

## Reflections on Rights and Conflict from Uganda

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75

I have read Michelle Parlevliet's insightful paper entitled *Rethinking Conflict Transformation from a Human Rights Perspective* with great interest and appreciation. What struck me as particularly helpful about Parlevliet's piece was her argument that denial of human rights as a cause of conflict gives rise to symptomatic human rights violations; yet a pattern of specific violations may, if left unchecked, gradually become a structural condition in itself that fuels further conflict, as is the case with systematic torture, indiscriminate killing and widespread impunity. I was impressed by her use of the iceberg metaphor to illustrate the notion that human rights violations can be both causes and consequences of violent conflict, which I had not thought about before. Finally, I agree with her when she states that the transformation of violent conflict to sustainable peace requires insights and strategies from both the human rights and conflict resolution/transformation fields. This also has been my experience in Uganda.

There have been heated debates on the interface between peace and justice between conflict resolvers and human rights activists for many years. In the Ugandan context, the issue has been intensely emotive at times, as the two have viewed each other with suspicion and sometimes even animosity. This has tended to confound their efforts towards the realization of either peace or justice in the post-conflict areas in Uganda, especially in northern Uganda.

Although I come from a conflict resolution background, my points of view stem from both a conflict resolution and human rights perspective since I have had the opportunity of interacting with the two fields, having worked for a human rights organisation (Amnesty International, UK) as well as two conflict resolution organisations (the Centre for Conflict Resolution, Uganda and the Centre for the Study of Violence and Reconciliation, South Africa). I have also visited the Apartheid Museum in South Africa, the Genocide Museum in Rwanda and the Cheung Ek Killing Fields in Cambodia in my personal quest for peace and justice. These visits have helped further shape my thinking.

I believe that protecting human rights is generally essential for making peace, and making peace is crucial for protecting human rights – that is the basis of my comment. In the following, I will look at some of the tensions, especially arising from different approaches and perceptions, and at integrative aspects through which human rights and conflict resolution/transformation can work hand in hand. I am reflecting specifically on issues of dealing with the past. Last, I will look at using “rights as rules” and “rights as institutions” in practice.

## 1. Complementarity and Tensions

In my view, the connection between pursuing human rights and resolving conflict is complementary and could be harmonious, as one normally advances the other. Human rights activists and peacebuilders are all involved in peacebuilding. The point of contention, however, seems to stem from the different interests and approach of the two groups or “camps”.

### A) Areas of Tension

Conflict resolvers and human rights activists contribute to conflict resolution using different approaches: there is the interest-based approach on the one hand, which seeks to reconcile needs, desires and concerns, for example through reconciling dialogues, mediation or making recommendations for law reform. The rights-based approach on the other hand is based on the societies’ or organisations’ laws or norms and values in a given context, using, for example, prosecution, litigation, constitutional interpretation, disciplinary actions or penalty.

Peace activists often argue that peace should be secured at all costs; on the other hand, human rights activists insist that there cannot be sustainable peace without justice. Human rights activists typically advocate for justice to address human rights abuses that have been committed and argue that justice is the strongest foundation for sustainable peace. Conversely, peace practitioners consider justice from the angle of reconciliation, thereby placing urgency on the relationship between parties to the conflict, in order to end violence and eliminate reasons for conflict.

In general, several common perceptions among human rights activists and conflict resolvers stand out (see *Table 1*).

**Table 1 – Perceptions among the “Camps”**

Human Rights Activists	Conflict Resolvers
Their goal is to ensure justice.	They tend to see peace as the only solution for all the issues/problems (their goal is peace).
They use the human rights-based approach.	Their solutions are interest-based rather than human rights-based.
They tend to stress redress or remedy for human rights violations and abuses.	They focus on restoring, maintaining or building relations and trust.
They tend to be biased towards the victim.	They tend to be neutral.
They tend to sequence rights first.	They tend to sequence peace first.



Human Rights Activists	Conflict Resolvers
They tend to be universalistic rather than contextual.	The approach they use takes into account the context and stage of the conflict.
They tend to use rules as a point of reference (are legalistic).	They tend to want peace at all costs; even at the cost of breaking rules or norms i.e. encouraging impunity.
They tend to view conflict resolvers as ‘idealistic’ (as they always say, what we want is possible in an ideal world, but not in a realistic one).	They tend to view human rights activists as spoilers.

### B) Dealing with the Past

Human rights and conflict resolution are especially in tension when issues of responsibility for past violations are raised. The question they confront is the following: after a number of years of war, suffering and pain, like in the case of northern Uganda, should communities forget their years of torment to achieve healing – as many conflict resolvers would want – or should they seek accountability, punish the guilty, establish the truth and circumvent impunity in order to achieve sustainable peace – as largely human rights activists have argued?

Post-conflict societies like those in northern Uganda, southern Sudan and in the Democratic Republic of Congo (DRC) are all faced with the conundrum of sustainable peace and justice. While some seek for justice at all costs to avoid encouraging impunity, other segments of society would rather forget about the horrific and traumatic past and move on with hope and confidence, in fear that the continued quest for justice could slide society back to conflict. It can be very difficult to balance the two.

In northern Uganda, a region marked by eighteen years of insurgency<sup>1</sup> by the Lord’s Resistance Army (LRA), amnesty laws were created in order to promote national reconciliation and to ensure stable and sustained peace. In fact, President Yoweri Museveni has offered amnesty to the LRA leaders and other rebel groups if they secure peace. Under the amnesty act, rebels must genuinely abandon and renounce their crimes (Uganda Amnesty Act 2000). Over 17,000 have already done so and are being reintegrated into their communities.

By contrast, others in the region argue that justice should prevail in regard to the atrocities committed by the LRA, and strongly support the indictments issued by the International Criminal Court (ICC) against five of its leaders.<sup>2</sup> The ICC was founded on the basis that there can be no durable peace without justice which to some extent satisfies victims that wrongs have been addressed. However, a good number of the people of northern Uganda I have spoken to are against the indictment of the LRA leaders because they believe that this might thwart the peace process. One of the victims, Ochan Opira, said “though the LRA inflicted suffering on our people and region,

<sup>1</sup> According to International Crisis Group, the conflict, which produced great suffering in northern Uganda, including some 1.5 million internally displaced persons (IDPs), had four main characteristics. “First, it was a struggle between the government and the LRA. Secondly, it was a conflict between the predominantly Acholi LRA and the wider Acholi population, who bore the brunt of violence that included indiscriminate killings and the abduction of children to become fighters, auxiliaries and sex slaves. This violence is aimed at cowering the Acholi into submission and discrediting the government. Thirdly, it is fuelled by animosity between Uganda and Sudan, who support rebellions on each other’s territory. Finally, it continues the North-South conflict that has marked Ugandan politics and society since independence” (ICG 2004, Executive Summary).

<sup>2</sup> They are Joseph Kony, Dominic Ogwen, Okot Odhiambo, Vincent Otti and Raska Lukwiya; the last two have died since the indictment was issued. See “Ugandan top rebel leader indicted”, BBC World Service News, 7 October 2005; <http://news.bbc.co.uk/2/hi/4320124.stm> (accessed 16 Feb 2010).



they did so because of grave government marginalisation, and my family's blood was not shed in vain. It's now time to put this nightmare behind us and move on, and this can only be done through reconciliation and not retribution..."<sup>3</sup>

Many Ugandans in fact oppose both amnesty and indictment, and favour instead traditional justice mechanisms like *Mato oput*, which promotes community reconciliation and reasserts lost dignity. The Acholi believe that killing causes deep social rifts and that the aftermath requires elaborate reconciliation mechanisms to restore fractured relations. *Mato oput*,<sup>4</sup> which literally means "drinking the bitter root", is a detailed ceremony meant to *reconcile* conflicting parties. It is an authoritative nonviolent measure to repair damaged relations. Physical presence is required so as to be part of the healing process.

As these examples have shown, sustainable peace can only be built by coming to terms with the violent past. However, coming to terms could include memorialisation, reconciliation and a form of amnesty without necessarily resorting to the course of law/justice and at the same time without condoning impunity either. Ultimately, there are always options at one's disposal, and each case requires finding a careful balance.

### C) Integrative Aspects

Although human rights are at times perceived in a negative way, i.e. as being more engrossed in justice *at the expense of* peace, I want to echo Parlevliet in stating that they can be effective for resolving conflict as reaching justice can be assumed to lead to long-term stability of a conflict settlement, and hence to sustainable peace.

Suffice it to say,

- when people are aware of human rights issues it makes their work easier in conflict resolution and peacebuilding;
- the work of human rights defenders and activists can contribute to cooperation among adversaries in times of conflict;
- human rights can offer an impartial perspective that can mitigate conflict (as set obligations) since neither party views them as the other's standards in a conflict;
- because many international stakeholders are obliged and have the mandate to protect human rights, the cause for human rights can speed up reconciliation initiatives especially in political situations.

Human rights frameworks hence do have dimensions that can help to integrate human rights into peacebuilding interventions. Parlevliet has developed these dimensions throughout her work (in this volume, 22ff; and, in very practical terms, in Galant/Parlevliet 2005, 114-117):

*Rights as rules* imply those standards to be upheld which outlaw certain forms of behaviour and encourage others. These rules are contained in international instruments, constitutions, statutes, policies or contracts. They also include customary practices and traditions. The violation of these rules could heighten the potential for violent conflict. *Rights as structures and institutions* recognize that the exercise and enjoyment of one's rights are dependent upon the structures set up by society to facilitate the exercise and enjoyment of those rights in a cooperative manner. It should be noted that these structures also include mechanisms that are put in place to respond to conflicts in a more constructive and cooperative way. *Rights as relationships* are located in a social context. They may be expressed in the relationships between the state and its citizens, as well as among citizens

<sup>3</sup> Ochan Opira's father and older brother were killed at Barlonyo by the LRA. From an interview with the author at Kwon Kic trading centre in Pader district during a peacebuilding workshop in February 2007.

<sup>4</sup> See [www.justiceandreconciliation.com/mato-oput/4516339175](http://www.justiceandreconciliation.com/mato-oput/4516339175). See also "The Mato Oput Project" on Collaborative Transitions Africa at [www.ctafrica.org/default.asp?contentID=581](http://www.ctafrica.org/default.asp?contentID=581) and Afako 2002.

themselves, as a vertical and horizontal application of rights. As much as rights govern relationships, they also carry responsibilities with them. *Rights as processes* are expressed in the range of processes available to deal with conflict, both adversarial and cooperative. This dimension of rights advocates conflict resolution processes that are participatory, inclusive and people-centred. The processes must be geared toward the promotion of human rights.

Conflict resolution practitioners tend to focus more on the relationship and process levels, whereas human rights actors focus their attention more on rules and institutions. It is important for the conflict resolvers and human rights activists to permit the application of the four dimensions and to acknowledge their mutually reinforcing nature in a more integrated, multi-dimensional and holistic approach to conflict intervention.

### **Box 1 – One Mediator’s Intervention For Peace: Stella Mystica Sabiiti**

The government of Uganda had been fighting with a rebel group called the Uganda National Rescue Front (UNRF II) for some time in the West Nile region of Uganda. The reason for the rebels’ fighting was that they wanted to bring an end to their continued marginalisation, breaching of earlier agreements and political persecution, among others.

After five years of fighting, the two parties decided to go into negotiations. The negotiations took a long time and at times there seemed to be no hope as there was a lot of mistrust and betrayal among the players.

As negotiations stalled, the government deployed its forces and more weaponry in the West Nile region. At the same time, the rebels threatened to wipe out the entire region. That’s when I was brought in, in 2002. I helped facilitate understanding and eventual participation in training and preparations for final negotiations.

I trained both camps in conflict analysis (general conflict analysis to learn to separate conflict from the people). Then we addressed their own real life conflict – again trying to separate themselves from the conflict so that they could resolve it without finger-pointing. Next their own real life conflict was mapped out – its genesis, escalation, players and impact. The different initiatives that had been made to try to resolve the conflict were analysed, including success and reasons for failure (mainly poor communication, mistrust and betrayal). There was also a session on human rights, as violations of human rights had been one of the causes of the rebellion. Eventually the rebels asked for their own separate training as they thought that the government was getting stronger. Ultimately, though, trust was established between them.

I was fully aware of the substantive rights of both parties and I had developed a set of rules (acceptable to both parties) to guide the interactions between them.

On 24 December 2002, the UNRF II signed a formal ceasefire agreement<sup>5</sup> with the government in the town of Yumbe in north-western Uganda. Terms included a battalion of UNRF II soldiers being incorporated into the Ugandan army, and 4.2 billion Ugandan shillings being distributed to the group. Though no direct human rights provisions were included in the agreement, indirectly the government agreed to expeditiously develop the region. The deal ended more than five years of negotiations between the two sides.

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**Source: CECORE’s internal documents; *My Intervention for Peace*, Stella Sabiiti 2002**

<sup>5</sup> See [www.beyondjuba.org/peace\\_agreements/Peace\\_Agreement\\_btwn\\_GOU\\_and\\_UNRF\\_II.pdf](http://www.beyondjuba.org/peace_agreements/Peace_Agreement_btwn_GOU_and_UNRF_II.pdf) (accessed 2 April 2010).

## 2. “Rights as Rules” and “Rights as Institutions” in Practice

Rights as rules can be classified at different levels; at an individual and group level, national level and at the regional or international level. At the individual and group level, for instance, the law of contract or succession is very instructive in ensuring the distribution of rights and obligations among individuals, e.g. the rights and obligations of a buyer. It is important to note that these laws help to forestall or resolve conflict if it emerges between transacting individuals.

Rights as rules hence provide “a framework within which interactions between people take place. Rules must also frame the interventions that practitioners undertake” (Galant/Parlevliet 2005, 114). Breaches of this rules framework, as Galant and Parlevliet state, may lead to further conflict.

The invasion of the Ugandan High Court by a state paramilitary group called the Black Mamba in 2005 and 2007 illustrates this point. In 2005, the Black Mamba raided the court and arrested rebel suspects who had just been offered bail. Two years later, this same paramilitary group raided the court again and re-arrested five suspects belonging to the People’s Redemption Army who had just been released on bail after being charged with treason and terrorism. The suspects were then being charged with murder the next day, before a military court.<sup>6</sup> Following this incident, Ugandan judges, magistrates and others from the legal fraternity went on strike.<sup>7</sup> The Principal Judge Justice Ogoola referred to these court raids as the most naked and grotesque violation of the twin doctrines of the rule of law and the independence of the judiciary summing it up as “raping of the temple of justice”.<sup>8</sup>

Apart from the case of northern Uganda, which has put human rights activists at loggerheads with conflict resolution practitioners, there also has been the issue of the right to peaceful assembly. This also has brought up the issue of establishing rights and resolving conflict through the use of rules and institutions. Human rights activists in Uganda have stressed the fact that the freedom of people to peacefully assemble and speak their minds is one of the exquisite rights, as enshrined by the 1995 Uganda Constitution (Chapter V on human rights and freedoms). Without it, democratic society would suffer a terrible loss.

However, this right has also bred conflict as police clash with political parties, civil society organisations, market traders and others – especially where the need to assemble and exercise this right and freedom of assembly and speech may have resulted in a perceived or real threat to public order. In such a case it is possible that conflicts will erupt because those who want to assemble do so in the busy centres of town – especially in the city of Kampala – inconveniencing those who are going about their own daily business. In the process, as police clash with those who want to assemble, further disruption occurs: it leads to businesses closing down and at times to looting and innocent people being tear-gassed. Some concrete incidents include the following:<sup>9</sup>

- In January 2007, Ugandan security forces fired gunshots and teargas to break up an opposition demonstration that had paralysed the city.
- In March 2007, Ugandan police fired tear gas and water cannons at demonstrators supporting a strike by judges over government security forces’ seizure of six bailed opposition supporters in a Kampala courtroom.

<sup>6</sup> See Commonwealth Human Rights Initiative Newsletter, 14(1), spring 2007, New Delhi; available at [www.humanrightsinitiative.org/publications/nl/newsletter\\_spring\\_2007/article1.htm](http://www.humanrightsinitiative.org/publications/nl/newsletter_spring_2007/article1.htm) (accessed 24 March 2010).

<sup>7</sup> <http://news.bbc.co.uk/2/hi/africa/6422435.stm> (accessed 7 April 2010).

<sup>8</sup> <http://allafrica.com/stories/200907060937.html> (accessed 7 April 2010).

<sup>9</sup> See [www.newvision.co.ug](http://www.newvision.co.ug) and [www.monitor.co.ug](http://www.monitor.co.ug) (accessed 7 April 2010).

- A few months later police chased Forum for Democratic Change (FDC) members from the city square after they had gathered to launch new identity cards for the party.
- In August 2009, police fired tear gas at demonstrators protesting President Yoweri Museveni's decision to re-appoint the country's election body, which had been accused of rigging previous elections. Police said that the demonstration was illegal and the protestors were disorderly.

I highlight these examples to show that although it is a right of the people of Uganda to peacefully assemble in a public space, to demonstrate, protest, and march for whatever the cause as a fundamental part of Uganda's democratic process, the exercise of this right is also inevitably a source of conflict. Hence the need arises for rules and working institutions.

Nowadays, one has to acquire permission to assemble. This requires the request and approval of a permit from the police long in advance of any event. If the permit is given, it results in less disruption and the police are available to maintain law and order. However, failure to get a permit (which happens in some cases and normally due to failure to agree on the location of assembly by both parties, and also due to the disruption it might cause) could be an unacceptable imposition on people's freedom to peacefully assemble for a cause and would allow the government, through the police, to limit speech that it does not like or does not agree with, in a capricious and arbitrary manner. Although a permit might not be officially denied, the police might give a permit on a day not requested, i.e. three days after the day requested, or when permitted, the condition could be that it should be in another area of town which might not be conducive for demonstrating. In another incident, the police denied having received the permit application. Even though I do not have concrete data, I suspect that currently six out of ten permit applications are denied, especially if they are of a political nature.

There is no single or correct way to deal with this predicament of balancing rights and responsibilities. Finding a solution does require willingness from all parties involved to compromise and to negotiate. Establishing structures and institutions that would be respected by all parties concerned would be vital in striking a balance between rights and responsibilities.

CECORE and other civil society organisations are trying to facilitate this process through engaging government/police in dialogue, to be flexible in issuing permits and to provide the required security at such functions. We also engage with political parties and interest groups who wish to assemble on the importance of peaceful assembly, and the right locations for demonstrating/ assembling. This is done, for example, through public radio messages and at workshops on engagement.

CECORE is also currently advocating for a people's space, similar to Speakers' Corner in London, on designated days of the week, where anybody can assemble and air their views on whatever issue without being harassed by the state, but also without inconveniencing other members of the public who are going about their own business and without being a threat to public order. The city authorities are now looking into this possibility.

Good practice on balancing the two cannot be imposed. It evolves over a period of time at the crossing point of power relations between different stakeholders, those who wish to protest and those who have responsibility for the control of public order. This evolution might not necessarily be entirely harmonious or peaceful, but with time and bearing in mind the principle of responsibility as well as avoiding a one-sided emphasis on rights, balancing the two can be achieved and will prevent violent conflict.

### 3. Conclusion

Michelle Parlevliet asks whether and to what extent the protection and promotion of human rights is necessary for efforts to address conflict and build peace – I would say “absolutely”, as protection of human rights is generally crucial for peacemaking and peacebuilding and in turn peacemaking and peacebuilding are vital for protecting human rights. In a way it is like a cycle, as they complement and advance each other. Kofi Annan once put it this way: “there can be no healing without peace, there can be no peace without justice and there can be no justice without respect for human rights and the rule of law.”<sup>10</sup>

Hence protecting human rights is generally essential for making peace, and making peace is crucial for protecting human rights. Yes, there is “tension”. I believe it is inevitable. But it can be reduced through understanding the potential tensions which will help those seeking to resolve conflict to better address them in a way that promotes both peace and human rights. There is an urgent need to galvanise the complementary efforts of both groups for the overall benefit of realizing the twin goal of peace and justice through harmonising the “contradictory” perspectives and different priorities, as we can both reinforce each other’s work.

In Uganda, we have in fact discovered that we share a lot in common. For example, the Human Rights Network (Hurinet), the Uganda Human Rights Commission and the Foundation for Human Rights Initiative have been trying to systematise their seminars so as to harmonise the tension between the two groups of actors. Another promising approach is evident in the Peace, Recovery and Development Plan for Northern Uganda (PRDP),<sup>11</sup> which is in essence a conflict transformation plan. In it, measures taken to bridge the gap between human rights and conflict resolution are to have joint interventions, apply a needs-based approach to conflict resolution and work to address structural causes of conflict while promoting restorative justice.

<sup>10</sup> Kofi Annan, 7<sup>th</sup> Secretary-General of the United Nations (1997-2006), in a statement on 2 September 1998 after the International Criminal Tribunal for Rwanda announced the first-ever judgment on the crime of genocide by an international court. See [www.ictj.org/ENGLISH/handbook/index.htm](http://www.ictj.org/ENGLISH/handbook/index.htm) (accessed 7 April 2010).

<sup>11</sup> The Peace, Recovery and Development Plan for Northern Uganda (PRDP) lays out a three-year strategy addressing the greater northern Uganda. It will plan and provide emergency relief, revitalize healthcare and education services, strengthen judicial and police forces, and other initiatives to assist the return and resettlement of the displaced population. The plan will serve as a foundation for the re-establishment of an environment that will enable people in the northern Uganda sub-region to re-ignite development after a 20 year war. See [www.ugandaclusters.ug/downloads/0502Programs/PRDP/AboutPRDP.pdf](http://www.ugandaclusters.ug/downloads/0502Programs/PRDP/AboutPRDP.pdf) (accessed 7 April 2010).

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Human Rights Network (HURINET): <http://hurinet.or.ug/>  
Uganda New Vision Newspaper: [www.newvision.co.ug](http://www.newvision.co.ug)  
Uganda Monitor Newspaper: [www.monitor.co.ug](http://www.monitor.co.ug)

[All weblinks accessed 7 April 2010.]

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## See also...

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