged in negotiations to end war not to have been directly or indirectly involved in serious violations of human rights. Peace processes seek to engage these actors and move them towards the political mainstream. It would be difficult, if not impossible, to do so if such *actors were told that their willingness to move from violent politics to non-violent politics would lead, not just to their political irrelevance, but to prison*. Most facilitators thus find themselves in the position of having to make excuses for, if not politically to forgive, the perpetrators of human rights violations in order to maintain peace processes. This is true, in particular, prior to the disarmament of armed groups or militaries in peace processes.
4. This is probably the most *challenging tension between the desire to resolve conflict and the effective implementation of international human rights standards*. Despite this challenge, it is possible to reduce the tension between human rights and conflict resolution. Mediators and political leaders may avoid mentioning amnesties altogether in negotiations over peace. While this is possible, it is not likely. Armed groups and states will invariably make demands for amnesties that help their leaders and fighters avoid prosecution. Another way of addressing this tension then is to provide an amnesty nationally, but not internationally. Leaders with egregious human rights records would then lack international legitimacy. This in turn will have a negative impact on their domestic legitimacy. Over time, once peace is consolidated this need not rule out the possibility of pursuing these violations through domestic courts. While a great deal of attention has been paid to this tension, it has been *mistakenly viewed as representing an overall tension between human rights and conflict resolution, and as being irresolvable, politically*.

## Conclusion

Human rights and conflict resolution complement each other by and large. Where there are some tensions, these can generally be addressed with political skill and deft institutional design. Moreover, political compromises to avoid war and delay its possibility contribute to protecting human rights, because war leads to some of the worst violations of human rights. The one area

where there is a clear tension between human rights and conflict resolution is in the case of amnesties for past violations. This raises an inevitable political compromise that domestic political actors will have to make in coming to a political agreement. However, such amnesties need not be recognized internationally and thus need not lead to individual impunity. This matter aside, the protection and promotion of human rights — and specifically the human rights— informed approach to conflict prevention and resolution — is instrumental to achieving peace and stability.

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<sup>1</sup> This paper is based on an oral presentation made originally at a conference sponsored by Human Rights Internet and hosted by the International Centre for Ethnic Studies on "The Human Rights Informed Approach to Conflict Prevention" held near Colombo on 18-20 January 2006.

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<sup>3</sup> Preamble of UN Charter

<sup>4</sup> See, e.g. The Lund Recommendations on the Effective Participation of National Minorities in Public Life [[http://www.osce.org/documents/hcnm/1999/09/2698\\_en.pdf](http://www.osce.org/documents/hcnm/1999/09/2698_en.pdf)]. Also see John Packer, "The origin and nature of the Lund Recommendations on the Effective Participation of National Minorities in Public Life", *Helsinki Monitor*, Volume 11, No. 4 (2000), pp. 29-45

<sup>5</sup> See for example data of Minorities at Risk Project: <http://www.cidcm.umd.edu/inscr/mar/>