Helpdesk Research Report

Supporting reconciliation in post-conflict situations

Iffat Idris

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Question

What are the approaches to supporting reconciliation in post-conflict contexts? What are the pros and cons of these approaches? What role can donors, CSOs etc. play to support these? Are there specific Islamic reconciliation modalities (as opposed to secular ones)?

Contents

1. Overview

Reconciliation is important in post-conflict situations to bring about sustainable peace. This report looks at different approaches to reconciliation: retributive justice, truth-telling through truth and reconciliation commissions, traditional restorative justice mechanisms, and healing, and the role that donors and others can play to support these.

The key literature on reconciliation approaches is not very recent. However, there is a reasonable body of more recent evidence, particularly from Africa, of on-ground experience of implementing diverse reconciliation mechanisms. Given that reconciliation must be an indigenous process, one which donors can support but not lead/impose (see below), the literature says little about specific donor interventions in relation to reconciliation. The focus is on the pros and cons of particular approaches, while potential areas of donor support are identified (if at all) in a generic manner. Despite these limitations, the evidence points to some clear guidelines for effective post-conflict reconciliation.

Firstly, reconciliation is both a process and an outcome. It is a long-term process that entails bringing about profound changes in attitudes, and thus cannot be rushed. It applies not just to victims and perpetrators but to everyone in society, and takes place at all levels from national to grassroots. Secondly, while key elements of reconciliation are justice, truth, reparation and healing, there is no 'one size fits all' approach. Each country's situation will be unique and the precise mix of reconciliation processes appropriate for it will be unique. An approach that worked in one country will not necessarily work in another. It is also important to address structural injustices – political, legal and economic – so as to develop peaceful coexistence, trust and empathy in a sustainable way (Bloomfield, 2003).

Thirdly, reconciliation generally requires multiple interventions. No single intervention is likely to solve all problems but collectively diverse approaches could help build reconciliation. However, inadequate time and resources can impose constraints on what can be done; political and other considerations can also influence reconciliation processes. It is important to note that reconciliation processes that benefit societal groups may impact individuals very differently: the needs of individual victims have to be balanced against the broader goals of society (Barsalou, 2005).

Fourthly, the timing of reconciliation initiatives is critical. The precise point at which a post-conflict situation is ripe for reconciliation will depend on the context. But as a general guideline peaceful conditions should have become the norm and the prospect of renewed violence should be remote/sharply reduced (Brouneus, 2004). While it is important not to push or impose a mechanism without adequate consultation and preparation, there is often a limited window of opportunity for many transitional justice processes. For example, evidence of war crimes and witness statements need to be collected quickly while still available and still fresh (Barsalou, 2005).

Finally, the international community can play an important role in supporting post-conflict reconciliation. However, it is critical that reconciliation processes be locally led and not imposed by external actors (Bloomfield, 2003; Brouneus, 2004). Local initiatives are likely to be rooted in the local context and culture, and more likely to be effective and enduring than those devised by donor agencies.

Key findings of the report include the following:

- **Retributive justice** ensures that perpetrators are punished for their crimes and provides justice for victims. It can prevent vigilante justice, and serve as a deterrent against future such abuses. However, retributive justice can undermine often fragile peace settlements and lead to renewed violence. Its focus is on perpetrators rather than victims, who can be re-traumatised by the process. Practical constraints include weak capacity in judicial systems and limited resources. There are risks of retributive justice turning into vengeance, and that trials will not meet minimal standards of fairness (Huyse, 2008; Mobekk, 2005; Bloomfield, 2003).

- **International tribunals and criminal courts** address the capacity constraints and risk of intimidation and proper standards not being met in local courts (Bloomfield, 2003). However, they are costly and time-consuming, often far removed from the countries concerned, and are dependent on cooperation from national governments to apprehend offenders (Barsalou, 2005). They can also undermine local reconciliation processes, and are perceived by some as having a western bias (Kaye, 2011; Ojok, 2014).

- **Truth and reconciliation commissions** allow victims to recount the abuses they suffered, and they establish a historical record of broad patterns of societal crimes (Mobekk, 2005). Truth-telling can be an important step to reconciliation, but in some cultures it is seen as undermining healing by reopening wounds (Barsalou, 2005). Truth commissions can only make recommendations, which governments often ignore or do not implement fully. Perpetrators have been offered amnesty for admitting to their crimes: this can fuel resentment among

victims and their families (Hamber and Wilson, 2002). Despite facing problems, the South Africa TRC did help the country make a peaceful transition from apartheid (Hamber and Wilson, 2002).

- **Amnesty and reparations** can be useful instruments for reconciliation but need to be applied carefully. Amnesty can be useful to deal with large numbers of 'low level' perpetrators, particularly if accompanied by confessions of past crimes. However, it can imply impunity (Mobekk, 2005). Prosecuting leading perpetrators of abuses can address this concern. Reparations can signify acknowledgement of victims' suffering, but timing is critical as is linking these with establishment of the truth – without these, financial compensation could be seen by victims as governments buying their silence (Hamber and Wilson, 2002).

- **Restorative justice approaches** are frequently rooted in local tradition, and involve victims, perpetrators and communities in an effort to bring about reconciliation. Traditional restorative justice mechanisms are in keeping with the principle of local ownership, are quick and cheap, and help perpetrators reintegrate. The use of symbolic rituals and ceremonies reinforces reconciliation (Bloomfield, 2003). However, they can have weaknesses: bias on the part of those conducting them, unequal social relations which are reflected in decisions, failure to follow due process and ensure defendants' rights, and marginalisation of women (Bloomfield, 2003: Allen and MacDonald, 2014). They might not be appropriate for large-scale abuses, and for particularly heinous crimes.

- **Principles of transitional justice and Islamic law** are closely aligned (Worden et al., 2011)**.** Truth, justice (retribution), and compensation for victims are all found in Islam. Islam encourages victims to accept compensation and forgive perpetrators, so as to promote reconciliation. Development of an authoritative set of basic Islamic legal principles to support transitional justice in post-conflict Muslim societies would be a useful next step (Worden et al., 2011).

- **Healing** is important for victims to overcome trauma and needs to be addressed at individual and collective level. Suitable interventions include trauma counselling, victim support and advocacy groups, provision of skills development and other livelihood support, use of art and music to promote psycho-social healing (Bloomfield, 2003).

2. Retributive justice

Retributive justice is based on the principle that those who violate human rights law and commit crimes against humanity should be punished. However, in the context of post-conflict societies and transitional justice, there is debate about the merits of retributive versus restorative justice.

Arguments in favour of retributive justice are that prosecuting and punishing offenders publicly acknowledges wrong-doing and wrong-doers, provides justice for victims, individualises guilt (so reducing the perception of whole communities as being responsible for crimes), reduces the risks of private revenge (vigilantism), and serves as a deterrent against future such abuses (Huyse, 2008). In the absence of justice, impunity reigns. The chances of vigilante justice also greatly increase: but if people see that the courts are dealing with perpetrators, they are less likely to take matters into their own hands (Mobekk, 2005).

Arguments against retributive justice are based on both principle and practicality. There is a risk that retributive justice in a post-conflict situation can become 'victor's justice', in other words be more concerned with vengeance than justice. In the long-run, this can fuel a cycle of ongoing violence. There is also the danger that going after perpetrators will destabilise fragile peace settlements, undermine democracy and endanger reconciliation (Huyse, 2008; Bloomfield, 2003). Other concerns are that: trials

focus on perpetrators rather than on victims; giving evidence renews the trauma suffered by victims; courts identify individual guilt rather than patterns of atrocities; and practical constraints such as lack of evidence could result in perpetrators walking free – further damaging victims (Huyse, 2008).

Practical considerations include the fact that post-conflict countries typically face many pressing challenges (restoring basic services, creating jobs, generating growth, etc). Limited resources and capacity mean it is not possible to do everything and choices have to be made; retributive justice might not be the most pressing task (Huyse, 2008). Capacity and resource constraints aside, the judicial system will typically require extensive reform, a process that will take time. This can be problematic given the importance of ensuring that minimal standards for a fair trial are in place.

One compromise would be to place those guilty of the worst atrocities, or those in leadership positions who ordered human rights abuses, on trial and adopt restorative justice approaches for 'lower level' perpetrators. This fulfils the need for accountability and retribution, serves as an important signal that impunity does not reign, while preserving peace and supporting reconciliation (Mobekk, 2005).

Lustration can be an alternative or supplement to retributive justice. Lustration means the disqualification of agents/officials of the former state responsible for aggression and repression. It entails non-judicial disciplinary measures such as exclusion from public service, disqualification from holding political office, and early retirement.

The international community could provide support in ensuring that minimal standards for a fair trial are met, and that retributive justice does not become vengeance. Issues of lack of capacity and resources could be overcome through interim solutions supported by the international community. For example, in East Timor special panels were created comprising both international and local judges: this approach was cheaper than having a wholly international tribunal, and ensured local ownership of the process (Mobekk, 2005). Sierra Leone had a similar hybrid arrangement with a Special Tribunal that was a mixture of international and Sierra Leonean law and judges (Bloomfield, 2003).

Rwanda's *gacaca* courts

The Rwandan Government took the position following the genocide in 1994 that without justice it would be impossible to have reconciliation (Brouneus, 2004). Over 130,000 people were detained in prisons and eight years on 125,000 were still in detention. This highlights the very real practical constraints often faced in post-conflict situations where judicial systems can lack basic capacity and facilities such as court rooms.

Rwanda responded by setting up local *gacaca* courts to quicken the pace of time-consuming conventional legal proceedings. Over 10,000 were established to deal with the crimes committed during the genocide. Some 250,000 judges were appointed, elected by local communities. The *gacaca* courts dealt with Category Two, Three and Four crimes: the most serious Category One offences (e.g. genocide, sexual violence) were still dealt with by conventional courts. The *gacaca* courts took a highly participatory approach: community members over the age of 18 were tasked with making lists of those who were killed or raped, those who participated in crimes and those who moved away. The aim was that such participation would hasten reconciliation (Brouneus, 2004). Indeed, the courts were set up both to expedite justice for genocide crimes, and to pursue the broader reparative goals of social healing and reconciliation (Allen and MacDonald, 2014).

The *gacaca* courts stopped hearing cases associated with the Rwandan genocide in 2012. According to the government over two million people went through the system, with a conviction rate of around 65%. But local and international human rights groups voiced concerns about the fairness of the *gacaca* system, particularly as defendants did not have access to qualified lawyers.[1] There is a reported consensus among Rwandan government leaders and the international community that the process was flawed, and did not incorporate international standards guaranteeing a fair trial (Mobekk, 2005). The reconciliation process was also hampered by the government's failure to compensate survivors for the loss of their properties.

International tribunals and courts

International tribunals and the International Criminal Court (ICC) are based on the principle of universal jurisdiction, whereby it is a duty to prosecute gross human rights violations, if necessary by courts outside the country where the crimes were committed (Bloomfield, 2003). The advantages of international tribunals over local courts include that they will not face capacity issues, procedural standards will be followed, accusations of 'victor's justice' cannot be made, and they are not vulnerable to intimidation.

However, one of the main criticisms against international tribunals is the lack of enforcement mechanism. Tribunals can indict suspected perpetrators of atrocities and can issue arrest warrants, but are dependent on national governments to apprehend them. Other criticisms are that they are often far removed from the countries concerned and therefore local people feel little connection to them, and they focus on retribution which can undermine local efforts for restorative justice and reconciliation. Another consideration, particularly for ad hoc tribunals, is the enormous cost and time involved (Bloomfield, 2003). Finally, war crimes tribunals can help establish the guilt of individual perpetrators, but may not establish broader societal patterns of criminal behaviour (Barsalou, 2005).

The International Criminal Tribunal for the Former Yugoslavia (ICTY) was set up in 1993, and the International Criminal Tribunal for Rwanda (ICTR) in 1994. The creation of the ICTY in part reflected the fact that, when the Balkans wars ended, many war criminals were regarded as heroes in their ethnic groups and would be unlikely to be brought to justice locally. The international community also recognised that any trial would have to be held outside the region in a place where judges and witnesses would not face intimidation, and which would be seen as impartial (Barsalou, 2005). The ICTY did not hand down its first sentence until 1996; the ICTR in 1998 (Kaye, 2011). There was widespread frustration with the ICTR in Rwanda; it was seen as too slow, too expensive and too far removed from Rwanda (Allen and MacDonald, 2014). Despite problems, both the ICTY and ICTR have held dozens of trials, including of high profile leaders, and handed down sentences. With regard to reconciliation, the ICTR produced an authoritative account of the Rwandan genocide, while the ICTY helped bring about a measure of reconciliation to Bosnia, Croatia and Serbia (Kaye, 2011). Other assessments of the ICTY's contribution to 'peace and reconciliation' are more ambivalent (Fischer, 2011).

This was followed by establishment of the permanent International Criminal Court (ICC) in 2003. Funded by its member states, the ICC has been plagued by many of the problems that affected the ICTY and ICTR: governments refusing to hand over indicted people (e.g. Cote d'Ivoire's refusal to hand over Simone Gbagbo); proceedings that drag on for years at huge cost; and a lack of concrete progress. The fact that all six of the ICC's first investigations involved abuses in Africa, led to accusations of bias and that it was serving postcolonial Western interests (Kaye, 2011). The ICC's indictment in 2005 of five high-level Lord's Resistance Army (LRA) leaders was heatedly rejected by some local leaders in Uganda, who accused the ICC of imposing Western values and frustrating local peace building efforts (Ojok, 2014). A human rights

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[1] "Rwanda 'Gcaca' genocide courts finish work", BBC News Online, 18 June 2012:
http://www.bbc.co.uk/news/world-africa-18490348

activist in northern Uganda expressed opposition to the ICC's intervention: 'there is a balance in the community that cannot be found in the briefcase of the white man,' (Allen and MacDonald, 2014: p. 3834)

3. Truth and reconciliation commissions

Truth commissions are established to investigate human rights abuses, perpetrated in a specific time period, usually during conflict and civil unrest. They are non-judicial bodies which do not have the authority of the courts and cannot punish – they can only make recommendations. They exist for a specified time period. They allow victims and their relatives to recount human rights abuses; some allow perpetrators to give their account. Their objective is broadly to determine and create a historic record of human rights abuses, at the same time as giving victims an opportunity to be heard; official acknowledgement of what happened contributes to reconciliation. However, their focus is less on the individual as on establishing the pattern of human rights abuses committed (Mobekk, 2005).

Those in favour of truth commissions (or the truth-telling approach) argue that this is an essential requirement to achieve reconciliation; establishing the truth about the past can help a society move forward to a shared future (Freeman and Hayner, 2003). While the opportunity for victims to speak out is touted as one of the big advantages of truth commissions, the counter-argument is that participation in hearings could lead to re-traumatisation of victims and hamper their psychological well-being and healing (Ibid, and Barsalou, 2005).

In the context of truth commissions, it is important to make a distinction between national reconciliation and individual reconciliation. Truth commissions (with their focus on national reconciliation) and individual healing processes could work on different time lines (Hamber and Wilson, 2002). Moreover, (in the manner described above) national reconciliation through truth commissions could come at the price of individual reconciliation (Mobekk, 2005). It is also argued that, unlike individuals, nations do not have collective psyches (Barsalou, 2005), so truth commissions cannot 'heal the nation'; their value is much more limited and constrained (Hamber and Wilson, 2002). Finally, opposition to truth telling and truth commissions can be rooted in cultural differences: Western approaches to healing after trauma rely primarily on 'verbalised remembering', but there are traditional mechanisms which entail nonverbal methods for tackling trauma (Barsalou, 2005) – and which see verbal recounting of suffering as counterproductive.

Truth-telling could reinforce divisions between victims and perpetrators. This was the reason given by a number of countries that opted against having truth and reconciliation commissions. The Namibian government argued that 'unification' was more important than historical enquiry into and redress of past injustices – reflecting both fear of renewed civil war, as well as a fear among government officials that they could be found guilty of past human rights violations (Colvin, 2007). The Mozambique government similarly rejected truth-telling on the grounds that this would prevent healing; it preferred to not talk about the past (see below). The Mozambique example shows that, even in the absence of truth-telling, it is possible to achieve a measure of reconciliation.

Truth commissions can only make recommendations; they are dependent on governments to implement them. In many cases, recommendations have not been implemented (e.g. the South African TRC call for reparations, see below). However, there are examples of truth commissions bringing about significant change. In Chile, almost entirely on the basis of the Truth Commission's findings, the state initiated a broad reparation programme for many victims of the Pinochet era. In El Salvador, critical judicial reforms were put in place following the truth commission investigations there (Freeman and Hayner, 2003).

The international community can support truth and reconciliation commissions in a number of ways: financial and capacity building assistance for their functioning; arranging psychological support for those testifying and for commission staff who have to hear often gruesome accounts; supporting preservation of documents from periods of conflict so these are available to truth commissions, and as a historical record; and supporting governments to implement truth and reconciliation commission recommendations.

South African Truth and Reconciliation Commission

The South African TRC was set up with the mandate to establish 'as complete a picture as possible of the causes, nature and extent of the gross violations of human rights' committed between March 1960 and May 1994. The TRC granted amnesty for politically motivated crimes in exchange for full disclosure about the events. This represented a compromise between the African National Congress' (ANC) demand to prosecute all those responsible for human rights abuses, and the National Party's demand for a blanket amnesty as a condition of peaceful transition (Barsalou, 2005). As well as carrying out investigations in relation to amnesty applications, the commission gathered evidence of human rights abuses to try to establish broader patterns of events (van der Merwe and Lamb, 2009). Its final report was a seven-volume publication detailing its findings.

One of the most significant recommendations of the TRC was payment of reparations to victims. However, there were long delays by the government in implementing this and the number of victims compensated, and levels of reparations, were far lower than had been recommended by the TRC (Hamber and Wilson, 2002; van der Merwe and Lamb, 2009). This caused resentment among victims – heightened by the fact that perpetrators were seen as having avoided justice and accountability for their past actions. In the long run, commentators have drawn links between the impunity (amnesty) extended to apartheid era offenders, and the high levels of criminal violence, political violence and police corruption seen in South Africa today (van der Merwe and Lamb, 2009). The failure to prosecute and punish the perpetrators of apartheid removed the deterrent effect associated with retributive justice.

Despite shortcomings, the TRC did have a positive impact. It helped ensure a peaceful transition of power in South Africa from the National Party to the ANC. The public were supportive of the TRC, albeit with grudging acceptance of the need for amnesty, and felt the commission had provided the truth about atrocities committed in the apartheid era. Few people in South Africa would now defend or try to justify the apartheid system, or deny that brutal practices were used to keep it in place (Freeman and Hayner, 2003).

Sierra Leone Truth and Reconciliation Commission

The Sierra Leone Truth and Reconciliation Commission (TRC) was set up in 2002 as a result of pressure from local NGOs and human rights activists, but there was little popular support for it. Opposition stemmed from a fear on the part of victims of retaliation by perpetrators, and on the part of offenders, that information they gave to the TRC could be passed on to Sierra Leone's Special Tribunal looking into war crimes, which was operating at the same time. However, the main reason was that most ordinary people preferred to 'forgive and forget' – the premise for local approaches to reintegration and reconciliation. The TRC was seen as undermining those established practises and encouraging violence. In some localities, whole communities refused to testify before the commission, seeking 'to protect their communities and their relationships from the potentially damaging consequences of publicly remembering violence' (Shaw, 2005: p. 9).

East Timor Commission for Reception, Truth and Reconciliation

In East Timor, Xanana Gusmao and the political elite discouraged trials, but supported the work of the Commission for Reception, Truth and Reconciliation (Mobekk, 2005). This was established in 2001, with a mandate to inquire into human rights violations committed during over a 25-year period (1974-1999) and facilitate community reconciliation. The Commission was complementary to the formal justice system, and only dealt with relatively minor offences. Community reconciliation procedures involved participation of both victims and offenders (voluntarily), community leaders and other members. The victims had the opportunity to speak about how violence had harmed them, and at the end of the hearing offenders would agree on how to repair the harm they had done, e.g. by rebuilding community facilities, payment of livestock. Hearings also included local ceremonial rites. One evaluation found that this integrated approach to reconciliation – combining justice, culture, religion and psychology –was considered relevant and important by victims, perpetrators and communities (Brouneus, 2004). However, another report said that on an individual level people felt aggrieved and wanted not only local trials, but also an international tribunal (Mobekk, 2005).

Amnesty and reparations

Some truth commissions, such as the South Africa TRC, have the mandate to grant amnesties. In other cases, e.g. Uganda, this has been granted through legislation. Arguments in favour of amnesty are that it is impossible to carry out trials of all those involved in what are often mass atrocities and human rights violations. Amnesty for 'lower level' functionaries accompanied by prosecution of leaders, can ensure accountability and justice, at the same time as being pragmatic and promoting reconciliation.

The argument against is that amnesty implies impunity. The UN Human Rights Committee stated that 'blanket amnesty and pardons are inconsistent with the ICCPR because they create a climate of impunity and deny victims their right to a remedy' (Mobekk, 2005). UN policy is to oppose amnesties for war crimes, crimes against humanity, genocide or gross violations of human rights, including in the context of peace negotiations (OHCHR, 2009). In arrangements such as that of the South African TRC, perpetrators could give their evidence and walk away free to resume their lives; but the victims were left waiting for reparations for years (if they even came) – this fuelled resentment. Again, this highlights that what is good for national reconciliation might not be good for individual reconciliation.

Financial compensation to victims can be contentious. For some victims, monetary compensation represents acknowledgement of their loss and suffering. For others the implication that money can make up for the loss of loved ones, or feelings of guilt that they are being 'bought off', or the small amounts involved, can make it insulting (Barsalou, 2005). The timing of reparations is critical, and the need to link this with truth telling. Otherwise, there is a danger that victims could see reparations as an attempt by the government to 'close the chapter on the past prematurely' and to buy their silence (Hamber and Wilson, 2002).

Scope for the international community to support amnesties is limited, given the general opposition to these (e.g. by the UN). However, guidance could be provided on international law in relation to proposed amnesty agreements. With regard to reparations, international actors could provide technical guidance for design and implementation of reparation programmes, financial support for reparations, assistance to local groups involved in reparation discussions, and could promote linkages between reparations programmes and a comprehensive transitional justice policy (OHCHR, 2008).

4. Restorative justice

While the aim of retributive justice is to punish wrong-doers, restorative justice seeks to restore relations between victim and offender and within the broader community to which they belong. It works through participatory processes with victims, offenders and community members discussing what happened, identifying and (in the case of offenders) accepting responsibility, and mutually deciding sanctions (Bloomfield, 2003). Many restorative justice mechanisms are rooted in local culture and tradition, and will involve confirmation of decisions through rituals aimed at reintegration. Other advantages are that the process is quick, cheap and readily accessible; offenders are not sent to prison (saving resources); and they are facilitated to reintegrate with society.

While restorative justice is clearly consistent with reconciliation, it does have potential weaknesses. Hearings are led by local leaders, usually chosen on the basis of status or lineage; they could be biased towards certain groups. Rules and procedures (e.g. of evidence) are flexible and safeguards found in the formal justice system could be neglected. Where parties are unequal, the decision reached could be a reflection of their respective bargaining strengths rather than of what is just – this could reinforce resentment on the part of victims. Finally, while such local, participatory mechanisms could be highly appropriate for dealing with localised, small-scale offences, it is questionable whether they have the capacity to address large-scale atrocities (Bloomfield, 2003).

It is important to note that, while traditional justice approaches are generally considered restorative, they can have punitive functions (Mobekk, 2005). As noted, traditional mechanisms frequently deny the perpetrator the right to a fair trial; moreover, not only the trial, but the punishments meted out can be against international human rights law and standards: 'applying punishments that may contradict human rights laws, to deal with breaches of those very laws should not be encouraged by the international community' (Mobekk, 2005: p. 284). Another frequently mentioned cause of concern of tradition based justice systems is that they are likely to be dominated by men and the decisions made can often fail to provide justice for women and marginalised groups (Allen and MacDonald, 2014).

In some circumstances traditional mechanisms can effectively complement the official justice system, and offer a way to promote justice and reconciliation. But it is important not to have unrealistic expectations of what traditional justice mechanisms can do, and to take into consideration their weaknesses as well as strengths (Huyse, 2008). African countries offer a number of examples of tradition based restorative justice, focused clearly on achieving reconciliation.

Uganda Mato Oput

In Uganda, the Acholi Religious Leaders Peace Initiative (ALRPI), an interfaith forum formally inaugurated in 1998, was founded on the principle that the best and most sustainable approach to conflict resolution was through forgiveness and reconciliation. The ALRPI was among those most vocal in calling for a blanket amnesty for former rebels who came back to the country and renounced violence. The call for amnesty was rooted partly in local culture, but also reflected the fact that many LRA rebels had been abducted and forced to carry out atrocities – the lines between victim and perpetrator were thus not clear-cut. ALRPI pressure contributed to passage of the Uganda Amnesty Act in 2002, and to its later renewal. The Amnesty Act provided the legal and political space within which community and other initiatives for pursuing dialogue and reconciliation could take place (Afako, 2002).

Though pushing for a blanket amnesty, the Acholi tradition of Mato Oput (reconciliation) was firmly premised on truth telling: amnesty could only be granted to those who publicly admitted to participating

in crimes during the conflict. Symbolic compensation and reconciliation ceremonies were conducted to unify victims and perpetrators. Such ceremonies incorporated the acknowledgement of wrongdoing, the offering of compensation by the offender and culminated in the sharing of a symbolic drink (Afako, 2002). Compensation in the form of livestock, for example, could be used by boys to marry and have children of their own, who would be named after those who died (Ojok, 2014).

Mozambique

Unlike other post-conflict countries in the region, Mozambique chose not to set up a truth and reconciliation commission. This decision was based on the argument that African culture operates on the principle of forgiveness rather than confrontation, and setting up a commission would open wounds of war that were already in the process of healing (Lundin, 2004). A related consideration was that during the Mozambique conflict many people had been kidnapped by rebels and forced to fight against their own villages and families – so, as in Uganda, lines between victim and perpetrator were blurred. The Mozambique government also developed no official reparations policy, and actively resisted calls for memorials to those who had fought in the civil war or against colonialism (Colvin, 2007). There was no legal recognition of victims and few support services for victims. The overall attitude of the government was one of avoiding talk of the past, fearful that this could trigger renewed conflict (Colvin, 2007; Allen and MacDonald, 2014).

The Mozambique government did, however, focus on reintegration of ex-combatants, developing programmes for skills training and providing other support. This effort was supported at community level by CSOs, the church and communities themselves, drawing on local traditions and culture. Social integration of ex-combatants generally entailed a three-part ritual: one, the individual taking a ritual bath to symbolise him shedding his identity as a fighter and regaining his civilian identity; two, an announcement made to dead relatives that the 'lost sheep' was back home and thanks offered for his safe return; and three, the individual requesting forgiveness from the dead/their relatives and offering compensation (cash or goods). In the last part perpetrators and victims (or their relatives) would be brought together and put through rituals to reconcile them, e.g. having a collective meal (Lundin, 2004).

Despite its refusal to talk about the past, reconciliation in Mozambique has in many ways been successful – particularly in reintegrating boy combatants. Reasons for Mozambique's success included the particular context of the conflict, the focus on not reawakening the traumas of the war, and society's desire for healing (Mobekk, 2005).

Islamic approaches to reconciliation

Many of the concepts associated with transitional justice – truth, accountability, justice (retribution) and compensation for victims – are found in Islam (Worden et al., 2011). Islamic law requires the prosecution of people who commit crimes, and prescribes punishments for different offences such as murder and rape. These are generally based on the principle of 'an eye for an eye', in other words the punishment should fit the crime. However, alongside retributive justice there is also scope for settlement (*sulh*) (Philpott, 2007). Islamic law gives particular importance to the wishes of victims/their families. In cases of murder, for example, the victim's family can insist on the death penalty being carried out. But, by far the preferred option in Islam is for them to accept compensation ('blood money') and spare the life of the murderer (Manjili). The aim behind this is to promote reconciliation. The caveat is that the perpetrator must show remorse and seek repentance. Many dispute resolution/informal justice sector entities in Muslim societies (e.g. tribal *jirgas* in Afghanistan and Pakistan) operate on the same principles (Coburn and Dempsey, 2010).

There is thus close alignment between Islamic law and transitional justice approaches that seek to foster reconciliation. However, in practice, victims of atrocities in Muslim-majority countries seldom see justice after conflicts. This has been attributed to problems of weak governance, absence of the rule of law and low levels of human development in such countries, rather than to Islamic legal thinking (Worden et al., 2011). Development of an authoritative set of basic Islamic legal principles to support institutional approaches to truth seeking, accountability and justice in post-conflict Muslim societies would be a useful next step – one that could be supported by the international community. However, it should be noted that the issue of what constitutes Shariah is highly contested (Worden et al., 2011).

5. Healing

Trauma counselling and victim support

Healing entails helping individuals overcome trauma alongside addressing issues in the social and cultural context that cause distress. Addressing individual and collective trauma is regarded as a vital component of bringing about sustainable peace: ignoring or denying such trauma and suffering will not make it disappear (Parent, 2012).

The precise interventions carried out can be very diverse. Trauma counselling for victims can help them deal with the impact of the conflict on them. This can be undertaken by professional counsellors, or within communities through survivors coming together and sharing experiences and supporting each other. Training of local people in psychosocial support skills can be useful interventions. Psychosocial programmes can also include self-help support groups, arts and story-telling, education and retraining, reintegration of individuals with families and communities. Self-help support groups for victims can offer emotional or practical help. Many have broader goals such as fighting for recognition and justice, raising public awareness and lobbying for change (Bloomfield, 2003). Victim support services can also include legal advice centres, skills training and economic empowerment, social work services, and providers of mental and physical health care (Colvin, 2007). Donor agencies can play a useful role in supporting diverse healing interventions such as counselling, arts projects and so on.

Memorialisation

Carrying out rituals or symbolic acts can serve as a focal point in the grieving process. These are particularly effective if personalised and culturally relevant. Initiatives such as constructing monuments, setting up museums, peace parks, renaming streets and buildings after those who suffered during conflict – can serve to acknowledge the suffering of victims, and act as a reminder to everyone of the lessons of the past (reducing the chances of such events being repeated) (Bloomfield, 2003). However, a note of caution needs to be added: depending on the timing of memorials and the narrative they convey, memorials can promote reconciliation or stimulate further conflict (Barsalou, 2005).

The psychological impact of memorials that commemorate specific individuals (such as victims of a particular atrocity) is likely to be confined to those individuals' families or communities. By contrast, memorials that focus on the larger tragedy of conflict, and acknowledge the suffering of all sides involved, can promote reconciliation between divided groups. Timing is important: some passage of time should be allowed after a conflict ends to allow reconciliation processes to begin and survivors to develop more balanced perspectives. But waiting too long – until the next generation - will mean memorials have less impact (Barsalou, 2005).

The experience of post-conflict countries in southern Africa shows very different approaches to memorialisation. While South Africa, Namibia and Zimbabwe all carried out state-sponsored memorialisation, Mozambique rejected any form of this on the grounds that it could exacerbate tensions in the country (Colvin, 2007). Namibia and Zimbabwe honoured a narrow range of individuals connected to the ruling party at the Heroes' Acres national memorial complexes. But South Africa carried out a range of memorial strategies, including smaller memorials, exhumations and reburials, and national holidays (Colvin, 2007).

6. References

Afako, B. (2002). 'Reconciliation and Justice: Maputo Out and the 2002 Amnesty Act'. *Accord,* Issue 11, pp. 64-69. http://www.c-r.org/downloads/Accord%2011_13Reconciliation%20and%20justice_2002_ENG.pdf

Allen, T. and MacDonald, A. (2014). 'Post-Conflict Traditional Justice', in Bruinsma, G. and Weisburd, D (eds). *Encyclopedia of Criminology and Criminal Justice.* Springer, New York. http://link.springer.com/referenceworkentry/10.1007%2F978-1-4614-5690-2_580

Barsalou, J. (2005). *Trauma and Transitional Justice in Divided Societies.* USIP, Special Report 135. http://www.usip.org/sites/default/files/resources/sr135.pdf

Bloomfield, D. et al. (eds) (2003). *Reconciliation after Violent Conflict: Policy Summary.* IDEA, Stockholm. http://www.idea.int/publications/reconciliation/upload/policy_summary.pdf

Bloomfield, D. et al. (eds) (2003). *Reconciliation After Violent Conflict: A Handbook.* IDEA, Stockholm. http://www.idea.int/publications/reconciliation/upload/reconciliation_full.pdf

Bloomfield, D. (2006). *On Good Terms: Clarifying Reconciliation.* Bergdorf Research Centre for Constructive Conflict Management, Berlin. http://www.berghof-foundation.org/fileadmin/redaktion/Publications/Papers/Reports/br14e.pdf

Brouneus, K. (2004). *Reconciliation – Theory and Practice for Development Cooperation*. SIDA, Stockholm. http://www.pcr.uu.se/digitalAssets/66/66768_1reconciliation---theory-and-practice.pdf

Coburn, N. and Dempsey, J. (2010). *Informal Dispute Resolution in Afghanistan.* USIP, Special Report 247. http://www.usip.org/sites/default/files/resources/sr247_0.pdf

Colvin, C. (2007). 'Civil society and reconciliation in Southern Africa', in *Development in Practice*, 17:3, pp. 322-337. http://www.tandfonline.com/doi/pdf/10.1080/09614520701336717.

Fischer, M. (2011). 'Transitional Justice and Reconciliation: Theory and Practice' in *Advancing Conflict Transformation: The Berghof Handbook 2*. Berghof Foundation. http://www.berghof-foundation.org/fileadmin/redaktion/Publications/Handbook/Articles/fischer_tj_and_rec_handbook.pdf

Freeman, M. and Hayner, N. (2003). 'Chapter 8: Truth-Telling' in Bloomfield, D. et al. (eds) *Reconciliation After Violent Conflict: A Handbook*. IDEA, Stockholm. http://www.idea.int/publications/reconciliation/upload/reconciliation_full.pdf

Hamber, B. and Wilson, R. (2002). 'Symbolic Closure through Memory, Reparation and Revenge in Post-conflict Societies.' *Research Papers.* Paper 5. http://digitalcommons.uconn.edu/hri_papers/5

Huyse, L. (2008). 'Introduction: Tradition-based Approaches in Peacemaking, Transitional Justice and Reconciliation Policies' in Huyse, L. and Salter, M. (eds.), *Traditional Justice and Reconciliation after Violent Conflict: Learning from African Experiences.* IDEA, Stockholm, pp. 1-22. http://www.idea.int/publications/traditional_justice/upload/Traditional_Justice_and_Reconciliation_after_Violent_Conflict.pdf

Kaye, D. (2011). 'Who's Afraid of the International Criminal Court? Finding the Prosecutor who can set it Straight.' *Foreign Affairs,* May/June 2011 Issue. https://www.foreignaffairs.com/articles/2011-04-18/whos-afraid-international-criminal-court

Lundin, I. (2004). *The Peace Process and the Process of Reconciliation Post-Conflict – The Experience of Mozambique*. Conference Paper, Barcelona International Seminar 'Experiences of Penal Alternatives in Peace Processes'.
http://escolapau.uab.cat/img/programas/colombia/seminario/seminario018.pdf

Manjili, F. *Transitional Justice Under Shariah.*
https://law.wm.edu/academics/intellectuallife/researchcenters/postconflictjustice/documents/Manjili.pdf

McKone, K. (2015). *Reconciliation in Practice*. USIP, Peaceworks No. 111.
http://www.usip.org/sites/default/files/PW111-Reconciliation-in-Practice.pdf

Merwe, H. and Lamb, G. (2009). *Transitional Justice and DRR: The Case of South Africa.* International Centre for Transitional Justice, New York. https://www.ictj.org/sites/default/files/ICTJ-DDR-South-Africa-CaseStudy-2009-English.pdf

Mobekk, E. (2005). 'Transitional Justice in Post-Conflict Societies – Approaches to Reconciliation' in Ebnother, A. and Fluri, P. (eds), *After Intervention: Public Security Management in Post-Conflict Societies – From Intervention to Sustainable Local Ownership.* Geneva Centre for the Democratic Control of Armed Forces (DCAF), Geneva.
http://www.bundesheer.at/pdf_pool/publikationen/10_wg12_psm_100.pdf

OHCHR (2008). *Rule of Law Tools for Post-Conflict States: Reparations Programmes.*
http://www.ohchr.org/Documents/Publications/ReparationsProgrammes.pdf

OHCHR (2009). *Rule of Law Tools for Post-Conflict States: Amnesties.*
http://www.ohchr.org/documents/publications/amnesties_en.pdf

Ojok, B. (2014). *'Forgiveness is our culture': Amnesty and reconciliation in northern Uganda.* Beyond Intractability Project, University of Colorado. http://www.beyondintractability.org/casestudy/ojok-forgiveness

Parent, G. (2012). 'Identifying Factors Promoting or Obstructing Healing and Reconciliation.' *International Journal of Peace Studies,* Volume 17, No. 1, Summer 2012, pp. 25-45.
https://www.gmu.edu/programs/icar/ijps/vol%2017_1/Identifying%20Factors%20FINAL.pdf

Philpott, D. (2007). *Religion, Reconciliation and Transitional Justice: The State of the Field.* Social Science Research Council Working Papers. http://kroc.nd.edu/sites/default/files/workingpaperphilpott.pdf

Rosoux, V., 2009, 'Reconciliation as a Peace-Building Process: Scope and Limits', in Bercovitch, J. et al. (eds) *The SAGE Handbook of Conflict Resolution.* SAGE, London, pp. 543-560.
http://www.gsdrc.org/document-library/reconciliation-as-a-peace-building-process-scope-and-limits/

Shaw, R. (2005). *Rethinking Truth and Reconciliation Commissions – Lessons from Sierra Leone.* USIP, Special Report 130. http://www.usip.org/publications/rethinking-truth-and-reconciliation-commissions-lessons-sierra-leone

Worden, S. et al. (2011). *Analyzing Post-Conflict Justice and Islamic Law.* USIP, Peace Brief 87.
http://www.usip.org/sites/default/files/Analyzing%20post-conflict%20justice%20and%20islamic%20law.pdf

Key websites

- Institute for Democracy and Electoral Assistance:
http://www.idea.int/conflict/sr/

- Beyond Intractability Project, University of Colorado:
http://www.beyondintractability.org/userguide/peacebuilders

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