Reconciliation as a Político Concept: Some Observations and Remarks

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Contents

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Foreword

This paper summarizes a number of observations and reflections on the phenomenon and practice called "reconciliation", in connection to peace processes and peace-building initiatives. In particular it draws from processes followed by the author, in East Timor in particular, but also in Europe, the Middle East and, more recently, Colombia.

It is a discussion paper. The purpose is to invite to reflection, both on the level of perspectives as well as concepts. It is developed from a lecture called "The Challenge of Reconciliation" held at Universidad Nacional, Bogotá, in December 2003. Following substantial revision since then (making the text more than double in length) I realize that today not many parts of the original text are still recognizable from that presentation, then organized by the Embassy of Sweden in Colombia, as part of its commitment to the peace process in that country.

I have accepted the invitation of the Center of Political and International Studies (Centro de Estudios Políticos e Internacionales, CEPI), at Universidad del Rosario, to publish this work in progress, to reach a broader public in Colombia and contribute to the discussion on reconciliation.

The field of "political reconciliation" is evolving, definitions of reconciliation are abounding, and different contributors have different takes on the subject matter, quite naturally. It is the author's view, that reconciliation can and should not be "held captive" of any particular field of study. It relates to fundamental, some would call it existential, issues of meaning, trust, contradictions, and suffering in the midst of a violent, political reality. It is wise to tread softly on ground with such a complex bottom.

1. Armed conflict and reconciliation

It is fair to ask the question: Why, and how, has reconciliation become a concept in political discourse?

The recently passed century demonstrated some fundamental changes in the nature of armed conflicts and wars. Three observations can be made about these, so as to serve as a guide for identifying developments, all of which are pointing towards the emergence of "reconciliation" into a political concept and practice, taking active form in the last part of the last century.

One of the major achievements of the 20th century was the creation of legal instruments that bring the individual person into the realm of international politics. Not only states came to be holders of rights and duties, but also individual persons –whether in private capacity or (even) as state servants. It was a process that took shape in different ways. Milestones, each one in their own right, are of course the Universal Declaration of Human Rights from 1945, and the establishment of the International Criminal Court, based on the Rome Statute from 1998. These two mechanisms –so different in nature but with the same basic idea of defending fundamental human rights– combine the fact that individuals, besides states, have both rights and duties which do not limit themselves to, for instance, state boundaries or professional rules. Thus they are applicable not only in civil life but also under the special legal and practical conditions that define a situation of armed conflict and war.

Another observation is that, after the First World War, armed conflicts and wars turned gradually into a blend of internal and inter-state conflict. On surface this was not always visible: the Cold War was a period where some conflict areas were fuelled while others were kept under control. Only a few conflicts were open, inter-state conflicts, such as India-Pakistan, Ecuador-Peru, and Iran-Iraq.

As systematic collection of data shows, the totally dominating number of wars are, since decades back, "internal wars".[1] Internal wars are either about the rule of a given state ("civil wars") or about its fundamental structure, i.e. the constitution of a state ("state formation wars"). Civil wars are thus challenging an existing government, its policy etc. but not the state as a unit, while state formation wars include issues which make one or more of the parties struggling for a "re-constitution" of a state; the most radical type of proposals being a territorial separation and independence of regions within

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[1]   See Wallensteen, Peter & Harbom Lotta, 2005. "Armed Conflict and Its International Dimensions, 1946-2004" in *Journal of Peace Research*, Vol. 42, No. 5, SAGE.

an existing state. While Colombia, Sierra Leone, and Afghanistan are examples of civil wars, the conflicts in Southern Sudan, Sri Lanka, and the Philippines (Mindanao) are examples of state formation wars.

While internal wars dominate as the typical war of today, they have at the same time become internationalized, often due to parties' international economic and political relations and support. This often contributes to the protraction of such wars. This can be regarded as the (expansion of the) "horizontal" dimension of civil wars. There however also a "vertical" dimension: a civil war penetrates into the state, it means in practice, and almost by definition, that large groups of a population are affected, much larger than would be the case if the conflict was fought, say, in boundary areas or at sea, or in the air. Protracted civil wars in particular are devastating for the civil population. Sometimes this is, or becomes, part of a strategy of the parties – the civilian population represents a target since it is seen as a resource (for protection, as in classic guerilla strategy, or for material support) for one side or the other. The result of all this is that displacement, killing, and human suffering on the whole is greatest among civilians in modern armed conflicts, not among the military/soldiers. This has obviously consequences for the peace process. A normative proposition one can formulate from this observation –given the broad negative effects of civil wars– is to say that *if the war affects everyone, then the peace process, should affect everyone*, assuming that peace –on all levels of a society– should not be expected unless all levels also are addressed in a peace process.

The human loss and suffering, together with the physical and environmental destruction after a civil war creates on the whole a situation of such a magnitude, that it goes far beyond the capacity that any normally functioning state would have at its disposal; so much less then, for a state in a post-conflict situation.

This leads to very uncomfortable decisions regarding the priority order of using scarce resources, both material and human, and its short-and long-term effects on the development of a country.

As noted above, peace processes have taken on wider responsibilities in the last decades. This is true in particular since the end of the Cold war. Individual peace processes have developed different aspects of the wide spectrum of mechanisms and dimensions that actually might be part of a process. Table 1 below is an attempt at summarizing four main components of what could be called a "comprehensive peace process": the formal peace agreement, a process of individual legal responsibility, a mechanism such as truth and reconciliation commissions, and finally, apologies by state or other leaders. These four components are thus found

in concrete peace processes, at the same time there is (probably) no one that shows all of the appearing in a planned and developed way.

While most of the components have been commented on above, the apology aspect has not. It refers to the many cases of apologies expressed by Heads of state, leaders of parties or international organizations, Churches, etc. who apologize to victimized groups – for instance after civil wars or with regards to historically victimized groups, including indigenous peoples.[2]

Table 1 indicates that mechanisms are there, in principle available to deal with the impact of civil wars in societies. At best, the four components in a process could strengthen each other, be complementary and add to each other's legitimacy. For this reason, the reconciliation process, which this paper is focusing on, should not be used as a remedy for failures in the other squares of the table, but rather be seen as an integrative part of a larger whole.

Few peace processes, if any, can at the same time show the appearance of all these four components. It is even not obvious if it is desirable that they appear, so to speak, simultaneously. Certainly, an apology is not a time consuming act in itself, while legal processes are. Whether or not, the timing of the four will nevertheless impact on the process.

Table 1. Four components in intra-state peace processes

| | | LEVEL | |
		Political	Individual
ASPECT	Legal	*Formal peace agreement/equivalent*	*Responsibility according to national /international law. War Crime Tribunal*
	Moral	*Apologies from leaders*	*Truth and reconciliation process/commission*

Talking about timing, the formal peace agreement, many would say, should be the start. However also an apology from responsible leaders could be a trigger towards an agreement, and a larger peace process, and thus serve a purpose in an early stage. Whether legal and reconciliatory

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

processes should overlap in time or not, is often a matter due to the relationship between the two. In Sierra Leone, for instance, there was sharp disagreement between the National Truth and Reconciliation Commission, and the international Special Court set up for dealing with crimes against humanity in the war, due to the Court's over-ruling of some of the conditions in the peace agreement, making it de facto inoperable.

If we regard a peace process in this way, *the reconciliation process should be seen as part of the total agreement, i e part of the comprehensive peace process, and for instance not be seen as a remedy for failures in other parts of the peace process.*

The challenge is then to design a reconciliation process that integrates with other parts of the peace process, and thereby becomes a process in its own right.

In order to answer the introductory question –why reconciliation?– the nature of today's armed conflicts, as internal wars affecting wide groups of populations, require another treatment then what history books tell about peace processes. As we have seen, there are mechanisms available; experiences are made in a number of countries and processes, dealing with different ways and means of dealing with the past, often with a reconciliation dimension involved.

1.1 Reconciliation in politics

The phenomenon of "reconciliation" does take place in real life, between individuals and between groups, but is it for that reason a process that can be part of what we call "politics"? Politics, as it is usually understood, deals with power, the distribution of resources, about changing the society etc. and it is for many an important principle that certain aspects of life should stay out of influence of "politics".

There are two observations one to be made in relation to this. The first is, that when it comes to peace processes after civil war, in particular after protracted civil wars, then it is fair to say, that we do not only talk about a political process in the narrow sense of a process that depends solely on actions from governments. Peace processes after civil war in particular, are wider than so. They are social processes, which encompass much broader layers of a society than is usually influenced by decisions taken by governmental structures. So for that reason, reconciliation can have a place in a peace process understood in this wider sense. If we have a *wide* definition of "peace", then it is not difficult to see how reconciliation can be part of a "peace process".

The other observation is, that as much as reconciliation depends on the free will of people to change their minds, its scope and pace will always be

11

individually decided, it can never be commanded by political decision. Governments and governmental agencies can provide space and opportunity for reconciliation to take place, but not so much more, really, in order not to press individuals beyond what is ethically appropriate. In addition to this, it should always be remembered, that this is all about situations where many are deeply victimized, and who is to tell, under such conditions, that a change of mind –and if so when– shall take place?

1.2 Reconciliation – a note on the cultural question

The conceptual overlapping that many observe between "reconciliation" and Christian teaching – doesn't it make reconciliation a Western phenomenon, even, and in reality a part of Western cultural dominance, when applied in non-Western cultures?

The critical aspect in a theoretical context is whether "reconciliation" represents a social phenomenon that is universal –as far as we can understand that concept– or not in character.

What will below be presented as a definition of reconciliation shows, as I see it, that reconciliation appears, and more important can appear, in principle in any culture where the words used in the definition have any meaning.

Reconciliation, understood in this sense, may well carry the content of a global phenomenon. That is a necessary, underlying assumption for this paper.

Maybe the phenomenon of "reconciliation" should have another "name", it remains to be seen. At present, though, the conceptual development has gone into a wider acceptance of the concept, meaning that it basically a contextual and not definitional issue if it lost its religious connotations. Most important is that is includes all situations with the same content – be they religious and/or non-religious experiences.

2. Reconciliation – both a goal and a process

Obviously, "reconciliation" represents a process as well as a goal for that process. As a process it refers both to political, social, and legal components and it has in practice, the last decade, come to include acknowledgement of victims, truth telling, reparation, and justice. The relation between these components can be discussed. For some groups, "justice", "truth", or "reparation" is all a sine qua non for reconciliation. My position, developed below, is that reconciliation is not a mere composition of aspects, but has a distinct meaning and contribution in itself, to the nature of peace processes.

As a goal, there are two types of reconciliation that need to be identified; both are relevant for protracted armed conflicts. The first and most common is *intra*-generational reconciliation, i.e. a process between person's who themselves have experienced, or committed, atrocities, in short: those that have suffered and carried the burdens related to that suffering.

In *inter*-generational reconciliation processes, we deal with those individuals and groups who have to come to grips with prejudices, memories, and who have had to grow up in divided communities, due to past grievances and divisions. Here, dealing with history, so that it in itself does not become a new reason for conflict is a major challenge – for individuals as well as societies.

There are distinctive features of these two types. A fundamental observation about inter-generational reconciliation is that while being a victim easily translates into the second generation; both in terms of perceptions and world-views, as well as materially, the same does however not as easily apply to perpetrators. From a legal point this is obvious, but also morally the responsibility looks different –from culture to culture– when it comes to compensating in one way or another for what "our fathers did".

Many countries have struggled with inter-generational reconciliation, for example Germany and Poland, Germany and France, Japan and its South-East Asian neighbors, Finland (which suffered a civil war between "reds" and "whites" in connection to the World War II) are a few examples. These processes have included everything from leader's pronouncements of apologies to common history book projects. This long-term process of a conscious re-building of understanding and acceptance of a common fate and history is an interesting and important investment in time and effort. It is more difficult to measure, but as often in similar cases, it may not be the result in itself that is the most important aspect, but the process, with all its reassessments, acknowledgement, and new insights on all sides involved.

In countries which have experienced protracted armed conflicts, such as India and Pakistan, Burma, the Middle East, Colombia, and maybe a few more, experiences from inter-generational reconciliation processes could provide important issues to be considered, if and when these areas and countries are abound for reconciliation on a national, political level.

We should here also note, that there is a growing literature on the question of "historic responsibility", i.e. if subsequent generations have the moral obligation to meet demands of reparation for injustices carried out by previous generations, for instance towards indigenous peoples, slaves, colonial peoples, etcetera.[3]

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[3] A study arguing for transgenerational responsibilities, see Townsville, 2002.

In the following, however, we will concentrate on intra-generational reconciliation processes.

3. Four reconciliation structures

We have already mentioned the distinction between inter- and intra-generational reconciliation. There are obviously a number of practical issues connected to this difference, but it raises also some fundamental ethical and philosophical ones, related to the degree that responsibility can be transferred between generations, and as a corollary: can victimization be inherited, and if so in which way, etc. This is a major issue for political philosophers.[4]

All of these issues are in various ways already dealt with in daily life as well as in our conceptions of what it means to live – in relation to morality, responsibility, and how injustice is dealt with.

Besides this time-based distinction of generations, another distinction of fundamental importance is the nature of the relationship between the victim and the perpetrators, or rather: are victims always "only" victims, and are perpetrators always "only" perpetrators. Obviously there are situations where I think on can make this black and white distinction. However, there are probably other and more cases where the dominating impression in terms of "who is who?" is more grey, in different shades, but still. Thus we could distinguish between a unilateral and mutual moral relationship between the victim and perpetrator, i e unilateral victimhood and mutual victimhood.

Some empirical cases are likely to represent mainly one of these four categories of reconciliation; this is illustrated in the table below.

Table 2. Four types of reconciliation settings and examples of cases

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

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[4]   For a useful overeiew of the issues, see Townsville, 2002.

It should be noted, that individuals or groups that may very well be regarded as victims also might have been in situations where they have inflicted harm upon the other side. This is a major issue, a very sensitive issue, in situations where the victim becomes the power holder as an outcome of the process, such as in the case of South Africa, East Timor, Bosnia-Herzegovina, and Sierra Leone.

Some cases border between inter- and intragenerational, such as Colombia and East Timor.

Obviously these structural differences have both methodological and ideological consequences, all of which cannot be developed here.

Before discussing some of them, we need to pay attention to yet another structural dimension that is critical for a peace process as a whole, and not the least political reconciliation.

3.1 The power dimension

There is a fundamental difference for any legal- or reconciliatory process –or peace process on the whole for that matter– if the parties have agreed to the process as a result of *negotiation* or a negotiated an understanding (or an agreement) where no side has been forced to give up militarily, and a situation where one of the sides can claim *military victory*. Also, in the case of a victory of one side over the other, it is not so, that the loosing side does not have bargaining power. However, the situation is still fundamentally different from a negotiated and therefore explicitly or implicitly made agreement.

A negotiated agreement recognizes as a reality that the two sides, while having made an agreement, still have a military capacity maybe to the degree that one can destroy an agreement, and also that there is some political support as well. Nevertheless the parties have agreed to settle their differences in other ways than military, without the use of force and violence.

Such processes are often marred with political argument, deception, maneuvers, broken cease-fires, and the like. Still, the leadership on both/all sides can be very clear in the intention. It fits to be remembered here, that for instance in the South African process towards a post-apartheid democratic state, there was never a cease-fire signed between the involved parties. Nevertheless, the course of events was clear, even if challenged in substance and practice many times.

While its was clear in South Africa that the days of the apartheid system were counted, and in this way South Africa seems less of a negotiated process there was still a lot of political space to be used by both/all parties in the constitutional process. A typical case in point of a negotiated

15

process is Colombia, and the on-going demobilization process of the paramilitary groups under the AUC. In Rwanda, there was and is a heavy moral burden on the perpetrators of the genocide, while this on the other hand never can imply from a democratic theory point of view, that there is no room for other actors or opinions then the dominating one. The same is true for East Timor, where the present government won a victory so strong that the political space of the side that lost the referendum face the risk of being reduced only because it had a clear minority outcome in the referendum.[5]

This is a general problem, and illustrates the power dimension which, one could say, is what is typical for "politics". However, the idea behind for instance democratic institutions is to hinder one group's monopolization of political life and mechanisms.

In order to make clear the different conditions under which reconciliation processes take place, table 2 describes four types relating to the power dimension, and the moral dimension.

In the context of reconciliation, we need to recognize, that since reconciliation by nature is a voluntary process –which is different from legal processes for instance– the power dimension can play a strong role in the for which forms of reconciliation that are possible to apply in a given post-conflict situation. This observation leads naturally over to the next problem – what to do in a still violent context?

3.2 Reconciliation and forgiveness

As an early and general reflection on the relationship between politics and reconciliation, an observation can be that reconciliation is not a "political process" of traditional type (incl. its 'violent continuation', as Clausewitz would say); it is rather a "pre-political" process in the sense that it is a de facto recognition that "politics" in its up till that point practices form has failed to produce an acceptable social situation, and that in order to avoid (total) social destruction, and in order to produce conditions for a more acceptable development, one or another form of "reconciliation" is necessary.

By nature, reconciliation is not a totally individual process – as can be forgiveness. There has to be at least two individuals that can reconcile with each other. In this sense, reconciliation is a *relational* concept.

Reconciliation is thus providing a tool for building relationships. It is, to use sociological language, a *structural* concept, which for that particu-

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[5]   The winning, pro-independence option in the referendum on East Timor's future status got 78,5% of the votes, while the pro-autonomy (within Indonesia) option got 21,5 %.

lar reason can serve in a political context, and not only in a private or individual setting. It is this structural, relation building capacity of "reconciliation" which makes it relevant and useful in a political discourse.

The latter is however not the case for "forgiveness". Forgiveness is –or can be– a one-sided act that can be expressed without any reciprocal action from the intended recipient's side. In practice there can very well be cases of mutual forgiveness, but the concept as such does not require this to happen, in order to be meaningful. As a consequence, forgiveness, when used in a political vocabulary, can at worst function as a kind of imposition on individuals –"you shall forgive!"– Something that goes against the nature of the whole process.

So far about the relational dimension of reconciliation – "it takes two, to reconcile", to paraphrase another expression.

4. Reconciliation in a violent context

Obviously, "reconciliation" in the midst of on-going violence –geographically and/or politically– can easily become a betrayal of its own purpose. No one wants that to be the case and a critical question to address is of course if there are unconditional circumstances for a meaningful reconciliation process. The key question is: Under what circumstances can reconciliation be initiated as an effective[6] part of a peace process?

The bottom-line, it is assumed here, for an effective reconciliation process, is to safeguard it from being kidnapped for partisan political purposes. If the purpose is to overcome divisions, then the process needs to stand above the divisions themselves. This principle is in a way obvious, maybe simplistic, but it addresses not only issues like the choice of leading personalities, but also the staffing, financial and practical aspects as well.

More intriguing is political conditions for a reconciliation process. A tentative conclusion, given the experiences from truth and reconciliation commissions from three decades, is that the higher level of on-going violence during the work of the commission –with or without a final peace accord signed– the more shallow or limited work of the commission. Violence always limits the work of a commission: its political support, its witnesses, its possibility to move, the security for its members, etcetera. In order for a commission to work effectively in the midst of ongoing violence a possible approach to deal with it would be to structure the work into units of geographical and political nature. For instance, in regions where demobilization has taken place, and where leaders signal willingness to redefine their

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[6] "Effective" is here thought of meaning "meaningful", "relevant" and "productive".

position, the reconciliation process can be initiated and work itself through different steps to the extent that the conditions allow. Hopefully, this work will initiate a positive spiral, which shows politicians and the population at large, the advantages of a reconciliation process: more security, increased trust, and new possibilities for social and economic initiatives.

This way of thinking implies that a nation-wide and firmly established peace agreement, on its way to completion, is not a necessary condition for a reconciliation process. However, it requires a degree of fundamental change on the public level – for instance geographically (regions, cities, actors) and/or politically (cease-fire, demobilization, and the like).

Thus, reconciliation processes in the midst of on-going violence can take place in certain regions, with certain actors, and on certain dimensions, as a way to demonstrate what this can mean for a nation as a whole. The goal of such partial processes would of course be, to make it deeper in terms of methods and content, and wider in terms of geography. As long as the reconciliation process is not reversed by actors deviating from its fundamental nature, this can be defended both politically and morally.

5. The contribution of reconciliation

When new concepts are introduced it is necessary to ask what does, in this case reconciliation say, which is not covered by other concepts, for instance, "conflict settlement"? The answer can best be illustrated by reference to a classical figure in early peace research, namely the conflict triangle[7], which says that three ingredients are necessary for a social conflict: attitudes, behavior and an incompatibility. Thus the classical triangle was:
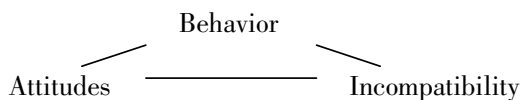
Reconciliation belongs to the attitudinal side of the triangle. Conflict resolution belongs either to the behavioral or to the incompatibility side. This is so because conflict settlement can indicate either conflict management (to

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[7] The conflict triangle was developed by Johan Galtung, in an early and now famous article, "Conflict as a Way of Life", *Essays in Peace Research*, Volume Three, Peace and Social Structure, Copenhagen: Christian Ejlers, 1978, pp. 484-507.

handle the behavior of parties so that they act non-violently, for instance), or conflict resolution (to resolve the matter once and for all by eliminating the incompatibility). So, if the original triangle indicated the necessary components for conflict, it can be developed into a triangle of peace components. This process deserves another study, but here it will only be briefly mentioned. The triangle then looks as follows:

Security

Reconciliation   Democracy
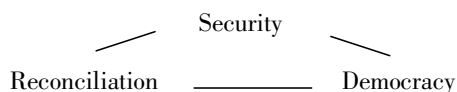
If reconciliation deals with attitudes in the most profound way we can arrange on a political level, democracy is the way by which a society peacefully can deal with its incompatibilities. Finally, security, both in the sense of physical security in social life, as well as a sustainable and thus secure environment belongs to this corner of the triangle.

This illustrates, and explains, the complementarity of reconciliation in a conflict resolution process.

6. The content of reconciliation

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

6.1 The relational component

A legal process does not normally involve any form of message or interaction between victim and perpetrator. In court proceedings the two sides try to convince the court, not each other.

In a reconciliation process it is "the other side" –being it a victim or a perpetrator– the should be primarily address, not, for instance, a commission for truth and reconciliation. (The commission can more be likened with a facilitator than a court.)

However, as has already been mentioned, a major purpose of recon-ciliation is to influence relations. Not necessarily on a personal level, but on the level where it was before the injustices etc. started. That means –ideally– that leaders should address groups and a nation as they did before the injustices; that the local landlords, businessmen etc. who used to meet their employees etc. on a certain level, should do so within the

reconciliation process as well. And the single murder should meet those closest to the victim. Again, ideally speaking. The point is that the moral balance in a society is probably best restored on the level where it was broken.

Without this relational component, again, it is hard to call a process of reconciliation; it would be counter-intuitive to the general understanding of the concept.

6.2 Changing mind?

Imagine a perpetrator and his/her attitude to the victims and to the society before an awaiting legal process. From this person we do not, and cannot, legally demand a change of mind in the direction of contrition, in order for him/her to pass the process, including its judgment. (A change of mind can affect the decision of the court, but the point here is the opposite: the court cannot enforce contrition). There may be bold ambitions of the prison's system to change and develop a person under its protection. Nevertheless, he/she will not have to change mind in order to get freedom at a certain date. Once again, "good behavior", etc. can in some systems shorten the time, but that's not the point here.

It is hard to imagine as meaningful a process of reconciliation where there is no change of attitude. At the same time, this is something that cannot be forced upon anyone. Thus, a process of reconciliation, and a commission that organizes such a process, needs to seek out the extent to which extent a change of mind this is present.

A consequence of this view is that, theoretically speaking, if all atrocities and violations etc. that have taken place during a given conflict are dealt with within an established, regular legal/court system, that would not be an example of a reconciliation process. Instead, reconciliation is wider than a legal process, it concerns a reality that a court may not be able to reach —neither legally or morally— which deals with the web of responsibilities, hidden goals, and deceptions that become part of daily life in protracted armed conflict situations; being they so "human", so necessary for survival and decent management of day-to-day life. Thus reconciliation points to the change of attitudes among those involved.

6.3 Moral and legal claims

There is however an ethical dimension, as well, in "reconciliation", which makes it representative for the message that individuals and others would like to send when they reconcile. The fundamental message is, that an individual, a group, or even a country is prepared to overlook, at least to

some degree, legitimate claims (moral, legal, material) against the other person/side, for the sake of re-establishing relations based on the perpetrator's acknowledgement of the victim's suffering and a responsibility in this connection. The various components mentioned above, making up a "reconciliation process" –such as acknowledgement, contrition, truth telling, reparation, and justice– are all instruments for this.

Reconciliation processes, with their different mechanisms, deal with a situation that a society's regular institutions are not built for, and therefore not able, to deal with effectively, neither legally, socially, nor ethically. In this way, a reconciliation commission, for instance, should always be temporary, and in most cases the philosophy has been to avoid a long-term involvement of such commissions, since it means that necessary lines of responsibility need not to be developed, between regular civil institutions, on the one hand, and the commission's responsibility, on the other.

A long-term commission, then, needs to be aware of this fundamental difference in its working conditions, as compared to the short-term ones.

7. Defining political reconciliation

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

"Harm", then, is a consequence both of injustices in a legal sense as well as of violations of human dignity that may not be covered by law. "Repaired" refers to a variety of acts and processes that various mechanisms in a process can provide, each of them hopefully tailored to a specific context. For example, there can be acknowledgement, symbolic acts, truth telling, material reparation, legal justice, common mourning. In some cultures, the fulfillment of local and/or traditional mechanisms are as important as any other process; in other cultures, the legal dimension appears to be the primary, setting others aside, while in yet other cultures, the group-oriented and religious dimension takes precedence over other.

Hopefully, and critical for the whole process, is that human dignity is restored through these different mechanisms. This is easily said, but on the basis of dignity comes the possibility for victims to turn from being an "object" –for other's acts– to becoming a "subject", taking initiatives based on one's own resources.

"Trust" is a key word in the definition. It refers to what can be described as "social trust" meaning the fundamental type of relationship in a society that, without it, there are no valid promises, no fundamental security in the street, etc. "Trust" in this sense lies between "confidence", which includes sharing of information, and "acceptance" which is what is

demanded from everyone towards a third person, irrespective of their personal differences.

The definition above reads, "trust again can be established", which indicates that it is a broken relationship that should be established. New relations, never previously in place are, of course, not an example of re-conciliation, since there was nothing to sort out, in the first place.

An interesting aspect in this is the component of *over-looking* old events and current claims that on good grounds can be made on the basis of these events. These claims can be moral or legal, sometimes dealing with economic or material things (land, live-stock, destroyed economic pro-duction units, etc.). However, "for the sake of" 'something', there can be very different reasons and motivations behind, but anyway a new path of relations is chosen: a harbor, a school etc. is rebuilt through common effort since everybody needs it and benefits from it. Over-looking does not at all have to mean "forget", or "pardon/forgive", but it brings fresh air into a community – temporary or more lasting. It belongs to the things that no one can ask for from outside, but which nevertheless can emerge from within, given the situation that exists.

Now, political reconciliation is a somewhat different thing then reconci-liation on a general level. First, "political" reconciliation is a process dealing with injustice due to political conflict. Secondly, since it takes place on the political level, it has to be cognizant and respectful of its limitations when it comes to integrity and respect for the individual dimension in reconciliation processes, as we have noted in relation to the concept of forgiveness, and "over-looking" above.

A definition of "political reconciliation" would read: *a process where harm resulting from political violence, is repaired in such a way that trust again can be established between victims, perpetrators, and the society at large.*

A political reconciliation process has a *societal dimension* to it, which is different from inter-personal reconciliation. An issue on the political level is not only a matter between the victims and a perpetrator, for instance. If they have reconciled then it is a matter for the society as a whole – everyone has the right to know, that reconciliation has taken place. Not the least so that the encouraging and positive development that can come out from reconciliation becomes known to everybody affected. This final feature is a clear difference from private/individual forms of reconciliation. In the latter, no one can claim the right to know what two parties do to their relationship, in principle.

8. Reconciliation in a legal framework

In the introduction of this paper, the question was asked how it could be that "reconciliation" made its way into the political discourse and language at all.

The literature in the subject tends either to deal with the justice dimension, the socio-psychological dimension or the forgiveness/remorse dimension.[8]

An assumption for the discussion in this paper is that reconciliation has a component that includes the *re-establishment of broken relations*. If this is not part of the process, it is not reconciliation – or better: then it should be called something else.

This assumption, which of course can be discussed, clarifies the specific contribution of "reconciliation" in the political process. It puts the concept in a creative relation to many different fields, each one contributing with their aspects. Thus reconciliation cannot solely be a legal process (to what extent can we talk about broken relations if victim and perpetrator were unknown to each other?), or solely a psychological process (to what extent should the psychological well-being of an individual determine what is possible in terms of [political] reconciliation?), or for that matter a moral/ethical process (to what exent should group based/indigenous moral principles be allowed to determine the outcome of reconciliation? Isn't that a "parliament of the street"?).

From a legal point of view, reconciliation belongs to the reparative process, and as assumed above, it deals with the relations, normally broken relations, within such a process. When the existing, positive law is violated, the society asks for punishment – thorough the police, court, and jail system - of the violating individual, in principle. This is a process based on *retributive* justice. It is concerned with punishment of offences against the (positive) law. Now, if there is an offence, there is likely to be someone offended. *Reparative* justice is concerned with this aspect: the compensation to victims for violations of (positive) law.

Methodologically the approach in morally unilateral situations is obviously very different from a mutually defined victimhood. In the former, the "moral power", so to speak, lies in the hands of the victim(s). Thus, a reconciliation process needs to give the victims also a degree of social, political and economic power, in order for them to leave the situation of being "a victim", and gain/regain a position from where the individual or

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[8] In another context a literature review would be appropriate. Here, this statement is just an impression from the author's reading. The authors in the first group are not seldom lawyers interested in transitional justice, in the second group social workers and NGO-persons, and the third group theologians (academics, Church-based, or politicians).

group is able to make decisions both about one's own situation and how to relate to the perpetrator, as an individual and/or group.

From such a position of strength and independence the victims can meet and relate to the perpetrator. Given that position of strength, which for instance was achieved by the victim-group in South Africa, or in East Timor, it is then possible to develop a system where the perpetrator is dealt with. This can be either through the existing legal system or through special legal or non-legal mechanisms. We will come back to that later.

In a mutual relationship of being both a victim and perpetrator, there is both the sensitivity coming when one of them being the power holder, and the risk that the misdeeds by the power holder are "sold out" for cheap sentences against the other side. Or both sides can agree, as in Mozambique[9], to leave the whole question of (moral/legal) responsibility, and never bring it up, saying that it is not an important political issue. In terms of reconciliation, this has meant that only relatively small, local processes/acts of reconciliation have taken place, but not on a national level.

In the case of Colombia, a law was adopted in mid-2005 that grants particular reductions of sentences etc. given certain conditions, for groups "al margen de la ley", i.e. for guerilla and paramilitary groups who decide to demobilize unilaterally and as a group. If a group chooses not to demobilize according to this law, regular criminal law applies to that group.

8.1 The question of impunity or amnesty

The question of amnesty – or impunity as well – lies in the tension between the morally unique position that a victim has to grant amnesty, on the one hand, and the socially necessary principle that everyone should be treated in a similar way, on the other hand. An individual person's freedom should not depend on a victim's personal judgment. Briefly one can say, that morally amnesty or impunity is a matter for the victims, but legally it is a matter of parliaments and courts.

Legal systems and traditions vary on the role of victims in regard to the perpetrator's fate. In some systems, such as in the USA, victims/relatives have sometimes a say in the release process of prisoners.

There is obviously a risk that leaders –also democratically elected– of countries with a weak –for any reason– police and court system, including prisons, is likely to consider the mechanism of reduction of punishment as a way of dealing with these weaknesses. This is easy to criticize from a legal point of view, but the interesting question is of course what happens

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[9]   This example refers to the conflict between Renamo and Frelimo, the latter the party in power in Mozambique, since its independence from Portugal.

if this weakness is disregarded, and things are set to move on *as if* the situation was "normal".

However, we don't deal with normal situations, but with situations where the number of cases outnumbers by far what even reasonably effective legal system's are able to deal with within any reasonable time limit.

9. Reconciliation – aspects of bottom-up and top-down approaches

Post-conflict reconciliation processes, in order to be effective, are one of the best examples of how necessary it is to combine bottom-up and top-down approaches to peace building.

If we start with the top-down process, and look at some experiences, one dimension turns out to be critical: the attitude of the winning side to its own history. It is a strong hypothesis, that there is a relationship between a leadership's –a government's– willingness to acknowledge its mistakes in the past, on the one hand, and other parties' willingness to do the same thing.

Armed conflicts are to a large extent elite projects, without material resources an armed conflict cannot continue over time. Rebellions, upheavals, mutiny, looting, burnings, killings – there are many ways by which non-armed but still very violent actions can take place. The armed conflict, however, requires weapons, training and communication. Thus, settlement of armed conflicts requires dealing with these elites – militarily crushed or not, they represent access to resources that can either spoil an agreement or support and strengthen it.

The elite's way of dealing with reconciliation –being it against or in line with their personal will– is critical, due to the resources the elites' by definition can control.

A much debated apology during a reconciliation process was made in South Africa by its former president de Klerk, made to the South African Truth and reconciliation commission, where he said that "Apartheid was wrong. I apologize in my capacity as leader of the National Party to the millions of South Africans who suffered the wretched disruption of forced removals in respect of their homes, businesses and land. Who over the years suffered the shame of being arrested for pass law offences. Who over the decades and indeed centuries suffered the indignities and humiliation of racial discrimination". [10]

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[10] Quote from chapter on "Offenders", Huyse, Luc, in *Reconciliation after Violent Conflict. A Handbook.* IDEA, Stockholm, 2003, p. 73.

So far the top-down perspective

The bottom-up perspective establishes the peace and reconciliation process among those that have suffered the most – the direct victims, the general population, the internally displaced, etc. It is easier said than done, to integrate broad layers of a population –in a country torn by war and divisions– into a process where most, at least, feel involved or at least have access to the extent wanted. Well functioning peaceful and information technology based countries can yet have problems with such tasks. The moral and political reasons pointing at the necessity to bring all groups in does not make it practically easier, however they give good reasons for letting this process *take its time*. This is the only solution to the commitment idea: lack of resources can be compensated by time, a resource that a peace process should have plenty of!

10. Truth-telling

One of the most well known truth and reconciliation commissions was the one in South Africa. Truth telling was a most significant part of its work. Many believed at the time, that the mere telling of the truth would work reconciliatory, that it would help healing people on the individual level. This may be so on a national level but sometimes at the cost of the individuals who actually tell the story.

The purpose with the truth component is, or should according to this author, not be to heal in the first place, but to recognize, acknowledge and bring light to hidden parts of a society's past. To give information to a truth commission should not be mixed up with giving a testimony for a court, by no means. Testifying to a court means answering to the courts questions and needs, but to tell one's own story, one's own truth to somebody that is interested (read: a truth commission). This is to be recognized as somebody that carries an important part of a country's, a community's common history.

As a secondary consequence of this, an individual may feel acknowledged, which is part of a healing process, and this is of course all good. However, to take statements is a very different activity from trauma healing, both in terms of practice and the necessary competence.

At this point it should be noted, that also perpetrators need to get their stories told – for their own sake and for the society as a whole.

An interesting and important second phase of truth telling is the history-making part of it. If the stories –each person's story about his/her truth– were not told, there would be a greater risk in the future, that the history of what has happened would be re-written in the interest of some groups, at the expense of others. Truth commissions normally have as their task

to summarize and draw conclusions in different ways. The statements in themselves speak for themselves, but sometimes more political conclusions are drawn, with recommendations for how a society in the future can avoid a development of the same kind, again.[11]

If there were no documents at hand, no evidence and if people never had been given the possibility to freely tell their story, that country would be more fragile and exposed to historical mistakes in the future. This was an explicit South African philosophy; and there is a lot to it.

10.1 Challenging the divisions

Societies are normally not divided to the level of polarization that is common on internal armed conflicts, even in conflicts based on identity lines. There are sometimes friendships, marriages, neighborhood relations and common economic interests that crossover divisions that leaders want to draw and make political gains from. Many in the Balkan states in Europe wonder today "how it could happen" that their seemingly mixed society in a short time became so divided that neighbors or colleagues could carry out the most horrendous acts against each other. But also in these cases there were many who stood against the tendencies of the day, there was a lot of assistance on the personal level over the (alleged) ethnic boundaries. Many conflict situations show examples of this. The consequence is, that when all things are considered, the situation is not white and black neither in terms of loyalty nor in terms of responsibility. In order to adjust and correct the dominating, often propagandistic picture of a conflict, stories about single events, heroic initiatives as well as everyday support, among a struggling people – in the midst of war - needs to be told and documented. The leader's and professional history writer's view about what happened is not and should not for the future be the only one.

11. Who's justice?

Besides the legal system that is found in each state today, there are at least two other types of systems that also claim relevance. These are on the one hand legal systems if indigenous peoples, on the other hand legal systems that have a parallel existence to the official state-based

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[11] In East Timor, where the report from the Commission for Reception, Truth and Reconciliation was handed over to the president on October 30, 2005, more than 400 statement-takers traveled around the country and collected thousands of stories. An early example was the Guatemalan Commission for Historical Clarification. This commission was severely constrained by the level of information it was able to publish, due to the political situation in the country.

system. When it comes to indigenous peoples, a lot of work is done by governments as well as by the peoples themselves to define and relate official and indigenous systems to each other.[12] In other cases, such as East Timor, neither the colonial nor the occupying power penetrated the Timorese society on a level and with a strength enough to eradicate the traditional system of law and maintaining social order. The United Nations established a formal justice system during the UNTAET transitional period, without relating effectively to existing legal practices, however with one important exception.

The establishment in 2001 of the Commission for Reception, Truth and Reconciliation[13] in East Timor, included in the UNTAET legislation for the Commission a reference to a traditional conflict resolution mechanism in the East Timorese society since centuries, a system of community based reconciliation methods, often called 'badame', meaning "the road to peace" in Tetum, East Timor's traditional lingua franca. The badame process was, and is, well established from village level and beyond. It is also today practiced in the capital, Dili, whenever certain matters should be sorted out in particular within family law, and minor criminal offences. The UN was able to include a role for the badame process within the larger scheme of legislation surrounding the work of the Commission. It was less serious crimes, i.e. with non-lethal consequences or without constituting crimes against humanity (such as rape), that were allowed to be passed on to the local level. Serious crimes revealed in the work of the Commission should be brought to the attention of the Serious Crimes Unit, a special court set up by the UN, in Dili to deal with these crimes.

A final and very important thing in the East Timorese case is, that a person who passes through the regular court system, and for instance is released after a fulfilled term of sentence, is on the local level not necessarily regarded as a "free" person. He/she still has to go through the local reconciliation process, and pay the price that is connected to that, in order to be accepted again, by his local community. The central level's legal system is simply not accepted locally.

This, and similar situations, require a coordination between various systems and levels of justice.

Also between the national and international levels of justice is a need for clarification and maybe adjustment. The main principle though, for the work done by the International Criminal Court, besides that it cannot

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[12]   For an example, see Colmenares, Ricardo, 2001.
[13]   In Portuguese, offical language of Timor-Leste, the Commission is called Comissao de Acolhimento, Verdade e Reconciliaçao, CAVR.

act retroactively on events before its inception, is that it can take action only when the national legal system is dealing not at all, or inappropriately, with a case.[14]

In the Colombian debate over its legislation in June 2005 called Law on Peace and Justice, many mentioned the need for tuning the law to international standards, indicating that there was a risk for international action if this was not the case. It remains to be seen where the borderline goes. Obviously, impunity is not accepted internationally. In the case of Sierra Leone, impunity given to come leaders as part of a national peace agreement was in practice over-ruled by the international court set up in the country to deal with crimes against humanity and against IHL. This is however a different situation than the Colombian. In the case of Sierra Leone, there was no legal process included in the agreement whatsoever –with or without impunity. Therefore, the international court had not to address the matter of the quality of a previous process on the same material points.

In order for a peace process, including its legal parts, to be legitimate in the eyes of the local population and the parties themselves, it is necessary that it is carried out in the country, by its courts if at all possible, and on the basis of national legislation. Again, the Sierra Leone case is the most recent example of a legal process out of touch with the national political and legal situation. Also in East Timor, the sentences from the Serious Crimes Panel have in some instances been sharply criticized as out of proportion, given the low ranks of those convicted, in practice alienating the Court and its role as a confidence building legal instrument for the population and the nation as a whole.

It is important that if a national legal system, its police, courts and prisons, should contribute to building a stable and peaceful environment for the society, it has to actively seek support and legitimacy from the nation it serves. Thus, it has to relate to the conditions prevailing in that society in the post-war situation that is there. What are the resources, competencies available for carrying out justice? With what degree of security and resources can witnesses be brought in, offenders kept in detention, prisons be managed?

Some of these questions are closely related to the distinction made above between negotiated and enforced agreements. Obviously, in negotiated agreements situations, there is much less leeway for actions

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[14]   This point seems to have avoided those in the US who don't want the ICC to be an effective legal instrument.

against perpetrators, than in enforced. Also the general capacity of a state, relevant not the least for East Timor, is a major aspect to be considered: building up a national legal system, including its staff, takes years.

12. A final word

Reconciliation, as a political process, gives space and provides incentives for the restoration of individual and group relations broken on the basis of political conflict. It aims at adding a "relational", "informational", and "reflectional" contribution to the political process and the security dimensions of a peace process. By "relational" is meant that relations that have been broken due to a political conflict are restored, by "informational" is meant that as part of reconciliation comes telling one's own truth, recognizing that there is not one single truth or interpretation of an event. This truth telling is the basis for the acknowledgement of injustice, of suffering and of the restoration of human dignity. Finally, by "reflectional" is meant the necessary component of self-reflection and a show of a new and different attitude on part of the perpetrator. (This can happen in legally relevant as well as symbolic situations.) As we have seen, it is however not always a black-and-white situation when it comes to "who is a perpetrator". Therefore, a moment of self-reflection among all is a very helpful experience in a process called reconciliation.

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