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# Human Rights and Conflict Resolution from the Practitioners' Perspectives

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When responding to conflict, human rights advocates and conflict resolvers share similar goals. In the short run, both sets of practitioners seek to end violence, limit loss of life, and minimize other suffering as quickly as possible. In the long run, both sets of practitioners try to assist societies in taking steps to ensure that the violence does not recur and that the rights of every human being are respected. However, to achieve these goals, each set of practitioners uses different methods based on different underlying assumptions. As a result, both groups occasionally adopt contradictory or even mutually exclusive approaches to the same problem. For example, conflict resolvers, eager to achieve a negotiated settlement to a conflict with minimum loss of life, may fail to give sufficient weight to the relevance of human rights to the long-term success of their work. Human rights advocates, on the other hand, may undervalue the pressures under which mediators operate to bring about an immediate end to loss of life. If they limit their activities to shaming, negative publicity, and judicial condemnation of criminals, human rights activists may miss opportunities for improvements in the human rights situation that could be achieved through the use of the negotiation and diplomatic techniques upon which conflict resolvers rely.

Preventing wars and massive human rights violations, and rebuilding societies in their aftermath, requires an approach that incorporates the perspectives of both human rights advocates and conflict resolution practitioners. This is easier to assert than to achieve. These two groups make different assumptions, apply

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different methodologies, and have different goals, values, and institutional constraints. As a result, they tend to be wary of one another. In the words of Barbara Frey, former executive director of the Minnesota Advocates for Human Rights:

In general, human rights people and conflict resolution people don't speak the same language. They come from different backgrounds and there is a lot of suspicion between them. Human rights people are judgmental and tend to come from a legal background, whereas conflict resolution people are more interested in stopping hot conflict and are willing to rub hands with bad actors.<sup>1</sup>

This paper explores the synergies and tensions between human rights and conflict resolution practitioners. We begin by surveying the core principles, goals, and values of the two fields. Next we look at the methods used by practitioners in each field during each of the three stages of conflict: before violence breaks out, during violent conflict, and after settlement. We summarize three areas of recurring tension between the two fields and suggest some remedies to relieve these strains. Finally, we suggest research on the ways in which each field can better enhance its own capability and that of the other field to promote peace and the protection of human rights.

## CORE PRINCIPLES

### Human Rights

Modern international human rights advocacy is founded on international human rights norms that are embedded in international law, widely ratified by states and incorporated into domestic law (if not practice), and embraced by people of all cultures and all walks of life. International momentum to establish a legal order that would prohibit state-sponsored human rights abuses surged during World War II, as the scope of Nazi atrocities became known. The UN Charter, adopted in 1945, declares that the highest purposes of the organization are "to save succeeding generations from the scourge of war..., to reaffirm faith in fundamental human rights..., to establish conditions under which justice and respect for...international law can be maintained,...and to promote social progress and better standards of life in larger freedom."<sup>2</sup>

Three years after the organization's founding, the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR) to explicate the human rights expressed in the Charter. The UDHR's preamble declares that human rights are the foundation of freedom, justice, and peace. Its opening articles provide that every individual is entitled to all the rights and freedoms set forth without distinction with respect to race, color, sex, language, religion, political or

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other opinion, national or social origin, property, birth, or other status. It then enumerates a list of fundamental rights to security of the person,<sup>3</sup> equality before the law,<sup>4</sup> nationality, the means to escape from state abuse,<sup>5</sup> political rights,<sup>6</sup> and the rights to food, health care, education, work, family, ownership of property, and participation in cultural life.

Since 1948, intergovernmental organizations have codified most of the norms in the UDHR in international treaties, including two by the UN General Assembly itself: the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights. These two fundamental treaties have been ratified by over 140 states.

While reaching agreement on international human rights law was not easy, enforcement has proven even more problematic. It is one thing for a state to pledge to uphold human rights and another for it to tolerate policing of its compliance. Effective formal international enforcement mechanisms have been nonexistent for much of the last half of the twentieth century.

Partially in response to this enforcement vacuum, international human rights advocates, many of them lawyers, formed organizations to promote human rights and developed an array of strategies for pressur-

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ing governments to conform their behavior to international human rights law. International human rights investigators seek out the facts wherever rights abuses are alleged and publish their findings, whether countries are at war, suffering from varying degrees of political tension and/or repression, or are peaceful and generally rights-respecting. International human rights organizations hope that their reports will bring about a change in the behavior of the government or other entity whose abuses they spotlight, but their principal targets are the policy makers who are in a position to put pressure on rights violators.

International human rights NGOs see themselves as advocates for victims and supportive partners of their domestic human rights NGO counterparts. International human rights organizations lobby other governments to take human rights into account in their foreign aid appropriations and press the UN and other intergovernmental organizations to put pressure on rights abusers. In addition, they demand that governments establish domestic enforcement mechanisms, such as independent judiciaries. To ensure accountability when national courts do not exist or cannot act, international human rights NGOs support institutions like the recently formed International Criminal Court.

International human rights NGOs try to adapt their advocacy to ensure that it has the greatest possible impact. For example, organizations such as Human

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Rights Watch (HRW) devoted minimal resources to lobbying the United Nations during the Cold War, when the UN Security Council was frequently deadlocked and other human rights mechanisms were used by states primarily as platforms to express purely political views. Following the collapse of the Berlin Wall, the United Nations has become more creative and interventionist in seeking solutions to human rights problems, and has thus become a higher priority in HRW's advocacy.

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In the 1980s, international human rights NGOs realized that international human rights law was inadequate to address conflict-related crimes, and they began to rely more heavily on international humanitarian law. This body of law, which predates international human rights law, was crafted to regulate conduct in armed conflict. It

includes the four Geneva Conventions of 1949 and numerous other widely ratified international treaties, many of which contain provisions regarding the treatment of civilians and others not actively participating in the conflict. International humanitarian law also encompasses legal norms against genocide and crimes against humanity.

Domestic human rights NGO activists operate in a different milieu. They serve as the consciences of their societies and speak out to press their governments to protect the human rights of their citizens. In repressive societies or those seized by conflict, domestic human rights groups are invariably squeezed into a narrow operating space or are shut down by those in power. Any activities they do carry out, such as collecting information about ongoing abuses and passing it on to their international counterparts or aiding displaced persons, are undertaken at great personal risk.

Post-conflict societies often turn to human rights experts as advisors during peace-building. Survivors of human rights abuses trust them and seek them out as their advocates. Truth commissions and courts look to them as accurate sources of information about what occurred and as trusted go-betweens to victims whose trauma or other circumstances impede them from coming forward on their own. Sometimes, when democratic governments are in place, leading figures in the domestic human rights movement are called upon to take an unaccustomed governing role.

### **Conflict Resolution**

International conflict resolvers come from a multiplicity of fields. They are scholars and practitioners from many of the social sciences (e.g., psychology, sociology, political science), law, public policy, and even the health sciences. Unlike

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human rights, there is no codified set of norms that govern the field and bind conflict resolution practitioners together. However, there is an implicit set of principles that frame their practice.<sup>7</sup>

The first principle is *participation*. The most effective negotiation and decision-making processes are those in which the parties who have direct stakes in the outcome are actively engaged. The most basic goal of conflict resolution is to bring stakeholders into some kind of *ad hoc* or institutionalized forum and assure them of an opportunity for meaningful input.

The second principle is *inclusion*. This differs from participation in that it addresses not the manner of participating, but who participates. In the conflict resolution field, the preferred approach is to include as many stakeholders as possible, even those that might be potentially disruptive, on the grounds that those left on the sidelines will have a greater incentive to undermine any agreement that is reached.

The third principle is *empowerment*. The effectiveness of multi-party dialogue can be compromised by one or more parties' lack of experience, lack of resources, or both. To help balance the sides, conflict resolvers may incorporate teaching, training, and coaching into the process to maximize the effectiveness of all of the parties and provide a stronger basis on which genuine negotiations can proceed.

The fourth principle is *cultural sensitivity*. Most cultures have existing methods for handling conflict. Culturally familiar and appropriate practices and solutions will be sustainable long after an outside intervener has departed. Thus, it is very important to know what those practices are and, insofar as possible, to build upon and enhance indigenous methods.

The fifth principle is *equity*. Equity, as opposed to equality, is the notion that a mediator should treat all parties at the table with equal respect, giving each equal time and attention, even though there are differences in power. This respect and acknowledgment contribute to making the forum more suitable to constructive discussion and problem-solving.

Conflict resolvers operate on multiple levels: Track 1, Track 1½, and Track 2. At the Track 1 level, official interveners representing a government or inter-governmental body such as the United Nations work with designated representatives or decision-makers of the parties to a conflict to assist them in reaching a resolution. Sometimes these interveners are neutral facilitators, but often they use the influence or power vested in them by the government or organization they represent to press the parties to reach agreement.

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At the Track 1½ level, non-official interveners such as NGOs, religious leaders, scholars, or internationally respected political figures meet together with, or shuttle between, official representatives of parties to a conflict to find a solution. While Track 1½ interveners may have little to offer in the way of incentives or sanctions to compel the parties to reach agreement, their personal qualities, mediation skills, or reputations for neutrality and high ethical standards may be enough to move the parties towards a peaceful resolution.

At the Track 2 level, non-official interveners facilitate dialogue among non-official but influential members of each of the communities that are in conflict. The theory behind Track 2 processes is that influential individuals, operating in an unofficial capacity, have fewer constraints than their official counterparts to engage in dialogue with their opponents and explore creative ideas for conflict resolution or transformation. At the same time, because Track 2 participants are influential, they have the ear of decision makers or may themselves someday serve in official decision-making positions.

International conflict resolution NGOs have emerged over the past two decades to complement the work of Track 1 governmental or intergovernmental interveners. These groups have developed a well-stocked toolbox of techniques that they adapt to the phase of conflict, the cultural and political context, and the role the conflict resolver is invited to play. International conflict resolution NGOs are involved in many traditional conflict resolution activities such as shuttle diplomacy,

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back channel negotiations between disputing parties, and Track 2-type dialogue activities among key actors. Many also engage in a variety of educational activities, including teaching conflict resolution skills and providing capacity building and conflict resolution training to disputants and other stakeholders.<sup>8</sup>

Some international conflict resolution NGOs work independently, while others prefer to collaborate with other types of international NGOs or intergovernmental organizations, or with domestic conflict resolution NGOs that better understand the cultural nuances that need to be incorporated into an effective process. However, because the conflict resolution field is so young, there is often no established domestic NGO with which international NGOs can collaborate. In such circumstances, international NGOs sometimes turn their attention to developing post-conflict domestic NGO capacity. In doing so, they may encounter obstacles such as lack of training and education, inefficiency, bureaucracy, and corruption. These obstacles mirror the larger problems the post-conflict society faces in developing a strong and healthy civil society.

**GOALS, VALUES, AND A SHARED DILEMMA**

Human rights advocates and conflict resolvers have both short- and long-term goals. In the short term, human rights advocates aim to pressure governments and other responsible parties to end human rights violations and ensure that those individuals responsible for abuses are held accountable. In the long term, human rights NGOs seek to generate a worldwide culture of human rights protection. They do so by working to expand international human rights law and enforcement procedures while simultaneously pressing states to ensure that their domestic law, law enforcement mechanisms, and judiciary are sufficiently robust to prevent rights abuses and to provide adequate redress to victims.

In the short term, conflict resolvers try to help the parties to a conflict move towards or reach a settlement that satisfies their interests, while also attempting to decrease the overall level of violence. In essence, this involves helping the parties to reevaluate their strategies and adopt more constructive negotiating behaviors. Over the long term, conflict resolvers facilitate improved relations between parties to achieve greater inter-personal and institutional capacity to resolve or de-escalate future conflict and prevent it from becoming violent. This involves assisting the parties in examining, and possibly changing, their underlying assumptions and attitudes toward their adversaries.

To be in a better position to accomplish these goals, professionals in each field adhere to core values that enhance their credibility and professionalism. Though many values are shared by both human rights advocates and conflict resolvers, their respective rationales for holding those values may be quite different.

Conflict resolvers understand that conflict is normal and often healthy, yet they abhor the violence, loss of life, and misery associated with it. They believe that there are both constructive and destructive ways of dealing with conflict, and they promote constructive approaches over destructive ones. When mediating a conflict, especially in a Track 1½ or Track 2 process, they are careful not to assign blame for the conflict to any one party, on the assumption that all parties are engaging in conflict-perpetuating rhetoric or behavior. Conflict resolvers believe that, by being evenhanded rather than accusatory, there is a better possibility for parties to engage in constructive, reciprocal problem-solving.

Human rights advocates, because their work is grounded in international law, are more accepting than conflict resolvers of violent conflict *per se*. International law does not ban war, although it does attempt to regulate it by

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barring conduct during war that targets civilians or other non-combatants. Consequently, human rights groups typically take no position on the legitimacy of a conflict. This non-partisan approach is justified on the grounds that taking a position could jeopardize the organization's neutrality in analyzing the extent

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to which each party's conduct during the war comports with international human rights and humanitarian law.

On the other hand, human rights advocates are adamant that human rights violations must stop. Since international law obligates states to prevent human rights abuses, this traditionally has meant mobilizing shame against states in which rights violations are occurring. In recent years, international human rights NGOs have expanded their willingness to criticize rights violations by all parties to armed conflicts, and, in some cases, to condemn private actors, such as terrorist groups, criminal enterprises, and transnational corporations for their complicity in rights abuses.

## Shared Goals and Values

### • *Impartiality and Independence*

For human rights advocates, impartiality means independence from all governments and from partisan political or religious perspectives. Typically, human rights NGOs neither support nor oppose any government or political system, nor do they support nor oppose the views of victims whose rights they seek to protect. In situations of armed conflict, most human rights NGOs seek to protect the rights of civilians from abuses by both governments and rebel groups.

Both actual impartiality and the appearance of impartiality are crucial for human rights investigators engaged in fact-finding. Failure to be perceived as impartial can seriously undermine an investigator's access to information, especially in situations where the parties are highly suspicious of one another. The credibility and impact of human rights reports similarly depends on the author's perceived impartiality. Published reports must convince the target audience that the allegations they contain are most likely true. Obviously, human rights investigators cannot always uncover all the facts related to a particular rights violation, since governments (or other rights abusers) usually know much more about such events than NGO fact-finders can discover. Nonetheless, the fact-finder needs to present enough proof from a sufficient variety of sources to be credible.

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Similarly, the organization for which the fact-finder works must demonstrate institutional impartiality. Human rights NGOs do this by focusing on human rights violations suffered by all parties to a conflict, giving equal attention on rights abuses in all parts of the world and reporting on abuses by governments of all political persuasions. Many international human rights NGOs refuse to accept funding from any government or other potential target of their work. Many of those based in the United States attempt to demonstrate their impartiality by directing heightened attention to rights violations occurring in the United States.

Maintaining institutional impartiality, or the appearance thereof, can be difficult, particularly in the midst of crises that attract intense worldwide media attention. As one human rights study noted,

The demand for up-to-date information, from media and governments, tends to drive such organizations' decisions on how many staff to assign, what to focus on, and how frequently to publish information. The pace of activity increases; the scope of internal discussion widens; extra resources and funding are sought to meet the need. Shared services are drawn away from other serious human rights situations, as is the attention of senior staff... Indeed, at the moment of crisis, international NGOs often appear guilty of the same sins of omission as governments—side-lining the forgotten crises.<sup>9</sup>

This may have a powerful impact on domestic NGOs in the countries that are "sidelined," as well as on the appearance of impartiality sought by international human rights NGOs.

The appearance of impartiality and independence may also be compromised by the fact that almost all international human rights NGOs are dependent on external funding sources. Despite carefully crafted institutional rules to prevent any single donor from controlling the organization's agenda, biases arise. One bias is simply that most international NGOs are based in developed countries and have access to a vast pool of funding sources. As a result, they can afford highly trained, well-paid professional staff. This may create the appearance of bias in favor of "Western" values and interests that may be perceived with hostility by those whose behavior they are trying to influence, and sometimes even by those on whose behalf they are working.

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Human rights programs are largely controlled by donors. Donors provide funds for programs they like and withhold funds when they disagree with the

approach an NGO takes. Large NGOs with diversified funding bases can remain impartial if one or even a few donors drop their support, but this can cause real problems for smaller groups that do not have alternative sources of funding. But even large groups are responsive to donor interests and will add programs that a donor is willing to fund, even if that means withdrawing resources from other programs.

For conflict resolvers, actual and perceived impartiality are equally important. Impartiality is typically defined as the intervener's ability to be evenhanded while maintaining an unbiased relationship with each of the disputants. Preserving the appearance of impartiality can be particularly difficult in the context of international dispute resolution. In such cases, imbalances of power may occur not only between the disputing parties and those who are negotiating a resolution to the conflict, but they also may arise between those participating in the process and those who are not privy to it.

Even as mediators struggle to avoid becoming advocates for the weaker party, they frequently work with both parties to ensure that each is equally able to be its own advocate. In this way they strive to balance the table—a delicate process that, even if done well, can look like taking sides. On the other hand, failure to achieve a

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degree of equality between the parties may leave them with a resolution to their dispute that the weaker party resents and the stronger party uses to further consolidate its power.

Notwithstanding the high value conflict resolvers place on impartiality, it is not always easy to be evenhanded in international conflicts where the stakes are life or death. In circumstances where achieving some degree of power parity between parties is highly unlikely, conflict resolvers may

find themselves in an ethical quandary in which their short-term goal to end violence may be counter to their long-term purpose of assisting the society to put in place the conditions necessary for a sustainable peace. Similarly, their desire to ensure a fair bargaining context may compete with their commitment to strengthening the capacities of local actors and organizations to contribute to peace-making and peace-building within their societies.

### • *Cultural Sensitivity*

Both human rights advocates and conflict resolvers recognize the importance of cultural sensitivity towards the people whose rights they are working to protect or whose conflicts they are assisting to resolve. For human rights NGOs, cultural sensitivity begins by ensuring that fact-finders are cognizant of and comfortable

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with the cultural norms of the places they investigate. Because they are victim-oriented, human rights investigators tend to be patient and compassionate towards their informants, particularly those who have suffered. At a more pragmatic level, investigators understand that cultural insensitivity will undermine their research and advocacy objectives.

Conflict resolvers also recognize that, while conflict may be universal, each culture devises its own processes for dealing with it. Successful intervention often depends on knowing and respecting the culture of the people the conflict resolver is working with, and wherever possible, supporting and enhancing indigenous cultural conflict-resolution processes. In practice, particularly at the Track 1 level, cultural sensitivity often yields to expediency, particularly in urgent situations in which there is great loss of life or other high stakes. At the Track 1½ or Track 2 levels, concern about cultural relevance often propels conflict resolvers to establish partnerships with local organizations in order to ensure that the process is grounded in the appropriate local customs.

• *Participation in the Process*

The most effective negotiating and decision-making processes are those in which the parties with direct stakes in the outcome participate. Genuine participation empowers stakeholders, and this empowerment is in itself an important positive outcome of the conflict resolution process. One difference between international conflict resolution processes and other types of dispute resolution efforts is that not all those affected by the outcome of an international conflict resolution process can be present at the table. Just as the most vulnerable people in a society (children, women, the elderly or disabled) are most likely to be casualties of conflict, they also are most likely to be left out of negotiations to resolve it, especially at the Track 1 level. One way conflict resolvers lessen this problem is by ensuring as broad inclusion in the process as is strategically and logistically possible, often by augmenting Track 1 processes with Track 2 processes.

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In cases where vulnerable populations are not well organized, public policy mediators in the United States have adopted a model whereby the conflict resolver reminds those parties who are present that some important interests are not being represented. The mediator thus raises the question as to the legitimacy or sustainability of any agreement that leaves these voices out, and encourages participants to develop ways to include the unrepresented interests.<sup>10</sup> While the

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parties retain control over the outcome, any result that does not guarantee protection of the fundamental interests of those not represented may not be considered legitimate by the mediator.

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International human rights NGOs are champions of the right of their domestic counterparts to engage in human rights activities. When domestic advocates are threatened or hampered in their ability to act by human rights abuses or conflict conditions, international NGOs come to their defense. In their advocacy activities, international NGOs adopt the role of agents for domestic NGOs when internal means to protect human rights are blocked. These outside actors lobby inter-

governmental organizations or other governments to put pressure on the rights abusing state, using what Keck and Sikkink have called the “boomerang pattern.”<sup>11</sup>

### **Short-Term vs. Long-Term Goals: A Shared Dilemma**

Both human rights advocates and conflict resolvers face a shared dilemma of balancing short-term and long-term goals. Conflict resolvers may set the stage for future conflict if they encourage a rapid resolution to end the violence but give insufficient attention to the need to construct an inclusive, transparent process. On the other hand, if they adopt a longer term response that focuses on altering underlying societal conditions or optimizing participation, the conflict will continue to claim lives and impose suffering while the processes are being worked out.

Human rights NGOs face a similar problem. Larry Minear writes,

Rights organizations...often focus on immediate violations or incidents, paying less heed to the systemic causes of abuse. Faced with the need to identify structural remedies, their recommendations have often seemed superficial, perfunctory, and unrealistic. More probing analysis of how to design and implement projects that address root causes of human rights violations...[is] badly needed...<sup>12</sup>

In addition, most human rights NGOs have honed the skills to respond to short-term needs, but they have little experience applying long-term solutions to correct the underlying issues.

### **METHODS**

Violent conflict and other circumstances in which massive violations of

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human rights are occurring can be divided roughly into three stages: the period before violence breaks out when prevention is possible; the violent conflict period; and the period after the conflict ends or the human rights violations cease. These phases often blur into one another. For example, in post-violence settings in which democracy, a vibrant civil society, and its attendant institutions are not well-established, the "before stage" and the "after stage" may coincide. What constitutes the "during stage" is also difficult to describe. Not all violent conflicts involve full-blown war, nor do they all involve two or more armed opponents.

Both human rights and conflict resolution practitioners are active during each stage of conflict.

### **Before Violence Breaks Out: Conflict Prevention**

Both human rights advocates and conflict resolvers believe that prevention is the best approach to violent conflict or widespread human rights abuses. Societies in which ethnic, religious, or political tensions run high; where there is a history of past conflict or rights abuses; where the institutions of civil society designed to provide alternatives to violence are weak, corrupt, or non-existent; or that are wracked with political or economic instability, are fertile ground for the outbreak of violence or repressive rights abuses. Both vigilance and preventive steps are needed to lessen this risk. Yet, despite their commitment to prevention, practitioners in both fields often are hampered from acting either because the parties are not prepared to recognize or confront the problem, or because the practitioners face resource constraints (such as lack of funding or insufficient staff) that prevent them from dealing with all but the most immediate crises.

For NGOs, intergovernmental bodies, and governments concerned with human rights, the central activity in the prevention stage is fact-finding. When they perceive violence or a worsening human rights climate on the horizon, both international and domestic human rights NGOs try to document government wrongdoing and other conditions that are contributing to the escalation. This process is governed by rigorous fact-checking and assessment that includes seeking corroboration from independent sources. At the same time, it is a delicate process in which the safety and well-being of their informants is the fact-finders' paramount concern. What fact-finders learn forms the basis of initiatives designed to put pressure on the government. The fact-finding and advocacy work of human rights NGOs tend to emphasize human security rights, although attention also may be paid to combating censorship, pressing for free and fair elections, and publicizing infringements of the economic and social rights.

In the prevention stage, conflict resolvers (especially Track 2 actors) encourage dialogue among likely parties to violent conflict and engage in a different sort of fact-finding than their human rights counterparts. Conflict

resolution emphasizes identifying the people whose participation is most likely to lead to a successful dialogue or negotiation process and the issues to be discussed. This assessment often involves confidential conversations with the stakeholders. It also may include designing a dialogue or mediation process that includes suggested ground rules, a timetable, an agenda, and joint information gathering procedures.<sup>13</sup> A wide range of Track 1 activities may be undertaken during the prevention stage, including pressure from more powerful actors on governments and armed movements to seek nonviolent ways forward.

### **During Violent Conflict: Conflict Management**

During violent conflict, international human rights advocates and conflict resolvers typically intensify the activities they engaged in before violence broke out, even though doing so frequently is much more difficult. International human rights investigators often find that their mobility or access to informants is severely restricted. They may attempt to cultivate relationships with international humanitarian or development workers to obtain information informally, without compromising the NGO's impartiality or neutrality.

Domestic human rights NGOs also are prevented from operating in their usual mode during periods of violence. Where their prior activities are barred or become too dangerous, these groups may look for new roles to play, including helping to mediate an end to the violence. Unfortunately, many types of conflict resolution activities, particularly Track 2 dialogue processes, become more difficult once violence breaks out. As Andy Loomis, Search for Common Ground's project manager in Macedonia, put it, "People are simply less willing to interact across ethnic lines during moments of heightened tensions. Furthermore, as the divide between people widens, moderates who remain at the center become targets for those expressing more extreme views."<sup>14</sup>

On the other hand, it is during conflict that Track 1 and Track 1½ mediation efforts are most likely to occur. A mediator representing the United Nations or a powerful government may find it necessary to determine how much pressure should be placed on the warring parties. "Mediating with muscle" is a radical departure from what mediators in other settings do,<sup>15</sup> yet, where violence and death are widespread, mediators may not be willing to stick to less interventionist strategies. Such situations have ramifications for the skills that international mediators need to successfully mediate violent conflicts.

During conflict, both human rights advocates and conflict resolvers risk being identified with opposing sides to the conflict. For example, Jehan Perera, media director of the National Peace Council of Sri Lanka, reports that human rights NGOs operating in the area of ethnic conflict in Sri Lanka are mostly comprised of Tamils, who apply a confrontational approach to raise awareness

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of torture, checkpoint abuses, kidnapping, extra-judicial executions, and other human rights abuses by the Sri Lankan Army. Domestic conflict resolution organizations, on the other hand, are mainly Sinhalese. They are engaged in inter-ethnic reconciliation work and encourage compromise and institutional reform as the best ways to remedy their country's ethnic problems.<sup>16</sup>

### **After Settlement: Peace-building**

Human rights NGOs working in post-conflict or newly established democracies emphasize dealing openly and justly with the past and the people responsible for abuses. They focus on uncovering and recording the "truth" of what occurred, pressing for the prosecution and punishment of those responsible, identifying and documenting backsliding that could lead to the renewal of past abuses or conflict, and monitoring new types of abuses that are more likely to arise in a post-conflict environment (e.g., prison overcrowding, inadequate representation at trial, and discrimination). In some post-conflict settings, international human rights NGOs have been involved in specialized tasks such as election monitoring or forensic investigation work. They also lend their expertise to aspects of rebuilding civil society, such as curbing improper police practices and developing an independent judiciary.

Domestic human rights groups often find themselves in a very complex position after settlement. The issues they worked on before the conflict may no longer be the dominant rights issues; indeed, many of their original objectives may have been achieved. If democratic civilian rule has been put in place, the new government may be able to dismantle the apparatus that caused many of the human rights abuses of the past. But if the civilian government is not consolidated, those who benefited from former repression or conflict may be unwilling to relinquish their former privileges. Thus, instead of starting from a level playing field, the new government may be undermined from within by corrupt military officers, civil service officials, police, or local officials. Any perception of a power vacuum encourages those who would seek power to assert themselves. This, in turn, increases the pressure on the new government and undermines it even more. To bolster its authority the government may turn to those voices of integrity who contributed to establishing democracy, including major figures in the domestic human rights movement.

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*During armed conflict, human rights NGOs use their fact-finding and advocacy skills to protect civilians. By contrast, conflict resolution NGOs assist key stakeholders to engage in a process directed at ending the violence.*

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Unfortunately, human rights activists often do not have the experience or skills required for this type of governing. Like soldiers without a war, they have to develop new goals and new ways of operating. Instead of working to expose government abuses, they have to work cooperatively within it. This poses an enormous challenge that cannot be met overnight.

While domestic human rights groups that want to retain their traditional roles may see little use for conflict resolution activities, those prepared to embrace new roles are drawn to them. The latter may receive encouragement from inter-

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*Conflict resolvers may be frustrated when human rights reporting seems to contribute to the parties' unwillingness to engage in dialogue.*

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national donors, who also encourage the emergence of new domestic groups whose interests lie exclusively in the peace-building and conflict prevention domain.

After settlement, conflict resolution NGOs tend to focus on encouraging dialogue among former warring parties who now must work together. They also promote reconciliation, provide training in conflict resolution techniques to a range of societal actors from school children to senior government officials, and encourage the development or strengthening of civil society. Their primary goal, however, is to support those who are interested in promoting a sustainable peace through capacity building and other techniques designed to ensure they have the skills to do so. The activities of conflict resolvers in this stage mirror many of the things they do during the prevention stage, including strengthening the "coalitions across conflict lines"<sup>17</sup> and creating institutions and structures that can prevent conflict from escalating.

## RECURRING TENSIONS AND STEPS TOWARD THEIR RESOLUTION

### Protection vs. Assistance

During armed conflict, human rights NGOs use their fact-finding and advocacy skills to *protect* the lives and other rights of civilians. By contrast, conflict resolution NGOs *assist* key stakeholders to engage in a process directed at ending the violence. These differences can create tensions between practitioners in the two fields. For example, one concern when sensitive conflict resolution initiatives are contemplated or ongoing is the impact human rights reports have on efforts to bring parties to or keep them at the negotiating table. Human Rights Watch researcher Jemera Rone recalled, "I worked on a report on the FMLN's abductions and killings [in El Salvador], and I released it at the moment they were going into negotiations; they accused me of being biased and trying to harm their cause. The

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truth is I wasn't even aware they were going into negotiations."<sup>18</sup> According to Rone, the release date was chosen with only internal HRW editing and publication concerns in mind. Alvaro de Soto, the UN mediator in El Salvador, admitted that while at first human rights reports like the one written by Rone were a hindrance, he later developed channels that enabled him to anticipate and use the pending release of such reports to urge the parties toward an accord that included significant human rights protections.<sup>19</sup>

Even where peace negotiations are not in progress, human rights reporting can have unintended effects. Human rights reports may be used by one side of the conflict or the other to promote support for their position. Conversely, accusations of abuses are likely to provoke anger or hostility in those against whom they are directed. For example, Sarah Broughton, deputy director of Search for Common Ground in Macedonia, asserts that international human rights reports, while "morally necessary,...have in some ways negatively impacted the situation in Macedonia. Reporting of human rights abuses by the security forces inflames emotions in the Albanian community, while reports of abuses by the NLA (the Albanian fighters) have the same effect on Macedonians."<sup>20</sup>

These are risks that international human rights groups are aware of and seek to minimize by maintaining a reputation for accuracy, evenhanded reporting, and measuring abuses against widely accepted international legal norms. In their view, disseminating accurate reports so that influential external actors know what is happening and can take steps to lessen the suffering of innocent civilians outweighs the danger that the parties to the conflict will use the reports for propaganda purposes. Conflict resolvers, who are trying to persuade the parties to come to the table, may be frustrated when human rights reporting seems to contribute to the parties' unwillingness to engage in dialogue or hardens their demands once negotiations begin.

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To reduce this tension, practitioners in both fields need to follow the lead of Ambassador de Soto and his human rights counterparts in El Salvador. With greater communication about what each is doing or planning to do, and about what challenges each faces, human rights advocates and mediators not only can do their own jobs but can also enhance the work of the other.

### **Neutrality with Respect to Human Rights vs. Expressing Human Rights Values**

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themselves and are seen by conflict resolvers as “parties,” in that during conflict they adopt an explicit stance against human rights abuses and war crimes. Conflict resolvers often keep their distance from human rights practitioners during conflicts, because they want to be able to talk with everyone involved in the conflict. They are concerned that, if they associate with human rights advocates, their neutrality will be compromised.

This does not mean that international conflict resolvers are neutral about human rights. While most take the view that reaching an agreement that stops violence is the first priority, many also question whether it is acceptable to focus only on achieving a settlement when massive human rights abuses are occurring. The latter group would support raising human rights issues with the participants during the negotiation process and making explicit the belief that sustainable peace and the protection of human rights are intertwined. Some conflict resolution NGOs include human rights training in their post-conflict education or institution-building activities. For example, International Alert was founded on the premise that human rights abuses often stem from violent conflict, and it thus believes that concern with human rights must be part of any resolution of such conflicts. Another group, the South African-based Center for Conflict Resolution, has evolved into an educational organization that teaches both human rights norms and conflict resolution techniques to local NGOs in Africa.

In recent years, the United Nations also has moved towards a rights-oriented approach to its conflict resolution activities. The Brahimi Commission Report, for example, asserts:

Impartiality for United Nations operations must mean adherence to the principles of the Charter: where one party to a peace agreement clearly and incontrovertibly is violating its terms, continued equal treatment of all parties by the United Nations can in the best case result in ineffectiveness and in the worst may amount to complicity with evil.<sup>21</sup>

In April 2001, UN Secretary-General Kofi Annan took a major step toward clarifying the non-severability of human rights in UN efforts to broker peace negotiations. In a report submitted to the Security Council on the Protection of Civilians in Armed Conflict, Secretary-General Annan drew attention to the near debacle of the UN endorsing amnesty for crimes against humanity committed in the conflict in Sierra Leone. He declared, “The use of amnesties to provide impunity to those who committed serious violations of international humanitarian and criminal law, including genocide, crimes against humanity, war crimes and torture, is not acceptable.” In his recommendations, he urged the “Security Council, Member States, and other actors involved in peace mediation to respect the prohibition of amnesty for genocide, crimes against humanity and war crimes during their negotiations and deliberations.”<sup>22</sup>

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Researchers and practitioners seeking to understand and strengthen the capacity of human rights advocates and conflict resolvers to achieve their goals cannot avoid the ethical issues raised by the tension between neutrality and advocacy of human rights values. Research and reflection are needed on questions such as: Are there some issues that should never be open to negotiation? Are there circumstances under which attention to accountability can be momentarily suspended to allow peace efforts to proceed? What should be the role of conflict resolution in circumstances where one party to a conflict is responsible for genocide?

### **Justice vs. Reconciliation**

The greatest tension in the two fields lies between human rights advocates' post-conflict focus on justice for past crimes and conflict resolvers' post-conflict desire to promote reconciliation, or at least peaceful coexistence, among previously warring parties. Sometimes the tension is so pointed that it is manipulated by the parties to the conflict in a way that undermines the post-settlement aims of both fields.

According to Hizkeas Assifa of the Nairobi Peace Initiative, issues of justice and reconciliation in Rwanda became polarized as a result of ethnic group distortion of NGO priorities. Because the primary victims of the genocide were Tutsi, justice came to be viewed as a "Tutsi issue." Hutus found they had more in common with international NGOs working on conflict resolution concerns, since these groups were prone to emphasize reconciliation or coexistence. This resulted in the Hutus becoming identified with the latter issue.<sup>23</sup> Similarly, Ndubisi Obiorah, senior legal officer with the Human Rights Law Service in Nigeria, reported that

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*What should be the role of conflict resolution in circumstances where one party to a conflict is responsible for genocide?*

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the conflict resolver in Nigeria "tends to think that the human rights community's 'no peace without justice' sloganeering just messes things up...The conflict resolution community appears to approach questions of impunity for human rights violations from the standpoint that dealing with 'the bad guys' is critical to resolving conflicts."<sup>24</sup>

While both sides are convinced that their focus is the right one, almost no interdisciplinary research has been done on the impact of justice or reconciliation efforts on the shared long-term goal of building a peace-sustaining and rights-respecting society. More research is needed on what contributions to peace-building have been made by truth commissions, trials, and other domestic processes aimed at coming to terms with past abuses; whether such processes adequately address the grievances of those who suffered severe human rights violations under previous regimes; whether they strengthen civil society and encourage democra-

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tic participation; whether they help to inoculate a country against future experiences with rights-violating governments or factions; and whether they contribute to reconciliation and trust-building between previously warring groups.

A more forward-looking agenda that addresses the full range of post-settlement societal needs (including political restructuring, economic development, institution-building, physical reconstruction, education and health care, as well as truth, justice, and reconciliation) can enable both human rights and conflict resolution professionals to contribute synergistically to the nation-building

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process. At the same time, the adoption of a shared forward-looking approach diminishes the potential for either field to become identified with an issue that gives succor to only one party to the conflict, and, as a consequence, reduces the possibility of feeding into societal divisions that could flair into violence.

#### CONCLUSION

This article is not just an exercise in exegesis. It is an act of advocacy. We believe that the fields of human rights and conflict resolution are interdependent, that they must operate in a complementary fashion, and that they have much to learn from one another. This is not to suggest that the two fields should merge. To the contrary, their greatest strength lies in the fact that they are separate, that they address the problems of violent conflict from different perspectives. But professionals in these two fields need to understand one another and learn to work better together. Where violent conflicts or massive violations of human rights are occurring, all interveners are likely to feel pressure to act urgently to reduce the likelihood of continuing bloodshed or abuse; to react to events rather than to anticipate them; and to be impatient with those whose aims or philosophies diverge from their own. These are poor circumstances in which one might try to foster better interdisciplinary communication and cooperation to achieve common goals.

What is needed are venues in which academics and practitioners from both perspectives can meaningfully explore, teach, and put into practice new ideas. Such forums might help alleviate the ethical quandaries and tensions that human rights advocates and conflict resolvers experience, which would, in turn, build sturdier bridges between the two fields and contribute to fulfilling the ultimate goals of each. ■

NOTES

- 1 Barbara Frey, Conversation with author, July 25, 2001.
- 2 UN Charter, Preamble.
- 3 These rights include life, liberty and security of the person, the right not to be held in slavery, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, and the right not to be subjected to arbitrary arrest or detention.
- 4 These rights include fair and impartial hearings, due process in criminal proceedings, and effective remedies for violations of fundamental rights.
- 5 These rights include freedom of movement, the right to leave and return to one's country, and the right to seek asylum.
- 6 These rights include freedom of thought, conscience and religion, freedom of expression, peaceful assembly, the right to participate in government, and the right to vote in periodic, genuine elections.
- 7 Eileen F. Babbitt, "Ethnic Conflict, Human Rights, and Conflict Resolution," (Paper presented at the Bellagio Conference on Minority Protection and Conflict Prevention, October 16-18, 2001).
- 8 One organization has pioneered the use of radio and television programming, much of which is aimed at children, to achieve its conflict resolution education aims. Others have made creative use of music and sports to foster relationships after hot conflict has ended.
- 9 International Council on Human Rights Policy, "NGO Responses to Military Interventions in Human Rights Crises," (2001): para. 74.
- 10 Larry Susskind, "Environmental Mediation and the Accountability Problem," 6 *Vt. L. Rev.* 1 (1981).
- 11 Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders* (New York: Cornell University Press, 1998), 12-13.
- 12 Larry Minear, *The Humanitarian Enterprise: Dilemmas and Discoveries* (Bloomfield, CT: Kumarian, 2002).
- 13 Larry Susskind and Jeffrey Cruickshank, *Breaking the Impasse: Consensual Approaches to Resolving Public Dispute*, (Basic Books, 1987); See also Christopher Moore, *The Mediation Process: Practical Strategies for Resolving Conflict*, (Jossey-Bass Inc., 1996).
- 14 Andy Loomis, "Macedonia," in *Bridging Human Rights and Conflict Prevention: A Dialogue between Critical Communities* (Carnegie Council on Ethics and International Affairs, 2001), 20.
- 15 I. William Zartman and Saadia Touval, "International Mediation in the Post-Cold War Era," in Chester A. Crocker, Fen Osler Hampson and Pamela Aall, eds., *Managing Global Chaos: Sources of and Responses to International Conflict* (Washington, D.C.: United States Institute of Peace, 1996), 445-461.
- 16 Jahan Perera, "Sri Lanka," in *Bridging Human Rights and Conflict Prevention: A Dialogue between Critical Communities* (Carnegie Council on Ethics and International Affairs, 2001), 29.
- 17 Herbert C. Kelman, "Coalitions Across Conflict Lines: The Interplay of Conflicts Within and Between the Israeli and Palestinian Communities," in Stephen Worchel and Jeffrey Simpson, eds., *Conflict Between People and Groups* (Chicago: Nelson-Hall, 1994), 157-178.
- 18 Jemera Rone, Conversation with author. September 7, 2001.
- 19 Alvaro de Soto, "The Role of the UN Special Representative" (presentation at the Fletcher School of Law and Diplomacy, Medford, MA, April 2001).
- 20 Sarah Broughton, "Macedonia," in *Bridging Human Rights and Conflict Prevention: A Dialogue between Critical Communities* (Carnegie Council on Ethics and International Affairs, 2001), 11.
- 21 Report of the United Nations Peace Operations (Brahimi Commission), S/2000/1081 (October 20, 2000).
- 22 Report of the Secretary General on the Protection of Civilians in Armed Conflict, S/2001/331, para. 10, March 30, 2001.
- 23 Hizkeas Assifa, Conversation with author. June 7, 2001.
- 24 Ndubisi Obiorah, "Nigeria," in *Bridging Human Rights and Conflict Prevention: A Dialogue between Critical Communities* (Carnegie Council on Ethics and International Affairs, 2001), 24.