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Interventions in Secessionist Intrastate War: Understanding the Conflict between the Moro Islamic Liberation Front and the Government of the Philippines

Wendy Kroeker

Numerous perspectives on intervention theories apply to the intrastate conflict context. This paper examines the application of this discourse to the conflict between the Moro Islamic Liberation Front and the Government of the Philippines. Intervention strategies include prevention, early warning signs of conflict, multiple approaches to intervention activities, roads to reconciliation, and a wide range of actors. Intervention theories explored include Lederach's actor pyramid and integrated framework, Fisher's Interactive Conflict Resolution workshops, Sandole's "Three Pillar Approach" to analysis and prevention, Rothman's ARIA process for mediating conflict, and Ury and Senehi's approach to changing narratives. The conflicts in Sri Lanka and Sudan (until 2005) serve as case studies to examine contexts in which various intervention theories were utilized. The Philippine context highlights the challenges of responding to historical conflicts compounded by numerous social, political, and cultural factors. Effective analysis that provides insights for resolution and transformation of the conflict considers the big picture, embraces complexities, and is sensitive to local dynamics and resources.

INTRODUCTION

This paper examines various perspectives on intervention theories that apply to intrastate conflict, and relates these discussions to the conflict

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between the Moro Islamic Liberation Front (MILF) and the Government of the Philippines (GPh). On 27 March 2014, the Philippine government signed a peace agreement with the MILF, ending about forty-five years of violence.[1] The resulting Bangsamoro Basic Law has been turned over to the government and is being reviewed. It lays down the principles for the establishment of an autonomous political entity for the Bangsamoro as a way of recognizing their distinct history and their aspirations as a distinct people, and as a discussion of normalization parameters. Given that this is a long-standing conflict, the issues are complex. Long-term solutions must work at all of the causal layers in order to avoid an intractable conflict. This case study is enhanced through the use of two comparative case studies to illustrate the impacts of intervention choices and to uncover aspects that can be applied to the Philippine situation. To determine effective interventions for the Philippine context, this study reviews diagnostic frameworks and then discusses intervention techniques that have successfully been used in intrastate conflicts.

DIAGNOSTIC FRAMEWORKS GUIDING ASSESSMENTS FOR INTERVENTION

The range of tools and techniques in the field of transformative conflict resolution has expanded over the past decades. Intervention strategies have been broadened to consider prevention, early warning signs of conflict, multiple approaches to intervention activities, roads to reconciliation, and the need for a wider range of actors. For many years, "the realist paradigm, with its emphasis on power and structure" has failed to interact with the mobilization of civilian groups.[2] The realist theory is state-centric, and elites are the key actors in the global arena. This vision has created a "myopic orientation" that has ignored non-state actors.[3] This section discusses potential frameworks for assessing the role of interventions beyond the confines of state and security issues.

A shift in perspective regarding intervention strategies emerged in 1992, when United Nations (UN) Secretary-General Boutros Boutros-Ghali published *An Agenda for Peace* in order to analyze the conflict situations in which the UN was finding itself involved.[4] The statement was significant in that it described an obligation for prevention as well as peacemaking. The UN acknowledged that peacekeeping and the absence of war did not ensure long-term peace. Boutros-Ghali wrote that the work of peacebuilding is the

"creation of a new environment."[5] The document spelled out new parameters and recommended four areas of activity for the United Nations: preventative diplomacy, peacemaking, peacekeeping, and post-conflict peacebuilding.[6]

Comprehensive Approaches

John Paul Lederach, in *Building Peace: Sustainable Reconciliation in Divided Societies,* asserts that peacebuilding needs to be more than "postaccord reconstruction" and views it as that which utilizes all processes available in order to transform conflict and move towards peaceful relationships. This approach frames peacebuilding as a "dynamic social construct."[7] Lederach contributes a comprehensive approach to peacebuilding to the discussion and focuses on outlining a conceptual and practical framework for constructing peace in situations of armed conflict. He presents various "analytical lenses" to "address structural issues, social dynamics of relationship building, and the development of a supportive infrastructure for peace."[8] Peacebuilding activities—prevention, intervention, and transformation—are vital aspects of a comprehensive plan guided by a clear foundation of values and motivations. In Lederach's view, a diagnostic framework must include a "full array of processes, approaches, and stages" in order to achieve a transformed relationship.[9]

Louise Diamond and John McDonald, authors of *Multi-Track Diplomacy: A Systems Approach to Peace*, encourage a view towards intervention efforts that considers a conceptual framework operating out of a "web of interconnected parts . . . for a common goal."[10] The advantage of Diamond and McDonald's approach is the acknowledged necessity for the expansion of actors in the conflict situation. This arose out of the realization that government-to-government negotiations did not necessarily create the best possible resolutions to conflicts and that the "'Track One, Track Two' paradigm" of the last ten years needed expansion.[11] Diamond and McDonald assert that the possibilities for change lie in the realm of citizens who possess a variety of backgrounds and skills. From the many people marching during the civil rights era in the United States, to Leymah Gbowee and WIPNET in Liberia, to the thousands gathering in Tahrir Square in Cairo, the number of civilians involved in peace work has grown. Diamond and McDonald name nine areas of peacemaking activities that can intersect within the sphere of intervention options and that need to be considered if peace work is to be sustainable. These nine areas are (1) government, or peacemaking through

diplomacy; (2) nongovernment/professional, or peacemaking through conflict resolution; (3) business, or peacemaking through commerce; (4) private citizen, or peacemaking through personal involvement; (5) research, training, and education, or peacemaking through learning; (6) activism, or peacemaking through advocacy; (7) religions, or peacemaking through faith in action; (8) funding, or peacemaking through providing resources; and (9) communications and the media, or peacemaking through information. All of these areas exist independently but together create a window to a whole system of intervention possibilities that can encompass prevention, intervention, and transformation.

Morton Deutsch's work on the cooperation and competition theory highlights that the type of orientation that participants in the conflict have is "decisive in determining its course and outcomes."[12] With knowledge regarding the interplay between these dynamics it is possible to move a conflict in a cooperative direction. Three concepts are central to the interaction between cooperation and competition: sustainability—how one person's actions can satisfy another person's intentions; attitudes—the predisposition to respond favourably or unfavourably; and inducibility—the readiness to accept another's influence.[13] Cooperative relations can have a significant impact on the nature of the conflict and therefore it is important to have an understanding of the positive characteristics that can be nurtured in a conflict situation: effective communication, helpfulness, coordination of effort, feelings of agreement and respectful behaviour, willingness to enhance the other's power, and collaborative efforts.[14]

Sean Byrne and Neil Carter propose the social cubism model for the study of ethno-territorial conflict as a way to interconnect both material and psychological mechanisms in the analysis of the conflict.[15] In the social cubism model, ethno-territorial conflicts provide a multi-faceted puzzle.[16] This model creates space for the consideration of multiple aspects in the quest to produce a full picture of the conflict, and it emphasizes the consideration of internal actors and issues (see appendix). The cubism model provides opportunity to isolate a particular factor and analyze the complexities that exist when a number of pressure points are present in an ethnic conflict. The six "interrelated facets or forces" are history, religion, demographics, political institutions and non-institutional behaviour, economics, and psychocultural factors.[17] These social forces can reveal patterns of intergroup behavior that are beneficial analytical tools. The analysis resulting from applying the social

cubism model provides clues to the ways in which "material and psychological dimensions interact to maintain or mitigate intergroup conflict."[18] This information can enhance the design of intervention strategies.

Ethical and Moral Considerations

The moral question is a necessary diagnostic aspect to the design of an intervention process. Deutsch asserts that constructive conflict can be achieved through the adherence to some basic values and moral doctrines.[19] He suggests a list of common values that can assist in creating a space for constructive conflict: reciprocity, human equality, shared community, fallibility, and nonviolence.[20] Catherine Lu, in *Just and Unjust Interventions in World Politics*, reflects on the ethical complexity of interventions in the global arena. Thousands of people have become victims of intrastate humanitarian crises, and international intervention efforts have not always been effective.[21] Debates centre on accusations of complicity, neglect, imperialist acts, and dictatorial responses. She asserts that "moral rightness" must be inserted as part of the conversation regarding intervention strategies.[22] Lu sets the parameters of the debate with these questions: "What ought to be the status of duties of humanity and human rights in the normative foundation of international order? What are the moral foundations of the state and the conditions for legitimate soverign authority?"[23] Thinking through the ethical challenges can assist decision makers as they design proactive policies and practices. Intervention approaches must focus, says Lu, on alleviating suffering and constructing "a more morally responsive and responsible world order." For all, this is "both a public and private duty."[24]

Timing of Interventions

The timing of intervention efforts is an important consideration. Jeffrey Rubin asserts that "analysts and/or practitioners need to continue to look for ways of creating ripeness."[25] The correct moment for interventions needs to be weighed carefully and it is not always readily apparent. People will only be able to resolve conflict when they are ready to do so. William Zartman writes of the perception change of parties as they realize that something different needs to occur for resolution to have a chance of success. He describes this realization shift as the "mutually hurting stalemate."[26] At this point other proposals can be considered and the "ripe moment" has emerged that makes de-escalation and dialogue possible.[27]

Discussions of the "ripe moment" acknowledge that interventions must be evaluated in terms of the time and context of the situation. Conflict analysis is a delicate endeavour and the "ripe" moment is difficult to discern. Lederach cautions that "ripeness is in the eye of the beholder" and that those enmeshed in the conflict might not have the "luxury of such vision."[28] Ripeness asumes a predictive quality to the work of conflict intervention. It is imperative that local partners who live within the conflict be part of the discernment process. Lederach's preferred metaphor of "cultivation" stresses that change processes are best identified by people immersed in the ecosystem of that conflict.[29]

Human Needs and People's Lives

Constructive conflict work is challenging when people's basic human needs are not met. Abraham Maslow has argued that all people have a hierarchy of needs, such as food, shelter, safety, love, belonging, and self-actualization.[30] It is difficult for people to focus on higher needs when their basic needs are lacking. John Burton indicates that needs are part of our universal motivators.[31] He stresses that people will pursue their basic human needs at all costs, regardless of the conflict. Needs are deep values and are not items for negotiation; they are "inherent drives for survival and development."[32] Unmet needs can give rise to behaviour that is not consistent for a particular group. In assessing interventions for any conflict it is important to undertake a needs assessment and incorporate community capacity-building as part of the large picture efforts to improve the conflict situation. Ronald J. Fisher's work in resolving conflict stresses not only that the identification of needs is significant but that "mechanisms to address them ('satisfiers') must be built into the outcomes."[33]

The diagnosis of conflict situations needs to be deliberate and multifaceted, for conflict "arises in different contexts" and levels.[34] As seen above, it is important to consider comprehensive approaches, the expansion of actors, the interplay of cooperative and competitive dynamics, the interconnection of material and psychologial mechanisms, ethical complexities, the timing of activities, and the human needs of the actors within the conflict. Without an adequate diagnostic framework for the analysis of conflict, the intervention tools and techniques are at risk of not being sustainable or constructive for the parties involved or of not achieving a significant level of transformation.

PEACEBUILDING ACTIVITIES: LOOKING AT PREVENTION, INTERVENTION, AND TRANSFORMATION

There are many tools and techniques for intervening in conflicts: mediation, dialogue, military intervention, *coups d'état*, arbitration, negotiation, diplomacy, grassroots activism, advocacy, peacekeeping, development, and others. This section reviews Lederach's actor pyramid and integrated framework as a basis for transformational work, Fisher's work with the Interactive Conflict Resolution workshops, Dennis Sandole's "Three Pillar Approach" to analysis and prevention, Jay Rothman's ARIA process for mediating conflict, and William Ury and Jessica Senehi's approach to changing narratives. Although there are many peacebuilding activities from which to choose, these approaches are well suited to the discussion of intrastate conflict and address areas of prevention, transformation, and in-the-midst-of-conflict intervention.

Lederach's intervention work looks to various "lenses" in order to create a comprehensive approach for the transformation of the conflict. It is multifaceted and provides practical direction for addressing conflict and engaging tools and strategies for prevention, intervention, and transformation. The first lens examines the role of leadership in conflict. This tool depicts leadership as a pyramid with three layers: top level, middle range, and the grassroots.[35] Each level indicates the access to information that a particular party has and the amount of direct experience with the conflict at hand (see appendix).

The pyramid base represents the greatest population impacted and includes grassroots members such as community leaders, local leaders, and community developers who understand the experiences and challenges of those in the grassroots and have direct experience with the animosities that are a part of the conflict. Bottom-up processes and programmatic peace efforts can be of value at this level. The middle level represents ethnic and religious leaders, academics, and humanitarian leaders—people with visibility and power in addition to networks that can link to the top level or to the grassroots. They have a great deal of flexibility in how they might operate. Problem-solving workshops, trainings, or peace commissions are interventions that this level can enable. The top level represents the fewest number of people and includes military, political, and religious leaders with high visibility. They are "spokespersons for their constituencies" and can use their powers of decision-making and influence for resolving the conflict.[36]

The assessment of the skills and assets of the three levels of leadership cannot stand alone as a tool for transformation. The integrated framework is two-pronged. Lederach uses Maire Dugan's "nested paradigm"—the lens that examines the issues and systems for conflict transformation work—to emphasize the need to search for the broader systemic concerns within a conflict. This is the vertical axis of Lederach's integrated framework (see appendix).

The horizontal axis of the integrated framework considers the role of time frames in planning and action, thus linking the various aspects of peacebuilding.[37] Activities that address the immediate presenting issues alone are not sufficient. They must be integrated into the long-term solutions for the conflict. Lederach draws on Elise Boulding's approach to "imagining" the future as his vehicle for discussing the end goal in the time dimensions for peacebuilding.[38] Boulding encourages imagining the "transformational potential" within the structures that inhabit our world and utilizing those "imaginings" as the goals to inspire the work of the moment.[39]

The interplay between Lederach's two axes of time and systems reveals that root cause assessments must be considered within the early crisis intervention period and approached with an eye towards the systemic issues of the conflict. This is especially vital in historical conflicts. Immediate crisis management activities are required in order to alleviate the suffering of people in the midst of the conflict but the systemic issues must not be overlooked. Conflict prevention tactics urge people to look towards the desired future by designing options that focus on the immediate issues of the conflict and create potentials for a transformed future. Transformation activities can be planned for in the mid-range levels of time and response as a way to move away from the immediate crisis towards the necessary changes. The last area of work centres on changes to the social and communal structures and the enhancement of relationships. Utilizing the assets of the different actors within the situation facilitates a comprehensive framework to address prevention, direct interventions, and transformation of the context. Synchronizing activities that emerge from each of the three lenses produces a combination that builds an infrastructure of peace.

Mediation is one of the valuable tools in protracted conflicts. Fisher's Interactive Conflict Resolution (ICR) workshop is a particular type of mediation intervention technique that can be utilized in and between all of Lederach's pyramidal levels as a means to build linkages and networks

(Tracks 1, 2, and 3). Fisher writes that "relationship-oriented methods have much to offer" to the international arena.[40] ICR is especially useful at a point when the conflict is entrenched; its focus is to create "problem-solving discussions between unofficial representatives of groups or states engaged in violent protracted conflict."[41] Non-state actors can make significant contributions to peacebuilding efforts. In ICR, a social-psychological approach is brought to bear on conflict resolution. The emphasis of the ICR workshop is on direct communication between the opposing parties, and the need for a skilled third party to facilitate that discussion. The goal of the process is to encourage the growth of understanding towards sustainable solutions that provide for improved relationships. Mediators can use ICR workshops as part of a pre-negotiation phase of conflict resolution to identify and address barriers and provide opportunities to build cross-party relationships, or as a means concurrent with official negotiations to analyze the official process, identify factors that could enhance the official talks, and name and address issues beyond the scope of the official negotiations.[42]

Prevention tools are invaluable to peacebuilding. Sandole's work on the "Three Pillar Approach" focuses on the analysis needed for the prevention of conflict and the prevention of the escalation of conflict.[43] Sandole draws on the work of Paul Wehr, who writes that the tool of mapping can provide a clearer understanding of the dynamics of the conflict.[44] The intention of Sandole's work is to provide a macro/micro approach that integrates conflict theory with concrete action towards transformation of conflict. The framework focuses on three essential pillars for analyzing the state of a conflict. Pillar One is concerned with conflict causes. Pillar Two focuses on conflict conditions. Pillar Three addresses intervention options and third party objectives. Each of these themes needs to undergo keen assessment "in order to respond effectively to prevent, manage, settle, resolve, transform, or otherwise deal with" the conflict.[45]

A significant cause of intrastate conflict is identity issues. Rothman's work and ARIA methodology focuses on assisting parties to be clear on their own values and motivations—it requires "profound clarity of thought and action."[46] The process moves through four stages: Antagonism, which surfaces the conflict and frustration points; Resonance, which nurtures potential for harmony between the disputants; Inventing, which is the process of brainstorming; and Action, which seeks to implement the ideas that have been created. Recognizing that the conflict presented is an identity-based

conflict allows people to create processes that can, through deep exploration, "bring light to people's core needs and values."[47] As people find their voice in the process they can also offer space to hear the other side.

ARIA has been utilized in entrenched and historical conflicts, especially the Israeli-Palestinian conflict. Undergirding Rothman's work is the assertion that when people's identities are threatened, conflict is inevitable.[48] Identity-driven conflicts have, at their core, a need for "dignity, recognition, safety, control, purpose, and efficacy."[49] These core concerns must be addressed; creative engagement is required to give the parties an opportunity to voice their concerns.

Finally, storytelling is a tool that provides space for people's voices and can assist in preventing, intervening in, and transforming a conflict. Ury asserts that "perhaps the principal obstacle to preventing destructive conflict" is situated in our perceptions of how events have transpired and the resultant meanings for our lives.[50] Communities must begin to refute the negative stories and their embedded assumptions in order to re-narrate their experiences and move forward.[51] Senehi asserts that storytelling as a technique has great potential "to break down the psychological walls separating communities."[52] Stories are constructions and, as such, can create social cleavages or build new relationships. Storytelling has been used throughout time as a tool within processes such as mediation, diplomacy, relationship building, and activism.[53] It is a significant resource on the road to peace.

Intrastate conflicts contain multiple layers of issues, actors, and descriptions of the conflict. Lederach's pyramid of actors and integrated framework, Fisher's Interactive Conflict Resolution workshops, Sandole's Three Pillar model, Rothman's ARIA process, and Ury and Senehi's approach to re-narrating the story are creative approaches to peacebuilding and include specific techniques and tools that can be used at various points within the life of a conflict. These techniques, coupled with diagnostic frameworks, provide strong direction for imagining constructive relationship building and transforming conflict in intrastate tensions. These techniques form the basis for analyzing interventions in the following case studies.

CASE STUDIES

This section examines approaches and tools utilized within the conflicts in Sri Lanka and Sudan (until 2005). These locations and histories are significant as vehicles to highlight factors impacting protracted intrastate conflict.

In each case study, a particular intervention strategy used in the conflict is examined for its effectiveness and impact on the existent tensions. The learnings from these case studies inform the discussion on the Philippine context.

Interventions Utilized in Sri Lanka

Under British colonial rule, when Sri Lanka was known as Ceylon, the Tamils were provided with missionary education that enabled them to function well in an English-speaking context and they emerged as the elites of the society.[54] Sri Lanka received its independence from Britain in 1948 and the Sinhalese majority became the first government. The Sinhalese promptly instituted Sinhala as the official language, shifting the balance of advantage that they perceived the Tamils had enjoyed under the British. Ethnic riots ensued. This power shift became the basis for civil war and the growth of Sinhala Buddhist nationalism.[55]

In February 2002, after the LTTE (Tamil separatist group) ceasefire announcement, Prime Minister Wickremisinghe stated, "We have no option but to talk; there is no alternative."[56] It is difficult to discern whether this was a ruse or not, but many different forms of intervention—mediation, dialogues, development interventions, international assistance, military operations, and other methods—had already been initiated by this point.[57] The government of India attempted to mediate the conflict between the Tamils and the Sri Lankan government in the late 1980s. It was not successful and in 1991 the LTTE assassinated Indian Prime Minister Rajiv Gandhi for the failure of that process—a failure in that it focused attention on power elites and exhibited a lack of connection to the grassroots. This perception regarding India's approach indicates "that the success or failure of negotiations is often linked to their design, and if the direct actors in the violence are excluded from the process," the process is in jeopardy of losing its credibility.[58]

What went wrong in the mediation process that India facilitated? Several factors were at play. Kumar Rupesinghe asserts that the conflict in Sri Lanka was highly polarized and the traditional problem-solving model was not able to decrease the stereotyping and demonizing already entrenched.[59] The Indian approach to diplomacy commenced with high level diplomatic talks. At the same time, though, India was covertly "engaged in arming and training Tamil militants in Tamil Nadu."[60] The eventual revelation of that information destroyed whatever sense of impartiality existed between the

two governments. Militarization, as a result, became a key component of the peace process. Areas in which the negotiation was felt to be lacking included inadequate will on both sides, the propagation of incendiary political positions, reliance on military solutions, a hardening of public attitudes, an inability of leaders to overcome personal animosities, and a weak peace constituency.[61]

The Sri Lankan case indicates that in contexts of high complexity it is crucial to develop comprehensive frameworks that can combine linear and traditional approaches with transformative ones—specifically, processes that involve communities, utilize the wisdom of local cultures and leaders, and analyze the historical roots of the situation. [62] In this case, the spiral of violence escalated, and the "traditional linear approaches" failed to address the multidimensional aspects of the conflict.[63] Rupesinghe suggests that constructive approaches are comprehensive frameworks focused on "developing sustainable, citizen-based peacebuilding initiatives, the effective linking of those initiatives to the parties to the conflict, and the development of an overall environment conducive to making peace."[64] Ground-up approaches could have created opportunities to strengthen the desire for peaceful interactions already existent in both communities.

The case of Sri Lanka demonstrates that comprehensive approaches focused on citizen involvement are necessary for sustainable peacebuilding. Sri Lankan society is rich in resources such as indigenous expertise, an educated population, and developed citizen groups that could be mobilized in positive directions. Developing a peace process involving a citizen base requires long term vision, political will, and the creation of significant social networks. Rupesinghe's framework towards reconciliation and sustainable peace requires understanding root causes, ownership of the peace process, identification of all actors, identifying appropriate facilitators, setting a realistic timetable, sustaining the effort, evaluating success and failure, and identifying strategic constituencies.[65] According to Deutsch, such cooperation encourages constructive attitudes and actions. Interventions that have not been formulated to create constructive actions will not result in the desired changes.[66] Effectiveness in these interventions will require the ability to envision "a long-term process and recognize opportunities" for these constructive actions.[67]

Interventions Utilized in Sudan (through 2005)

The Sudanese context provides indicators of stressors that cause secessionist civil war. Prior to the 2011 division between the Republic of the Sudan and the Republic of South Sudan, Sudan was the largest country in Africa. This section analyzes secessionist factors attached to the time period prior to the separation. The region held vast riches in both resources and traditions. There were strong cultural differences between the communities of the north and the south. Sudan declared independence from the British in 1955 and the region has been plagued by civil war for most of the time since. The First Sudanese War was from 1955 to 1972. The Second Sudanese War from 1983 to 2005 ceased when a peace agreement was signed, establishing the platform for the eventual creation of the Republic of South Sudan.

The south was (and is) largely Christian and somewhat like its East African neighbours, Kenya and Tanzania. The north was (and is) Muslim Arabic-speaking with similarities to Egypt. Francis M. Deng argues that "the country's civil war culminates a long history in which the North has tried to spread its religion and language to the South, which has resisted these efforts."[68] In her work on building cultures of peace, Elise Boulding noted that although a superficial analysis suggested "an industrialized Arab North exploiting an underdeveloped tribal South," the reality was much more complex.[69] In the aftermath of the peace agreement signing and the creation of the Republic of South Sudan, the question that has emerged is whether the Sudan region will be able to progress beyond a simple dualistic description of the conflict—such as North/South, Christian/Muslim—and develop identities that can embrace the region's complexities."[70]

The issues emerging out of the Sudan case are numerous and have been analyzed from many different perspectives. There are multiple languages, unequal mineral resources, and a colonial history favouring one group over another. The "cleavages of identity" in Sudan have not only been centred upon the diversity of peoples but on "gross inequities that contribute[d] to racial, ethnic, [and] religious conflicts."[71] These complexities are significant and raise the question of whether it is possible to design truly sustainable peace processes. Writing prior to the creation of the Republic of South Sudan, historian Amir H. Idris asserted that the challenge for sustainable peace in Sudan (and now the region) lies in the ability to create a "transformative discourse" in the search for a democratic citizenry.[72] The discourse needs to address both diversity and unity in forging a new relationship. Deng asserts

the importance of embarking on creating new narratives regarding history and identity that focus on belonging.[73] Senehi's work concurs that "at stake is individual and community empowerment in making sense of the past, addressing present problems, and articulating a vision of the future" that provides space for both healing and justice in the aftermath of conflict.[74]

Idris asks whether it is possible to transcend race and ethnicity in the postcolonial era.[75] It is not helpful to describe the violent conflict in Sudan as simply "deep ancient hatreds and ethnic loyalties."[76] Violence must be examined "by locating the precolonial and the colonial in a postcolonial context."[77] The analysis cannot be reduced to what currently exists but must courageously examine the colonial foundation on which the society is laid; that is, by the nineteenth century, the British-dominated system of governing had forced a system of separate identities and created complex platforms for decision-making. Structural tensions emerging out of unequal distribution of power and resources became part of the fabric of the context. Tensions such as these are key warning signs for the probability that violence can break out.[78]

The Sudan case highlights that a significant aspect of the transformation work requires supporting local institutions that have the potential to promote necessary change without resorting to violence. Dorothea Hilhorst and Mathijs van Leeuwen's work on supporting local peace organizations rightly stresses that "peacebuilding is done by people."[79] Local capacities must be strengthened in order to maintain pressure on the elite levels to resolve the conflict. As well, once the international organizations leave the region, well-functioning local organizations will be needed to support the peace efforts. The return of refugees to a conflict area can revive tensions, thus underlining the importance of developing capacities to withstand the changes that can occur in a given area. Lederach's integrative framework provides significant direction for thinking through the incremental supports necessary for the type of transformation work necessary in this study and for achieving a harmonious future.

An integrated framework is paramount to solidify the discernment process required to attain the "big picture" and to remind parties that local "peacebuilding requires recognising and respecting indigenous notions, processes and time frames for organisational development."[80] The Sri Lanka and Sudan cases highlight the importance of remaining focused on multifaceted frameworks to address the complexity of needs and issues and to secure

sustainable peace at the local level. Ultimately, for change processes to happen, they must be "embraced and sustained by people in these contexts."[81] Multi-level strategies are imperative when designing for sustainable peace.

Interventions and the Philippine Case Study

The Moro people have waged defensive and secessionist wars for hundreds of years. Prior to the arrival of the Spanish in the sixteenth century, the archipelago now known as the Philippines was a collection of at least seventy distinct horticultural and fishing-based ethno-linguistic groups across a relatively homogenous ecological and cultural zone. Beginning around the tenth century, regional chiefdoms or proto-states began to emerge, ruled by figures variously called datus, rajahs, or (eventually) sultans. Beginning in the fourteenth century, through trade-routes with the Middle East, China, and south-east Asia, Islamic influence began to spread throughout the archipelago—mostly in the islands of the Sulu Sea and in the lowlands of Mindanao. By the sixteenth century, the Sultanate of Sulu and the Sultanate of Maguidanao were firmly established in the southern Philippines.[82]

The Spanish conquest and colonization of the Philippine islands, beginning in the sixteenth century, was initially successful in the northern and central regions (Luzon and Visayas). The Muslim Sultanates of the south, however, were able to mount a stronger resistance, resulting in what is now called the Spanish-Moro conflict from the sixteenth to the nineteenth centuries. In this context, the Muslim peoples of the south came to be referred to as the "Moro," by analogy to the earlier Spanish conflict with the Muslim "Moors" of North Africa. In response to Spanish incursions, the Sultanates mounted raids on Spanish military garrisons and their associated Catholic missions, resulting in Spanish reprisals. Not until the final decades of the nineteenth century were the Spanish able to gain control of the main Moro areas of Mindanao.

Following the sale of the Philippine islands to the United States as part of the settlement of the Spanish American War (1899 Treaty of Paris), it was now the Americans' opportunity to subdue the islands. The result was a protracted military campaign that lasted two decades in areas of native resistance throughout the islands, especially in the traditional areas of the Muslim Sultanates.[83]

After Moro Mindanao was successfully subdued, schools with a pacifying educational curriculum and hospitals were established. Commercial

interests were also introduced. Logging and plantation concessions were granted to companies to exploit the resources of Mindanao and Sulu. By 1910 there were ninety-seven major plantations of one hundred hectares or more in Mindanao, 62 percent of which were owned by Americans and 19 percent by Europeans. Perhaps an even more potent force of colonization was the colonial government's policy encouraging "Christians" to settle Mindanao. In 1903, the Moro population comprised 76 percent of the total inhabitants in Mindanao; by 1939 they numbered only 34 percent.[84] In the 1940s and 1950s, waves of poor migrants from across the central and northern islands moved to Mindanao.

During the government of the dictator Ferdinand Marcos (1965 to 1986), the frustrations of the Moros erupted into the national consciousness, especially after the Jabidah Massacre of March 1968, when a group of Moros being trained by the Armed Forces of the Philippines to lead the Philippine effort to recapture Sabah in Malaysia rebelled and were then executed. This event catalyzed Moro nationalism. In May 1968, Moro politicians in Cotabato organized the Mindanao Independence Movement (MIM). The MIM declared independence and initiated attacks to recapture Moro lands from Christian settlers. "Christian" politicians retaliated by organizing their own army. The Philippine army sided with the Christian army and the conflict heightened with much ensuing bloodshed. In 1971, Nur Misuari and other young leaders of the MIM organized the Moro National Liberation Front (MNLF), seeking comprehensive economic and political changes in Mindanao and Sulu. Eventually, the Tripoli Agreement was brokered (1976), recognizing the Moro people's right to a homeland with the establishment of the Autonomous Region in Muslim Mindanao. This compromise caused a rift within the MNLF, and in 1977 Hashim Salamat broke away to establish the Moro Islamic Liberation Front (MILF) according to a more religiously framed nationalism. Since then the ongoing conflict has resulted in significant loss of life and the displacement of hundreds of thousands of people.[85]

The Philippines is in the midst of a peace agreement process with the MILF. Roger Mac Ginty asserts that most peace accords attempt to make macro level adjustments to the dynamics that led to the particular conflict, attending only to the manifestations of conflict and not the roots.[86] Often this approach overlooks the fact that there is a state of latent violence that needs very little to spark it back into active violence. The twenty-day war

in Zamboanga City (the Philippines) in September 2013 provides a clear example of this. According to military reports, fifty-two MNLF fighters—said to be spoiling the process between the government and the MILF by sparking violence in the city—eventually surrendered, about 223 of the fighters were captured, and one hundred were killed. On the civilian side, at least ten thousand structures, homes, and buildings were razed in the city. The situation was officially declared a "humanitarian crisis" by the United Nations.[87]

Committing significant attention to analysis is crucial in these types of situations. Mac Ginty declares that the existent violence cannot be turned "off like a tap."[88] The twenty-day war highlighted the array of parties and issues in this conflict. Given that much violence is structural at its core, years of mistrust can easily erode a peace accord not based on a deeper analysis of the situation and the inclusion of a wide range of stakeholders. When government agreements favour one group within the country over another, resentment builds in those groups who feel isolated. Political scientist Priscilla Tacujan asserts that when a government "extends group entitlements to ethnic groups based on group rights and group identity, it sharpens ethnic differences and fuels ethnic wars."[89] This raises the question of which approaches to ethnic differences will be the most helpful in diffusing the potential competition between groups already stressed over resources and access to power. Nurturing cooperative processes is a significant effort in the development of constructive relationships in a context of secessionist-oriented conflict. Deutsch's writing stresses that the cooperative environment develops only when constructive facilitation skills are encouraged.[90]

Skill sets need to be nurtured and it must be acknowledged that different skill sets are necessary to transition from war-time relief efforts to long-term projects in order to create sustainable foundations. It is clear that a focus on greater local consultation is necessary in reconstruction plans. Mac Ginty outlines ten propositions that he believes can enhance the properties that the liberal democratic peace can bring to a conflict situation: (1) implementing review mechanisms, (2) working on trust, (3) highlighting the dangers of a stalled process, (4) reviewing the definition of peace, (5) being mindful of public expectations, (6) protecting local economies, (7) working with indigenous traditions, (8) creating broad ownership, (9) realizing that third parties need to be supporters rather than leaders of the process, and (10) acknowledging that a bad deal should be rejected.[91]

Peacebuilding occurs as something to be facilitated, not executed. Applying this perspective to the Philippines is valuable as a method of enhancing the potential for constructive relationships in a context where people are weary of conflict and war. It is essential to consider the big picture context of the region and invite full participation from all stakeholders in order to secure a plan that is sustainable. Although the peace agreement is between the MILF and the Philippine government, the fact that the MNLF was invited to participate in the Transition Committee, which drafted the Bangsamoro Basic Law (BBL), is a significant step.[92] Currently, the BBL is being reviewed in various regions in preparation for ratification. Ratification will be by the people in a plebiscite.[93] The process has been guided by strong adherence to the principle of local involvement and the need for strengthening local organizations and capacities.

The focus of the agreement has been on four substantive agendas: revenue and wealth sharing, security, normalization, and territory. It is momentous that the agreement acknowledges the assets that exist in the regions where the Moro people live and the long denial of their participation in the area's wealth and development. Naming security as an issue indicates that the entrenched hostitilities—between Moros and settlers as well as between the Moros and the military (acting for the government)—have been a dividing factor in the social fabric. Normalization discussions centre on the rights of the Moro people to have an opportunity to pursue quality of life after generations of discrimination. The creation of the Bangsamoro—the place of the Moro people—will be established to replace the Autonomous Region in Muslim Mindanao that was previously negotiated.

The agreement itemizes substantive issues that have divided Philippine society for decades. Effective peacebuilding work must be multilevel in order to achieve sustainable transformation. Ho-won Jeong asserts that it is "difficult to create positive conditions for conflict transformation at the local level without a complementary process at national and regional levels."[94] The strategies at the various levels—interpersonal, group, society—need to be synchronized. The fact that the BBL is currently being reviewed in local regions before the ratification plebiscite indicates a commitment to building strong linkages between various actors within the peace process. National level strategies "have to be able to utilize the creative processes that exist at the local level" in order to create the possibility of sustainability.[95]

In addition to national agreements, local strategies need to be

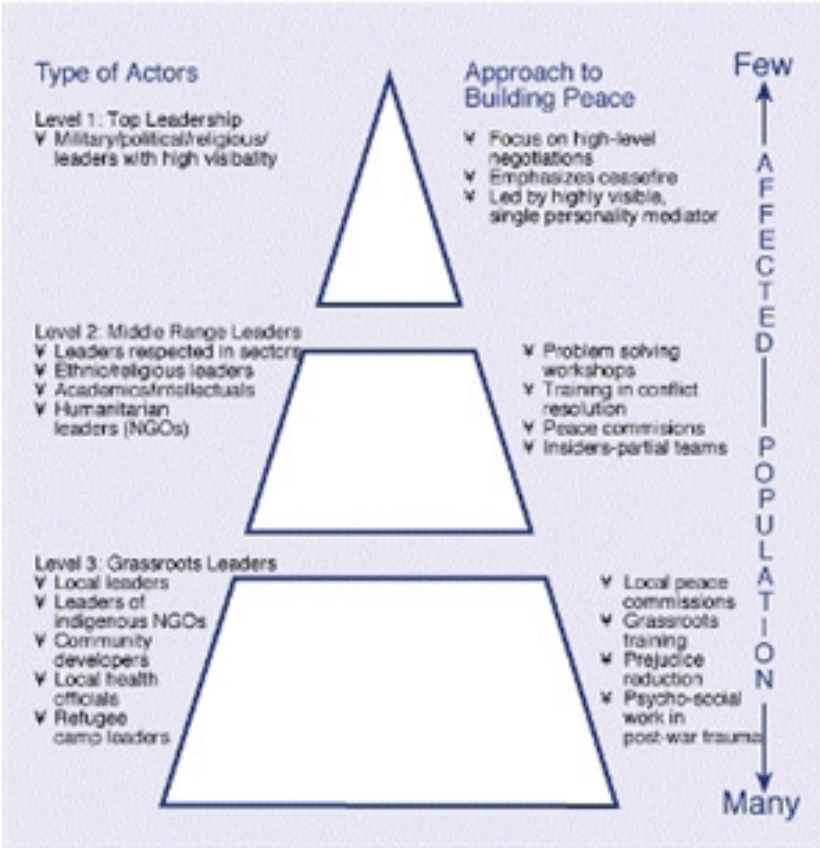
implemented. One such strategy is Zones of Peace—geographical areas in which hostilities cannot be waged—which are "predominantly 'bottom up' expressions of local activism and empowerment" that have been utilized over many decades in the Philippines.[96] A key characteristic of the Philippine implementation of peace zones is that they are multi-sectoral, involving citizens from a wide range of organizations and peace constituencies. [97] The intention is to focus on community-oriented solutions to the direct violence that people are experiencing and to open spaces to discuss structural violence issues that are thwarting peace efforts. These peace zones have been established in many areas of the country where military operations terrorized the community. Peace zones have utilized the strength of the values of the local people as a tool for building peace and transforming relationships. The history of peace zones in the Philippines provides a strong model for viewing local assertions as a claim for "sovereignty over other existing political forces in the country."[98] The Philippines is a community-oriented, high context culture society and, as such, citizens are drawn to the possibilities of being involved as actors within peacebuilding.

The complexities of designing sustainable peace processes are immense. Effective analysis takes into account the big picture and is sensitive to local dynamics and resources, thus providing insights into directions for resolution and transformation of the conflict. Deng concludes his study by saying that there is a wider relevance for his specific study regarding identity beyond Sudan. Around the world, inequalities exacerbate ethnic and religious conflicts. In any context where people are marginalized, leaders need to be "challenged to explore a national common ground and to develop an inclusive sense of belonging."[99] Working out of a comprehensive framework will help peace workers explore the common ground amidst the diversity of issues in the Philippine context and achieve the depth required for the processes to be meaningful and sustainable.[100]

Although it must be acknowledged that this framework is no guarantee that facilitators will be able to recognize all of the factors and conditions that could enable an agreement within a community, it provides strong possibilities for addressing the factors that instill conflict.[101] The potential of working towards transformative possibilities lies at the crossroads of multi-faceted approaches and the involvement of local communities towards meaningful goals.

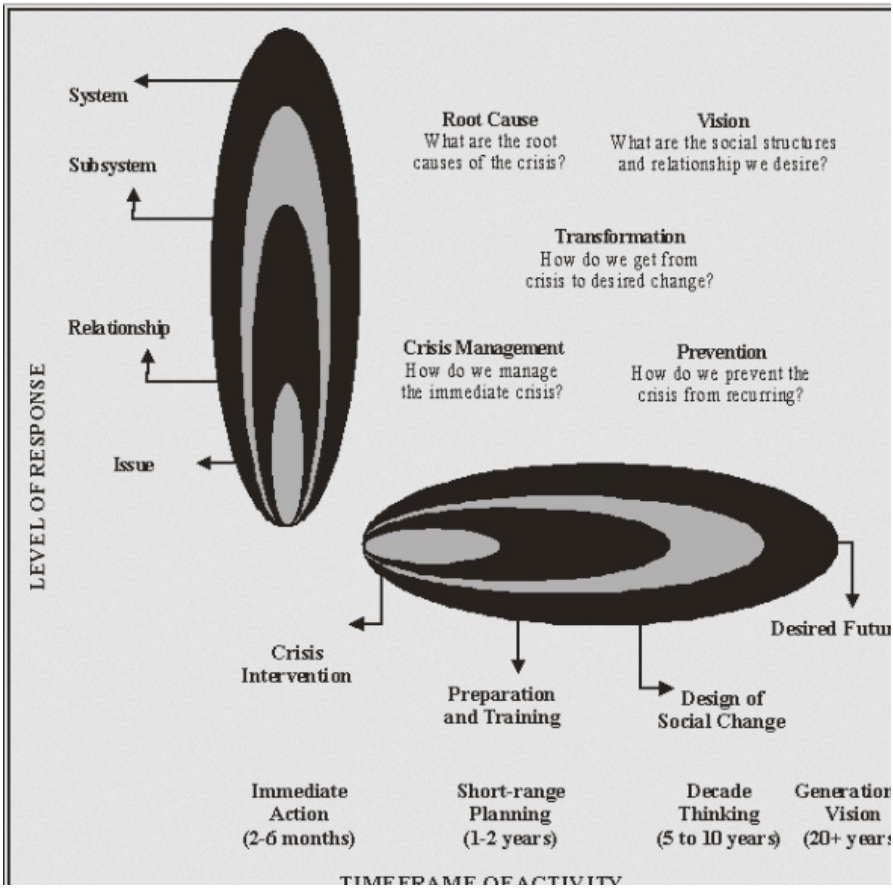
APPENDIX: IMAGES OF DIAGNOSTIC FRAMEWORKS

John Paul Lederach, "Pyramid of Actors"



Lederach, John Paul. *Building Peace: Sustainable Reconciliation in Divided Societies*. Washington, DC: United States Institute of Peace Press, 1997, 39.

John Paul Lederach, "Integrated Framework"



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Sean Byrne, "Social Cube"

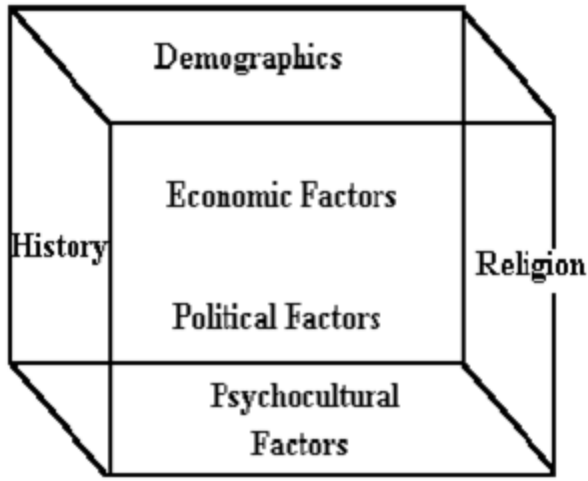

Figure 1. The Social Cube

Byrne, Sean and Neal Carter. "Social Cubism: Six Social Forces of Ethnoterritorial Politics in Northern Ireland and Quebec." *Peace and Conflict Studies* 3, no. 2 (1996): 52-72.

Dennis Sandole, "Three Pillar Model of Conflict Analysis and Resolution"

PILLAR 2 **Conflict Conditions**	**PILLAR 1** **Conflict Sources**	**PILLAR 3** **Conflict Resolution**
• Individual level • Societal level • International level • Global/ecological level	• Parties (violent) • Issues • Objectives • Means • Conflict-handling orientations • Conflict environment	• Prevention • Management • Settlement • Resolution • Transformation • Provention *Third-party Approaches* • Competitive/ Cooperative • Negative/Positive • Track-1/Track-2

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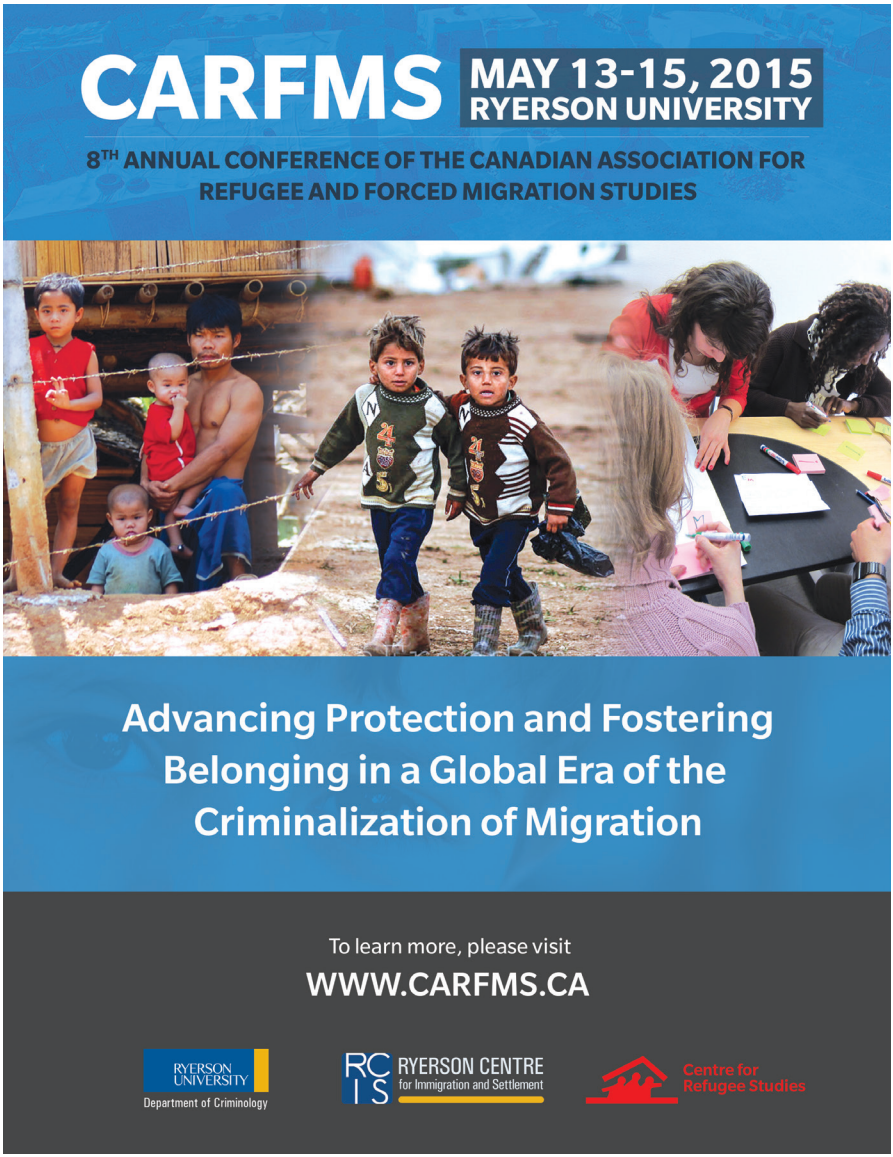

The 2016 CARFMS conference will be hosted by Menno Simons College, a college of Canadian Mennonite University, located at the University of Winnipeg (May 2016).

The Operation of the Oslo Treaties and the Pacific Mechanisms of Conflict Resolution under Public International Law

Basheer AlZoughbi

This paper is divided into three interrelated sections relating to the Palestinian-Israeli peace process. The first section gives a succinct overview of the interim peace process that resulted in the conclusion of the Oslo Accords and further examines the legal status of the territory of the *de jure* state of Palestine in the period subsequent to the Oslo Accords. The second section endeavours to answer the complex question on the current legal status of the Oslo Accords and whether, to what extent, and under what conditions, they may be declared invalid or be terminated or suspended under the international law of treaties. The third section explores the available methods for pacific settlement of international differences under international law and particularly draws upon the law of negotiations, arbitration, and adjudication.

THE INTERIM PEACE PROCESS

The Palestine Liberation Organisation (PLO) and Israel have concluded a *modus vivendi* through interim peace agreements (best known as the Oslo Accords) by means of a series of Declarations, Agreements, Memoranda, and Protocols. It should be remembered that the concept of agreement may appear in different forms, such as treaty, convention, statute, pact, act, covenant, charter, or protocol. In the *Customs Régime between Germany and Austria* Advisory Opinion, the Permanent Court of International Justice (PCIJ) pointed to a number of forms to which the intentional engagements

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may be entitled: "From the standpoint of the obligatory character of international engagements, it is well known that such engagements may be taken in the form of treaties, conventions, declarations, agreements, protocols, or exchanges of notes."[1] Before examining the key question that concerns the current legal status of the Oslo Accords, this study requires a historical and legal overview. The Palestine Liberation Organisation and Israel concluded the *Declaration of Principles on Interim Self-Government Authority* of 1993, which postponed core issues that are irrefutably of fundamental legal interest to the Question of Palestine. The issues of "Jerusalem, refugees, settlements, security arrangements, border[s], relations and cooperation with their neighbors, and other issues of common interest"[2] were left to be tackled and resolved in the permanent status negotiations.

The 1995 *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* reaffirmed that the jurisdiction of the Palestinian Council[3] would exclude "issues that will be negotiated in the permanent status negotiations: Jerusalem, settlements, specified military locations, Palestinian refugees, borders, foreign relations and Israelis; and powers and responsibilities not transferred to the Council."[4] The aim of the negotiations between the Palestinians and the Israelis, as set forth in the Oslo Accords, remains the achievement of a permanent settlement based on Security Council Resolutions 242 and 338.[5] The substance of Security Council Resolution 242 of 1967 is to call for the "withdrawal of Israeli armed forces from territories occupied in the recent conflict" and "a just settlement of the refugee problem," while Security Council Resolution 338 of 1973 called *inter alia* for the implementation of Security Council Resolution 242.[6] Under international law, the West Bank and the Gaza Strip are treated as one single territorial unit, hereafter referred to as the Occupied Palestinian Territory.

The *Declaration of Principles on Interim Self-Government Arrangements* affirmed that "The two sides view the West Bank and the Gaza Strip as a single territorial unit, whose integrity will be preserved during the interim period."[7] It also asserted that "Permanent status negotiations will commence as soon as possible, but not later than the beginning of the third year of the interim period between the Government of Israel and the Palestinian people's representatives."[8] In addition, the Declaration stated, "The five-year transitional period will begin upon the withdrawal from the Gaza Strip and Jericho area."[9] The Agreement on the Gaza Strip and the Jericho Area of 4 May 1994 stated, "Israel shall implement an accelerated and scheduled

withdrawal of Israeli military forces from the Gaza Strip and from the Jericho Area to begin immediately with the signing of this Agreement. Israel shall complete such withdrawal within three weeks from this date."[10] Since the beginning of the interim peace process until now, no permanent agreement has been signed or has entered into force on the postponed core fundamental issues, although a five-year implicit timeline can be deduced from the Oslo Accords.

The *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* divided the West Bank and Gaza Strip into three categories. Area A was set to be under the jurisdiction of the Palestinian Authority, while Area B was to be under Palestinian civil jurisdiction with military matters remaining under Israel's jurisdiction. Article XI of the *Israeli-Palestinian Agreement on the West Bank and the Gaza Strip* provides that "All civil powers and responsibilities, including planning and zoning, in Areas A and B . . . will be transferred to and assumed by the Council during the first phase of redeployment."[11] Area C was set to be under full Israeli control. The transfer of powers accorded the Palestinian Authority extremely limited jurisdiction in both Area A and Area B: "full" Palestinian control (albeit not sovereignty) in the former, and civil jurisdiction only in the latter. In the event, the majority of the said territories were designated as Areas C and B, rather than A. According to the United Nations Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory, "approximately 36 percent of the West Bank has been categorized as Areas A and B, with an additional 3 percent of land designated a nature reserve that was to be transferred to Palestinian authority under the Wye River Memorandum."[12] The old city of Hebron was divided into two zones: H-1, under the jurisdiction of the Palestinian National Authority and H-2, controlled by Israel. The 1997 *Protocol Concerning the Redeployment in Hebron* reads as follows: "The Palestinian police will assume responsibilities in Area H-1 . . . and Israel will retain all powers and responsibilities for internal security and public order in Area H-2."[13]

What noticeably distinguishes Area C from areas A and B is that Israeli civilian settlements are established and expanded in Area C, not to mention that some civilian settlements were slightly expanded into Area B. In order of decreasing size, Area C constitutes the major part of the West Bank, then Area B, and finally Area A. Area A, which is under a so-called "full" Palestinian Authority control, is not sovereign territory since the airspace

of the territories within Area A are absolutely and effectively controlled by Israel. In addition, the Israeli army of occupation can easily enter Area A as a whole or in part at any time because this area is surrounded by the army of occupation, military checkpoints, and Israeli settlements. The Israeli army can enter—at any time of its choosing—Area A and/or H-1 because it has the military capacity to do so. Such activity is frequent and has among its purposes the arrest and detention of Palestinian nationals and the imposition of curfews. Areas A and H-1 may to some extent be described as Palestinian autonomous areas that are nevertheless under Israeli occupation.

The Mediterranean sea off the Gaza Strip was also divided in the Agreement. Its division took the form of three Zones categorized as K, L, and M. Annex I to the *Protocol Concerning Redeployment and Security Arrangements* provides that "Zones K and M will be closed areas, in which navigation will be restricted to activity of the Israel Navy," and "Zone L will be open for fishing, recreation and economic activities."[14] Hence, the territorial waters of the *de jure* state of Palestine remained under the effective control of Israel. The question to be raised in this context is whether the limited transfer of power to the Palestinian Authority in the aftermath of the Oslo Accords has altered the legal status of the Occupied Palestinian Territory. The International Court of Justice (ICJ), in the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* (2004), affirmed the continuity of the Israeli occupation in spite of the conclusion of the Oslo Accords between the PLO and the government of Israel.

> The territories situated between the Green Line . . . and the former eastern boundary of Palestine under the Mandate were occupied by Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, these were therefore occupied territories in which Israel had the status of occupying Power. Subsequent events in these territories . . . have done nothing to alter this situation. All these territories (including East Jerusalem) remain occupied territories and Israel has continued to have the status of occupying Power.[15]

The ICJ asserted that the Occupied Palestinian Territory continues to be under occupation even though a very limited transfer of power had been established in the aftermath of the Oslo interim agreements. This was a verdict firmly grounded on a solid argument based on the lack of effective control and absence of national sovereignty over the territories that had been

transferred to the Palestinian Authority. The Nuremburg Tribunal provided in the *Hostages* case that "The test for application of the legal regime of occupation is not whether the occupying power fails to exercise effective control over the territory, but whether it has the ability to exercise such power."[16] That said, Israel as the occupying power retains *de facto* sovereignty over all the Occupied Palestinian Territory, airspace, and territorial waters. In the *Military and Paramilitary Activities in and against Nicaragua* case, the ICJ stated, "The basic legal concept of State sovereignty in customary international law, expressed in, *inter alia,* Article 2, Paragraph 1, of the United Nations Charter, extends to the internal waters and territorial sea of every State and to the air space above its territory."[17] In the *Hostages* case, the Military Tribunal at Nuremberg stated,

> It is clear that the German armed forces were able to maintain control of Greece and Yugoslavia until they evacuated them in the fall of 1944. While it is true that the partisans were able to control sections of these countries at various times, it is established that the Germans could at any time they desired assume physical control of any part of the country. The control of the resistance forces was temporary only and not such as would deprive the German armed forces of its status of an occupant.[18]

The transfer of power that was introduced in the aftermath of the Oslo Accords as a result of the agreements concluded between the PLO and Israel changed neither the status of the Occupied Palestinian Territory nor that of protected persons who were being deprived of the benefits of the 1949 *Fourth Geneva Convention* on a continuous basis. Regardless of the categorization of the Areas as A, B, C, H-1, or H-2, the 1967 Palestinian Territory continues to be occupied by Israel. It must be remembered that the Oslo Accords had no power to free the occupying power from its legal obligations under occupation law. The *Commentary on the Fourth Geneva Convention* mentions in Article 47 that "Agreements concluded with the authorities of the occupied territory represent a more subtle means by which the Occupying Power may try to free itself from the obligations incumbent on it under occupation law."[19] Article 7 of the *Fourth Geneva Convention* reads as follows: "No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them."[20] Thus, according to the *Fourth Geneva Convention*, Israel has legal obligations to honour the rights and ensure the

welfare of those under occupation.

INVALIDITY, TERMINATION, AND SUSPENSION OF THE OPERATION OF THE OSLO ACCORDS

The Oslo Accords satisfied the criteria for treaty status because the process of their agreement involved the general procedures of the treaty-making process. The four major stages of the treaty-making process are negotiation, provisional acceptance (usually through signature), final acceptance (usually through ratification), and entry into force.[21] It is indisputable that the Oslo Accords were negotiated, signed, and entered into force. But they were not subjected to an instrument of ratification. This, however, did not undermine their entry into force since the intention behind the Oslo Accords agreement was that they would have binding force and that they would enter into force without the need of ratification. According to Gerhard Von Glahn, "it is the intention of the parties which is decisive in determining whether a non-ratified treaty is to be regarded as binding."[22] The Oslo Accords did not require a ratification instrument in order to establish their binding force and/or entry into force. These Palestine-Israel agreements amounted to treaties within the definition of the 1969 Vienna Convention on the Law of Treaties (VCLT) for the very basic reason that they were concluded between the PLO (on behalf of the *de jure* state of Palestine) and Israel. The VCLT is clear that "The present Convention applies to treaties between States."[23] It must be remembered that the VCLT has international authority in regulating treaties, based on customary international law, even if concluded between states and other subjects of international law. Article 3 in the VCLT states,

> The fact that the present Convention does not apply to international agreements concluded between States and other subjects of international law or between such other subjects of international law, or to international agreements not in written form, shall not affect: (a) the legal force of such agreements; (b) the application to them of any of the rules set forth in the present Convention to which they would be subject under international law independently of the Convention.[24]

It is worth mentioning that the state of Palestine acceded to the *Vienna Convention on the Law of Treaties* in 2014 while Israel is not a state party to the said convention.[25] However, the customary provisions of the VCLT regulate treaties even between non-parties. Article 38 of the VCLT reads as

follows: "Nothing in articles 34 to 37 precludes a rule set forth in a treaty from becoming binding upon a third State as a customary rule of international law, recognized as such."[26] The *Commentaries on the Draft Articles on the Law of Treaties* of 1966 states, "A treaty concluded between certain States may formulate a rule, or establish a territorial, fluvial or maritime regime, which afterwards comes to be generally accepted by other States and becomes binding upon other States by way of custom . . . ."[27] The key question concerns the current legal status of the Oslo Accords and whether, to what extent, and under what conditions, they are or can be invalid, terminated, or suspended. What renders a treaty invalid, terminated, or suspended? This may occur in several ways. Article 56 of the VCLT provides that

> 1. A treaty which contains no provision regarding its termination and which does not provide for denunciation or withdrawal is not subject to denunciation or withdrawal unless: (a) it is established that the parties intended to admit the possibility of denunciation or withdrawal; or (b) a right of denunciation or withdrawal may be implied by the nature of the treaty. 2. A party shall give not less than twelve months' notice of its intention to denounce or withdraw from a treaty under paragraph 1.[28]

The Oslo Accords did not give an explicit specific date for their termination but an implicit date can be deduced from them. From the very nature of the Oslo Accords it can be inferred that there was an intended duration comprising a beginning and therefore an expiry date precisely because the Oslo Accords were purposely interim. As has been observed, the *Declaration of Principles on Interim Self-Government Arrangements* provides that the five-year transitional period will lead to a permanent peace treaty based on Security Council Resolutions 242 and 338, and that "The five-year transitional period will begin upon the withdrawal from the Gaza Strip and Jericho area."[29] The Oslo Accords are but one example of treaties with limited duration, as the five year interim period ended in 1999. The 1999 *Sharm el Sheikh Memorandum on Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations* did not extend the duration of the Oslo Accords for an indefinite period. In fact, Paragraph 1 (d) stated, "The two Sides will conclude a comprehensive agreement on all Permanent Status issues within one year from the resumption of the Permanent Status negotiations."[30] The 2000 Camp David Summit between the Palestinians and Israelis ended without

reaching any agreement on the permanent status issues.

The Oslo Accords could also be subject to *ipso facto* or *ipso jure* denunciation or withdrawal, such a right of denunciation or withdrawal being implicit in the very nature of the Oslo Accords, because that is what the parties intended. In any event, the *ipso jure* termination of the Oslo Accords ought to be inevitable because of their temporary nature and the obligation to conclude a final peace treaty within the implicit time limit. Certainly, the permanent status negotiations should have led to a final treaty based on Security Council Resolutions 242 and 338. The *Commentaries on the Draft Articles on the Law of Treaties* of 1966 provides that "a right of denunciation or withdrawal will not be implied unless it appears from the general circumstances of the case that the parties intended to allow the possibility of unilateral denunciation or withdrawal."[31] One can safely argue that the Oslo treaties are *ipso jure* terminated because of the limited duration of these interim treaties.

Other modes of treaty termination or suspension may arise as a result of the existence of a material breach. Article 60(1) of the VCLT states, "A material breach of a bilateral treaty by one of the parties entitles the other to invoke the breach as a ground for terminating the treaty or suspending its operation in whole or in part."[32] According to the *Commentaries on the Draft Articles on the Law of Treaties* of 1966,

> The formula "invoke as a ground" is intended to underline that the right arising under the article is not a right arbitrarily to pronounce the treaty terminated. If the other party contests the breach or its character as a "material" breach, there will be a "difference" between the parties with regard to which the normal obligations incumbent upon the parties under the Charter and under general international law to seek a solution of the question through pacific means will apply.[33]

There has been a breach of many provisions of the Oslo Accords, some constituting material breaches. For example, the integrity of the West Bank and Gaza Strip has not been respected by Israel as Palestinian nationals living in the West Bank who wish to travel to the Gaza Strip or *vice versa* must obtain a permit from Israel. This runs contrary to Article XI(1) of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* which states, "The two sides view the West Bank and the Gaza Strip as a single territorial unit, the integrity and status of which will be preserved

during the interim period."[34] Furthermore, the actions of transferring Israeli civilians into the Occupied Palestinian Territory, of extensively appropriating property without military necessity, and of constructing a Wall and its associated régime in an occupied territory constitute material breaches and further run contrary to the purpose and object of the Oslo Accords and international humanitarian law.

Another mode of treaty termination may occur as a result of the outbreak of hostilities between the parties. It is self-evident that an outbreak of hostilities occurred through the second Palestinian uprising in 2000 in the wake of, *inter alia*, the failure of concluding a final peace agreement. Article 73 of the VCLT states, "The provisions of the present Convention shall not prejudge any question that may arise in regard to a treaty from a succession of States or from the international responsibility of a State or from the outbreak of hostilities between States."[35] The *Commentaries on the Draft Articles on the Law of Treaties* of 1966 provides that "the state of facts resulting from an outbreak of hostilities may have the practical effect of preventing the application of the treaty in the circumstances prevailing."[36] In any event, the Palestinian-Israeli situation is still considered an armed conflict of an international character where Israel maintains the status of an occupying colonial power.

Yet, it must be remembered that the existence of an armed conflict does not necessarily terminate or suspend the operation of a treaty. Article 3 of The International Law Commission's *Draft Articles on the Effects of Armed Conflicts on Treaties, with Commentaries* (2011) proposes that "The existence of an armed conflict does not *ipso facto* terminate or suspend the operation of treaties: (a) as between States parties to the conflict."[37] The document concludes that "The Commission consciously decided not to adopt an affirmative formulation establishing a presumption of continuity, out of concern that such approach would not necessarily reflect the prevailing position under international law."[38] The first paragraph of Article 62 of the VCLT provides another mode of terminating a treaty:

> A fundamental change of circumstances which has occurred with regard to those existing at the time of the conclusion of a treaty, and which was not foreseen by the parties, may not be invoked as a ground for terminating or withdrawing from the treaty unless: (a) the existence of those circumstances constituted an essential basis of the consent of the parties to be bound by the

> treaty; and (b) the effect of the change is radically to transform the extent of obligations still to be performed under the treaty.[39]

The fundamental change of circumstances is based on the doctrine of *rebus sic stantibus* (a doctrine in international law that treaties are binding only so long as conditions have not substantially changed).[40] The construction of a Wall and its associated régime in the Occupied Palestinian Territory, whether in Area A or B or C, can be seen as an example of a fundamental change of circumstances. It must be remembered that the Wall and its associated régime is being built on Areas A, B, and C. The majority of the length of the Wall and its associated régime is being built in Area C, followed by Area B, with very little encroachment of the Wall in Area A. A few sections of the Wall and its associated régime exist on the territory of Israel, but this is not of concern; the International Court of Justice (ICJ), in its 2004 *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,* stated unequivocally, "some parts of the complex are being built, or are planned to be built, on the territory of Israel itself ; . . . the Court does not consider that it is called upon to examine the legal consequences arising from the construction of those parts of the Wall."[41] The ICJ further observed that "the construction of the wall and its associated régime create a 'fait accompli' on the ground that could well become permanent, in which case, and notwithstanding the formal characterization of the wall by Israel, it would be tantamount to *de facto* annexation."[42] The *Commentary* on paragraph one of Article 62[43] states,

> This definition contains a series of limiting conditions: (1) the change must be of circumstances existing at the time of the conclusion of the treaty; (2) that change must be a fundamental one; (3) it must also be one not foreseen by the parties; (4) the existence of those circumstances must have constituted an essential basis of the consent of the parties to be bound by the treaty; and (5) the effect of the change must be radically to transform the scope of obligations still to be performed under the treaty.[44]

The Wall and its associated régime are a fundamental change of circumstances compared to those that existed when the Oslo Accords were concluded. In addition, the construction of the Wall and its associated régime was not foreseen by the parties. There is no doubt that "the existence of those circumstances constituted an essential basis of the consent

of the parties to be bound by the treaty; and the effect of the change is radically to transform the extent of obligations still to be performed under the treaty." What is important is whether, objectively seen, the parties would have concluded the treaty if they had known about the subsequent change of circumstances.[45] According to Jiménez de Aréchaga, "Establishing the essential basis of consent requires an objective examination of the historical background and the circumstances surrounding the conclusion of the treaty."[46] The construction of a Wall and its associated régime runs contrary to the *raison d'être* of the Oslo Accords and the laws and customs of war. In its *Advisory Opinion*, the ICJ concluded that "Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure therein."[47] The terms "security fence" or the "fence" are Israel's euphemisms for the separation Wall and its associated régime. The ICJ has recognized the importance of language:

> The "wall" in question is a complex construction, so that that term cannot be understood in a limited physical sense. However, the other terms used, either by Israel ("fence") or by the Secretary-General ("barrier"), are no more accurate if understood in the physical sense. In this Opinion, the Court has therefore chosen to use the terminology employed by the General Assembly.[48]

The construction of a Wall and its associated régime in the Occupied Palestinian Territory was not the only fundamental change that can be observed because Israel conducted other measures including the expansion of settlements, the creation of new settlements, and the toleration of the construction of so-called settlement outposts for the purpose of transferring civilian nationals into the Occupied Palestinian Territory. At the end of 1993, the number of the Israeli settlers in the West Bank including East Jerusalem totalled some 247,000.[49] According to data from the Palestinian Central Bureau of Statistics, by the end of 2008 the number of settlers in the West Bank including East Jerusalem totalled 500,678. Later statistics provided by Israeli sources indicate that the number of settlers in the West Bank amounted to 650,143 in 2012.[50] These fundamental changes effected by Israel are well-founded grounds for invoking the termination or withdrawing from the Oslo treaties. These fundamental changes further contravene public international law conventions and the Oslo Accords. Article XXXI

(7) of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip* provides that "Neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations."[51] There is an overlap between material breaches and fundamental changes of circumstances in relation to the Oslo Accords. According to Article 62(2),

> A fundamental change of circumstances may not be invoked as a ground for terminating or withdrawing from a treaty: (a) if the treaty establishes a boundary; or (b) if the fundamental change is the result of a breach by the party invoking it either of an obligation under the treaty or of any other international obligation owed to any other party to the treaty.[52]

The Oslo Accords did not explicitly establish a boundary between Israel and the *de jure* state of Palestine but, as has been observed, the West Bank and the Gaza Strip are recognized as one single territorial unit under the Oslo Accords and customary international law. Further, under customary international law the territories acquired by Israel by force since 1967 are considered to be under occupation, and international humanitarian law, including the *Fourth Geneva Convention*, applies in these territories. Also, as has been observed, the construction of the Wall and its associated régime and the other Israeli measures in the Occupied Palestinian Territory constitute a fundamental change of circumstances which invoke a ground to terminate the Oslo treaties. This, however, does not free Israel from its responsibility for these internationally wrongful acts under international law, as Israel has the obligation to make full reparation. The ICJ concluded in its advisory opinion on the *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory* that "Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in the Occupied Palestinian Territory, including in and around East Jerusalem, to dismantle forthwith the structure."[53] Despite Argentina's objection to Article 62 of the VCLT,[54] there is ample evidence for one to conclude that Article 62 represents a genuine expression of customary international law. In the *Fisheries Jurisdiction Case* (*Federal Republic of Germany v. Iceland*), *Jurisdiction of the Court*, the ICJ confirmed this:

> International law admits that a fundamental change in the circumstances which determined the parties to accept a treaty,

> if it has resulted in a radical transformation of the extent of the obligations imposed by it, may, under certain conditions, afford the party affected a ground for invoking the termination or suspension of the treaty. This principle, and the conditions and exceptions to which it is subject, have been embodied in Article 62 of the Vienna Convention on the Law of Treaties, which may in many respects be considered as a codification of existing customary law on the subject of the termination of a treaty relationship on account of change of circumstances.[55]

In the light of the given information, the Oslo Accords are *de jure* terminated due to the existence of *prima facie* evidence of an implicit expiry date, even though to some extent they still remain in operation *de facto*. Even if it may be supposed that the Oslo Accords are not explicitly *de jure* terminated, there are many customary principles under international law that the *de jure* state of Palestine can rely upon in order to terminate them, such as the customary principle codified in Article 62 of the VCLT. Despite the existence of many legal modes for terminating the Oslo Accords, neither the *de jure* state of Palestine nor Israel is necessarily interested, at least at the present time, in expressly or impliedly declaring the official and legal termination of the Oslo Accords. This does not, however, alter the legal fact that the Oslo Accords are *de jure* terminated yet *de facto* operating to some extent. It is worth noting that the explicit declaration of a termination of the Oslo Accords by the Palestinian National Authority may place the Authority's very existence in the so-called Area A at stake. However, Israel is not interested in administrating the civilian lives of the Palestinian people in Areas A and B as it has effective military control over them. Considering the continuous appropriation of Palestinian public and private property in order to construct civilian settlements and the Wall and its associated régime, it is and must be in the best interest of the state of Palestine to explicitly affirm that the Oslo Treaties are *de jure* terminated.

PACIFIC SETTLEMENT OF INTERNATIONAL DIFFERENCES

As a matter of law and obligation, settling international differences is and ought to be achieved by peaceful methods and not by the use of force.[56] Article 1 of the *Convention for the Pacific Settlement of International Disputes (Hague, I)* of 1899 and 1907 provides that "With a view to obviating, as far as possible, recourse to force in the relations between States, the Signatory

Powers agree to use their best efforts to insure the pacific settlement of international differences."[57] Israel is a state party to the *Convention for the Pacific Settlement of International Disputes (Hague, I)* of 1907 while Palestine is not a party to the said convention. That said, the pacific mechanisms for settling international differences reflect customary principles of international law. The UN *Charter* declares, "All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered."[58] In the *Mavrommatis Palestine Concessions* case, the PCIJ defined a dispute as "a disagreement on a point of law or fact, a conflict of legal views or of interests between two persons."[59] Certainly, the existence of a state of disagreement between the Israeli side and the Palestinian side on points of law and/or fact in relation to the major issues, *inter alia*, the right to self-determination, the Israeli settlements, Jerusalem, and the Palestinian refugees has been explicitly and impliedly pronounced from the standpoint of public international law.

The *Convention for Pacific Settlement of International Disputes (Hague, I)* does not explicitly mention the method of negotiation but it leaves no room for doubt that the conduct of negotiation is one of the customary means used in settling international differences. It mentions "Good Offices," "Mediation," "International Commissions of Inquiry," "International Arbitration," and "the Permanent Court of Arbitration" as means for the pacific settlement of international differences.[60] In addition, Article 33(1) of the UN *Charter* includes a plethora of means for settling international disputes: negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of the parties' own choice.[61] The 1982 *Manila Declaration on the Peaceful Settlement of International Disputes* provides the following list as means for settling disputes: "negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional arrangements or agencies or other peaceful means of their own choice, including good offices."[62] The means for the peaceful settlement of disputes is further listed in the *Declaration on Principles of International Law Concerning Friendly Relations and Co-operation among States in Accordance with the Charter of the United Nations* (1970).[63]

Negotiation Process

The time frame for any negotiation process differs from one situation to

another depending on the complexity of each and every situation, yet this does not ignore the fact that there exists a law for any negotiation process as shall be verified. According to the UN Office of Legal Affairs, "The time-frame for the negotiation process varies according to the circumstances. The process may be concluded in a few days or may extend over several decades."[64] One may rightly question the soundness of the Israeli-Palestinian negotiation process that has been commenced and re-commenced, but has failed to meet with the deadline as deduced from the interim Oslo Accords and has not achieved its end goal of concluding a final agreement on the "permanent status issues." One can perceive the absence of a conciliatory spirit before, during, and in the aftermath of the Oslo Accords as the negotiation process was not carried out in good faith. In the 1974 *Fisheries Jurisdiction* case, the International Court of Justice (IJC) upheld the legal validity of the principle of good faith in the negotiation process. The ICJ stated, "The task before them will be to conduct their negotiations on the basis that each must in good faith pay reasonable regard to the legal rights."[65] The absence of good faith, seen in Israel's unwillingness to uphold the right of the Palestinian people to self-determination is evidenced by, *inter alia*, the ongoing transfer of portions of its civilian population into the Occupied Palestinian Territory and the construction of a Wall and its associated régime in an occupied territory.

The negotiations proved not only unsuccessful but gradually and ultimately totally fruitless. It is a truism that the Oslo Accords, though temporary in nature, have proven to be a permanent failure. The negotiation process between the Palestinians and the Israelis is in a state of profound impasse no matter whether the negotiation process is halted or resumed. The process can be described as having reached a critical deadlock with Israel's unwillingness to put forward arguments based upon international law norms concerning the Question of Palestine. Thus, given the current position and in the absence of a conciliatory spirit, it may be well said that the negotiations have become none other than an expedient play on time. Israel's willingness to rely merely on negotiations is a conscious process of procrastination in order to postpone the achievement of a final agreement. The PCIJ, in the *Railway Traffic between Lithuania and Poland* Advisory Opinion pointed to the two Governments' (Poland and Lithuania) obligation "not only to enter into negotiations, but also to pursue them as far as possible, with a view to concluding agreements."[66] However, the PCIJ

provided in the same Advisory Opinion that "an obligation to negotiate does not imply an obligation to reach an agreement."[67] Israel's position towards the negotiation process is intended not only to abuse the process to the fullest possible extent but also to wilfully ignore other and easily available methods for pacific settlement of international differences that are based on international law. In the *Mavrommatis Palestine Concessions* case, the PCIJ stated,

> Negotiations do not of necessity always presuppose a more or less lengthy series of notes and despatches; it may suffice that a discussion should have been commenced, and this discussion may have been very short; this will be the case if a dead lock is reached, or if finally a point is reached at which one of the Parties definitely declares himself unable, or refuses, to give way, and there can therefore be no doubt that *the dispute cannot be settled by diplomatic negotiation.*[68]

The Palestinian-Israeli negotiation process has been a "lengthy series of notes and despatches" and much more. It is beyond dispute that the Palestinian-Israeli negotiation process has reached an impasse and it can be reliably concluded that a point has been reached where Israel is refusing to give way to the rights of the Palestinian people as evidenced by the continuous breaches, grave and otherwise, of international humanitarian law and violations of international human rights law. The ICJ, in the *South West Africa Cases (Preliminary Objections)* stated, "It is not so much the form of negotiation that matters as the attitude and views of the Parties on the substantive issues of the question involved. So long as both sides remain adamant . . . there is no reason to think that the dispute can be settled by further negotiations between the Parties."[69] The Palestinian-Israeli situation cannot be settled by diplomatic negotiation; that is the obvious fact as deduced from the law of negotiation and the facts on the ground. In the *South West Africa Cases (Preliminary Objections)*, the ICJ affirmed the words of the PCIJ in *Mavrommatis Palestine Concessions* when it stated, "It is equally evident that 'there can be no doubt,' in the words of the Permanent Court, 'that the dispute cannot be settled by diplomatic negotiation,' and that it would be 'superfluous' to undertake renewed discussions."[70] It can be safely said that the undertaking of renewed discussions in the form of diplomatic negotiations in the Palestinian–Israeli situation would be superfluous.

The ICJ, in the *North Sea Continental Shelf* cases, ruled that the parties

"are under an obligation so to conduct themselves that the negotiations are meaningful, which will not be the case when either of them insists upon its own position without contemplating any modification of it."[71] The Palestinian-Israeli diplomatic negotiation has proved to be far from "meaningful" as it has not been carried out in good faith and Israel has continued its unilateral acts and omissions. Israel is using any negotiation process to buy time and increase the stranglehold of its military occupation primarily by increasing the transfer of its own civilian population into the Occupied Palestinian Territory. This argument does not seek to diminish the value of diplomatic negotiation as a general rule, yet the Palestinian-Israeli negotiations have proven to be inefficient, disproportionally lengthy, now exhausted, and have taken place alongside breaches, grave and otherwise, of the laws and customs of war and violations of human rights law. In addition, the occupying power remains adamant that it will stick to its views.

It is also necessary to consider the Palestinian-Israeli permanent status negotiations with respect to the legal norms of *pactum de contrahendo* and *pactum de negotiando*. *Pactum de contrahendo* "is reserved to those cases in which the parties have already undertaken a legal obligation to conclude an agreement"[72] while *pactum de negotiando* "is also not without legal consequences. It means that both sides would make an effort, in good faith, to bring about a mutually satisfactory solution by way of a compromise."[73] Both parties, the PLO and Israel, undertook a *pactum de contrahendo* obligation of a five-year transitional period upon the Israeli "withdrawal" from the Gaza and Jericho areas, and another obligation to start negotiations on the permanent status issues as soon as possible but not later than the third year of the interim period. This in itself should have led to the ultimate obligation to conclude a final agreement based upon Security Council Resolutions 242 and 338.

Arbitration and Adjudication

Israel has thus far proved itself to be unwilling to uphold the majority of the pacific means for settlement of international differences in general and particularly the means based upon international law norms, namely, arbitration and judicial settlement. The PCIJ, in the *Mavrommatis Palestine Concessions* case, recognised that "before a dispute can be made the subject of an action at law, its subject matter should have been clearly defined by means of diplomatic negotiations."[74] Further, "negotiations are usually a prerequisite to

resort to other means of peaceful settlement of disputes."[75] As things stand between the *de jure* state of Palestine and Israel, the resort to other means for pacific settlement of international differences and particularly arbitration or judicial settlement is a necessity and obligation. Arbitral tribunals are usually based upon the relevant applicable rules of international law, and international law is strictly applied in adjudication.[76]

In the meantime, some arbitration agreements may stipulate the application of certain rules while others make a mere general reference to the applicable law.[77] If and when the arbitration agreement is silent on the applicable rules, the rules enumerated in Article 38 of the ICJ Statute will prevail. Article 28 of the 1949 Revised General Act states,

> If nothing is laid down in the special agreement or no special agreement has been made, the Tribunal shall apply the rules in regard to the substance of the dispute enumerated in Article 38 of the Statute of the International Court of Justice. In so far as there exists no such rule applicable to the dispute, the Tribunal shall decide *ex aequo et bono*.[78]

Article 37 of the 1907 *Convention for Pacific Settlement of International Disputes (Hague, I)* states, "International arbitration has for its object the settlement of disputes between States by Judges of their own choice and on the basis of respect for law. Recourse to arbitration implies an engagement to submit in good faith to the Award."[79] Moreover, according to Article 38 of the *Convention for Pacific Settlement of International Disputes*, "In questions of a legal nature . . . arbitration is recognized . . . as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle."[80] Hence, arbitration and judicial settlement are efficient methods for settling international disputes under customary international law; the award and/or adjudication is binding on the parties and will be based upon the relevant applicable rules of international law. The second paragraph of article 18 of the *Revised General Act for the Pacific Settlement of International Disputes* of 1949 reads as follows: "If nothing is laid down in the special agreement as to the rules regarding the substance of the dispute to be followed by the arbitrators, the Tribunal shall apply the substantive rules enumerated in Article 38 of the Statute of the International Court of Justice."[81] In any arbitration agreement between the *de jure* state of Palestine and Israel, the applicable rules of international law must prevail in accordance with the primary sources of international law enumerated in

Article 38 of the *Statute of the International Court of Justice*. Even the *Covenant of the League of Nations* confirmed the importance of arbitration and judicial settlement when disputes are not satisfactorily settled by diplomacy. Article 13 states,

> The Members of the League agree that whenever any dispute shall arise between them which they recognise to be suitable for submission to arbitration or judicial settlement and which cannot be satisfactorily settled by diplomacy, they will submit the whole subject-matter to arbitration or judicial settlement.[82]

Both arbitration and adjudication have to be agreed upon by both Parties. However, Israel is not willing to use either of these mechanisms under the pacific settlement of international differences, as it is not willing to invoke the applicable norms of international law as a means to settle the Palestine-Israel situation. Israel has also proved itself to be unwilling to cooperate with any international commission of inquiry, fact-finding commission, international investigation commission, or conciliation commission. It is a well-founded argument that any state that is hesitant to explore *peaceful* methods for settling *international* disputes will be explicitly blamed for not desiring peace *per se*. The methods of peaceful settlement of international disputes have never been exhaustively explored except for diplomatic negotiations and mediation. Israel prefers the negotiation process because it is the most convenient way for it to avoid its obligations under international law. Palestine must insist on demanding an arbitrated or adjudicated settlement as means for a friendly settlement so as to abide to the applicable norms of international law. In the 1929 *Case of the Free Zones of Upper Savoy and the District of Gex (Order of Aug. 19)*, the PCIJ stated,

> Whereas the judicial settlement of international disputes, with a view to which the Court has been established, is simply an alternative to the direct and friendly settlement of such disputes between the Parties; . . . consequently it is for the Court to facilitate, so far as is compatible with its Statute, such direct and friendly settlement.[83]

The ongoing and extensive transfer of Israeli civilians into the Occupied Palestinian Territory, the construction of the Wall and its associated régime, and the appropriation of property without military necessity are but a few of the reasons why the Palestinian-Israeli situation cannot be satisfactorily settled by diplomatic negotiation. For whatever reason, if diplomatic

negotiations continue to be undertaken, they must be accompanied by a commitment to judicial settlement. Even though the negotiation process by itself has proved fruitless, the pursuit of meaningful negotiations and a judicial settlement or arbitration can be *pari passu* (on an equal footing). The pursuit of a judicial settlement or arbitration does not bar negotiations unless negotiations achieve the end goal of a final and permanent peace agreement, as pointed out by the ICJ in the *Aegean Sea Continental Shelf* case:

> Negotiation and judicial settlement are enumerated together in Article 33 of the Charter of the United Nations as means for the peaceful settlement of disputes. The jurisprudence of the Court provides various examples of cases in which negotiations and recourse to judicial settlement have been pursued *pari passu.* Several cases, the most recent being that concerning the *Trial of Pakistani Prisoners of War (I.C.J. Reports 1973,* p. 347), show that judicial proceedings may be discontinued when such negotiations result in the settlement of the dispute.[84]

In the 1986 *Case Concerning Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Jurisdiction and Admissibility*, the ICJ considered that "even the existence of active negotiations in which both parties might be involved should not prevent both the Security Council and the Court from exercising their separate functions under the Charter and the Statute of the Court."[85] The UN Office of Legal Affairs stated, "The dispute settlement clauses of many multilateral treaties provide that disputes which cannot be settled by negotiation shall be submitted to another peaceful settlement procedure."[86] The Palestinian side should immediately and unequivocally declare that as a result of the failure of the negotiation process, the *de jure* state of Palestine is obliged under the law of pacific settlement of international differences to submit to another peaceful settlement procedure, that is, arbitration or judicial settlement. The PCIJ, in *The Factory at Chorzow* case (1928), observed that "The failure of the negotiations resulted in the institution of the present proceedings."[87] The UN Office of Legal Affairs states, "If the negotiations are unsuccessful, the parties may choose to adjourn the negotiation process *sine die* or to issue a communiqué recording the failure of the negotiations."[88] Indeed, the *de jure* state of Palestine, which is under colonial occupation, must issue a communiqué recording the failure of the negotiation process and its willingness

to submit to other peaceful settlement procedures, namely, adjudication or arbitration.

The extensive transfer of Israel's civilian population into the Occupied Palestinian Territory and the construction of a Wall and its associated régime are but a few of the measures that demonstrate the absence of a conciliatory spirit on the part of Israel. The measures, which Israel undertook in the Occupied Palestinian Territory both before and in the aftermath of the Oslo Accords, indicate beyond doubt that the occupying power aims at bringing about a *fait accompli* on the ground. Diplomatic negotiations have proved fruitless and it is time for the *de jure* state of Palestine to recognize the importance of the law of negotiation rather than utilizing negotiations as political tool. Equally, the *de jure* state of Palestine must explore the available means of pacific settlement of international differences under international law and particularly demand the utilization of arbitration or judicial settlement. If or when the Israeli government refuses to cooperate with such demands, this will be verification to the international community that the state of Israel is not willing to resolve the Palestinian-Israeli situation by peaceful means so as to retain its *fait accompli* on the ground by its military occupation.

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A Qualitative Review of the Militancy, Amnesty, and Peacebuilding in Nigeria's Niger Delta

Isidore A. Udoh

Most violent conflicts in sub-Saharan Africa relate to natural resource extraction. In Nigeria, oil production raises critical questions of justice, participation, and development. This paper assesses the motivations of former Niger Delta insurgents for engaging in militancy and how the amnesty program promotes conflict resolution and peacebuilding in the region. In-depth, semi-structured interviews were conducted with ex-militants. The following arguments were tested: (1) participation in militancy is motivated by greed and criminality; and (2) the amnesty program failed to address the sources of conflict in the region. Participants maintained that militancy was motivated by injustice, socio-political exclusion, and lack of avenues for dialogue and democratic expression. The amnesty program has improved conditions for oil production but fails to address the sources of conflict in the Niger Delta.

INTRODUCTION

Oil and the Roots of Militancy

With the discovery of petroleum oil in the late 1950s, the Niger Delta became the economic backbone of the Nigerian state.[1] In the last decade of the twentieth century and in the early twenty-first century, it also became the epicentre of post-colonial resistance and the struggle for democracy and justice in Nigeria.[2] The ensuing environmental issues surrounding the exploitation, control, and management of oil and gas resources presented opportunities for minority group mobilization in the resource-rich Niger

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Delta region,[3] which produces 85 percent of federal government revenue and 95 percent of the country's foreign exchange earnings.[4]

Rather than bring socio-economic development and security to the people residing in the oil producing communities, oil production has caused long-running instability issues, unprecedented environmental pollution, and the depletion of regional ecosystems and livelihoods.[5] Oil has become a curse for the vast majority of the Niger Delta people, especially the youth who make up 62.1 percent of the region's 32 million people and boast an unemployment rate of 40 percent.[6] At various stages, disaffected residents of the region used peaceful protest strategies to express displeasure with the overexploitation of their environment. The initial forms of protest, which consisted of marches and of sending delegations to government and multinational oil companies (MNOCs), soon escalated to more organized and confrontational forms, which included sit-ins and seizures of oil installations, and which elicited patronizing and defensive responses from the government and oil companies.[7]

Government Responses and Militant Reactions

The Nigerian government has historically adopted three standard response approaches—policy, legislative, and punitive—to address popular grievances in the Niger Delta.[8] Policy responses often involve redistribution or reallocation of resources such as oil fields, wells, or other rewards to one community at the expense of other claimants. The government and multinational oil companies use this common divide-and-rule strategy effectively to pit oil producing communities against each another over contested resource rights. Within the policy category, the government designed a variety of development programs over many decades, including the Oil Mineral Producing Area Development Commission (OMPADEC) created by the regime of Ibrahim Badamasi Babangida in 1992, the Niger Delta Development Commission (NDDC) created by the National Assembly in 2000, and the Niger Delta Ministry created by the administration of Umaru Musa Yar'Adua in 2008. Unfortunately, these responses failed to address the sources of conflict in the region, including poverty and environmental pollution.[9] They failed because of underfunding, cronyism, politics, mismanagement, corruption, and lack of accountability and oversight.[10] Oil companies also contributed resources towards development in the region. They worked independently and within partnerships to help implement multiple programs in the

region.[11] As with government initiatives, efforts by MNOCs failed to address economic challenges in the oil-producing communities because of underfunding, politics, mismanagement, and lack of accountability and oversight. Negative perceptions of oil companies in the region also made it difficult for MNOCs to implement sustained development projects that could deliver significant benefits to their host communities.[12]

Legislative responses sometimes involved geopolitical restructuring such as the creation of new states (Akwa Ibom in 1987, Delta in 1991, and Bayelsa in 1996); controlled increases of oil derivation percentages to Niger Delta states from 1.5 percent to 3 percent in 1992 and to 13 percent in 1999; and symbolic gestures of political inclusion, such as the selection of Goodluck Jonathan as the vice presidential candidate of the People's Democratic Party in 2007.[13]

The use of the punitive approach in the Niger Delta is well documented and involves the mobilization of coercive state instruments to sanction individuals or groups deemed threats to state power.[14] The targeting of the Movement for the Survival of Ogoni People (MOSOP) and the killing of their leader Kenule Saro-Wiwa and his colleagues in 1995 is a prominent example. The tendency by government, with support and backing from MNOCs, to meet peaceful protests with heavy handed, punitive, and deadly military raids and other oppressive measures left youth with a siege mentality and drove them to mobilize to seek redress.[15]

In the late 1990s, as the government and MNOCs became increasingly paranoid about concerted and assertive grassroots protest activities, they unleashed troops known as the Joint Task Force (JTF) drawn from the armed forces, Department of State Security, and Nigeria Police, along with private security personnel employed by the MNOCs, who marshaled brutal reprisal attacks that razed entire communities and cost thousands of civilian lives.[16]

In response, youth from street gangs, university campus-based cults, and community vigilante structures mobilized in the late 1990s, formed new militia movements, and deployed violent counter strategies.[17] The new militias, including the Niger Delta Vigilante Force (NDVF), Niger Delta People's Volunteer Force (NDPVF), Niger Delta Strike Force (NDSF), and the Movement for the Emancipation of the Niger Delta (MEND), equipped themselves with machine guns, rifles, dynamite, rocket propelled grenade launchers, gun boats, and other small weapons, and began a deadly

armed struggle with the government and multinational oil companies.[18] They called themselves "freedom fighters." They were widely regarded in the region as champions of a just struggle for greater regional autonomy and control over oil and gas resources.[19] To achieve their objectives, the new militia kidnapped expatriates and government officials, bombed and destroyed oil facilities, and engaged in oil bunkering. They carried out devastating attacks on Nigerian military formations and committed mass killings and targeted assassinations.[20] Thus, "the restiveness which started on a mild note as pockets of peaceful demonstrations . . . degenerated into a state of militancy . . . and unparalleled violence, turning the region into a hot spot."[21] In 2004, in the heat of the simmering conflict, Shell Oil Company admitted that its policies and activities in the oil producing communities did indeed fuel poverty, corruption, and conflict.[22]

Amnesty Program

The government response to the campaign of violence by the Niger Delta militias drew local criticism and international condemnation, backlash, and pressure. The violence resulted in heavy losses of lives and oil revenue. Within the first nine months of 2008, for example, one thousand people were killed by the clashes and three hundred people were kidnapped as hostages. Many oil fields and wells were closed and the daily oil output dropped drastically from a high of 2.5 million barrels to fewer than one million barrels. About US $23.7 billion in oil revenue was lost due to attacks, oil bunkering, and sabotage.[23] Desperate to restore the revenue stream, the Yar'Adua government recognized that only political settlement, rather than military force, could resolve the conflict.

In September 2008, Yar'Adua commissioned a special committee to study the situation in the Niger Delta and make recommendations to resolve the impasse. The committee produced a report that collated all previous efforts and recommendations and recommended an amnesty program that would disarm, demobilize, and reintegrate the insurgents. The committee also articulated a comprehensive plan for regional development and transformation.[24] Having adopted the committee's report, Yar'Adua set up a Presidential Panel on Amnesty and Disarmament of Militants in the Niger Delta on 5 May 2009 with a mandate to specify the terms, procedures, and processes of an amnesty to Niger Delta militants. On June 2009, he invoked his authority under Section 175 of the Nigerian Constitution to

grant pardons and proclaimed an unconditional amnesty effective from 3 August 2009 until 4 October 2009.[25] Yar'Adua pledged to contribute an additional 5 percent of royalties from oil revenue for the development of oil producing communities. The implementation of the amnesty was based on a three-phase framework of disarmament, demobilization, and reintegration.[26] The amnesty was a radical departure from hardline approaches adopted by Yar'Adua's predecessors, who were mostly military generals.[27] In his proclamation, Yar'Adua acknowledged that the insurgency in the oil region arose from "the inadequacies of previous attempts at meeting the yearnings and aspirations of the people."[28] He implored all combatants to lay down their arms, renounce violence, and accept "amnesty and unconditional pardon" for offences they had committed and become partners in regional and national development.[29] Thousands of insurgents heeded the call, surrendered their weapons, and embraced amnesty.[30]

During the first phase of the program (disarmament), which ran from 6 August to 4 October 2009, about 26,000 male and 133 female militants surrendered their weapons and registered in the amnesty program.[31] Altogether, militants surrendered "287,445 rounds of ammunition, 3,155 magazines, 1,090 dynamite caps, 763 explosives, and 18 gun boats."[32] They also surrendered "communication gadgets, bullet-proof vests, and tear gas equipment."[33] Attacks on oil facilities, kidnapping, and hostage-taking ceased and oil production rose.[34] Disarmed ex-militants were sent in batches for reorientation that lasted for at least four weeks. At the end, they selected a skill area in which they would receive three to eighteen months of training in the last phase: reintegration.[35]

Perspectives on Militancy and Purpose of Paper

Paul Collier has theorized that rebellion in the Niger Delta was driven by greed and the opportunities to benefit from engaging in a war, rather than by the existence of historical and social grievances.[36] Similarly, Esther J. Cesarz, Stephen Morrison, and Jennifer Cooke claim that the Niger Delta militancy was driven by criminal opportunism.[37] Others, however, have dismissed these explanations as naive and simplistic analyses of a complex social phenomenon. Ukoha Ukiwo, for example, argues that contemporary conflicts in the Niger Delta have roots in the history of economic deprivation, environmental degradation, and socio-political exclusion that have marked the experience of the Deltans since colonial Nigeria. He maintains

that militancy was a last resort, deployed only in the first decade of the twenty-first century, after decades of nonviolent action that attracted more government repression than reprieve.[38] Similarly, Jeremiah Dibua rejects the greed and criminal opportunism argument, and attributes the militancy to the perception by the oil producing communities that their citizenship rights were infringed on by the state because of their ethnic minority status.[39] The greed and criminal opportunism explanations reflect the perspective of the dominant groups in Nigeria, who tend to see the struggle of the Niger Delta people as "retrograde resistance to natural processes of nation-building and assimilation,"[40] even as ethnicity remains the predominant frame of reference in the country's national politics.[41]

This paper assesses the former insurgents' motivations for engaging in militancy. In other words, were the Niger Delta militants motivated by greed and criminality or genuinely political reasons in fighting the Nigerian government and multinational oil companies? The paper also assesses how the militants utilized the amnesty program to benefit their lives and their communities. It argues that understanding the insurgents' motivations for fighting and their perceptions of the amnesty program can provide an important basis for building a strong peace framework that supports conflict resolution, peace, sustainable development, and security in Nigeria.

METHODOLOGY

Twelve in-depth, face-to-face semi-structured interviews and follow-up unstructured interviews were conducted with Niger Delta ex-militants from five militant groups in Port Harcourt, Nigeria. Participants were affiliated with the Icelanders/Niger Delta Vigilante Force (both Ateke Tom's and Soboma George's factions), the Niger Delta People's Volunteer Force under Mujaheed Asari Dokubo, Soboma George's Outlaws, the Niger Delta Strike Force under Prince Fara, and the Movement for the Emancipation of the Niger Delta. All participants had disarmed under the terms of the federal amnesty program, had participated in the reorientation exercise, and had completed or were waiting to be called up for reintegration training. Whereas recent studies of militancy and amnesty in Nigeria's Niger Delta draw largely on anecdotal evidence and secondary document analyses,[42] this paper is based on direct interaction with former militants.

To be eligible, the interviewees had to have participated in the armed militancy and the government-sponsored amnesty program. Most were

recruited from a seminar that was given by the author in Port Harcourt. Other interviewees were colleagues of the initial participants, recruited at the request of the investigator. Although the intent was to include male and female ex-militants in the study, it was not possible to locate females who were available and able to participate in the study. The participants ranged in age from twenty-three to forty-seven years and included some who had joined the militancy as minors. Most had either junior or senior secondary-level education, one held a bachelor's degree, and all were unemployed. Participants included militant commanders, gunmen, domestic staff, liaison officers, camp security men, and administrators. During their amnesty reintegration they elected to train as entrepreneurs, traders, pipeline welders and fabricators, and rig technicians.

A 32-item semi-structured interview protocol was created and used to assess the participants' motivations and experiences as former militants, to gather information regarding their transitions from militancy to peace and cooperation, to elicit information regarding their participation in the Amnesty Program, to assess the skills they acquired through the Amnesty Program, and to understand how they have used these skills to benefit their lives and benefit their communities.

All participants were interviewed in a secure room in the offices of a non-profit organization in Port Harcourt. Before each interview, the researcher carefully reviewed the aims of the study and the informed consent form with each participant, advising him of his rights and the possible risks involved in participating in the study. The researcher also asked and received the participant's permission to audio tape each interview. Since English was not the first language for any of the participants, each person was informed that he could speak his responses in Pidgin English, official English, or a mix of both. All participants were assured that their answers would be used solely for the purpose of research. The participants approached the first interviews with apprehensiveness and initially sounded cautious in giving their responses. Many appeared to be concerned that the researcher might be sent by the government to test their commitments to the amnesty program. They relaxed when the researcher showed them the letter of approval from the Institutional Review Board of his university authorizing the study. They gradually became engaged and in the end spoke honestly and freely regarding their participation in militancy and amnesty. It did not appear that concern about the government inhibited their participation.

After the audio files were transcribed, the researcher again listened to the audio files while reading the transcripts to ensure accuracy of interpretation. The transcriptions were standardized; where the participants responded in Pidgin English, the researcher revised into official English, maintaining fidelity to the participants' original responses. Areas that needed further clarification were noted and the researcher conducted follow-up phone interviews with the participants after obtaining their verbal consent. Open coding was conducted to examine and iteratively break down, question, name, categorize, and identify similarities and differences in the factors and circumstances described by participants in the data.[43] Recurring phrases, words, and thoughts were organized into provisional categories and themes.[44] The transcribed data were imported into NVivo Software, 10th edition, and annotations were created to aid with coding and retrieval of significant references. Coding was based on the predetermined and emerging themes and categories, as well as specific words, phrases, and statements that directly pertained to or potentially addressed the purpose of this study. Eight months after the first interviews, a final, face-to-face follow-up meeting was organized with participants in Port Harcourt to discuss the analysis. Participants gave verbal consents before they participated in this meeting. By the time of the follow-up interviews, they had established considerable rapport with the researcher and felt free to volunteer additional information and suggest resources that helped to structure the analysis under specific categories and themes.

RESEARCH FINDINGS

The interviewees offered the following information regarding the sources of conflict.

Sources of conflict

Oil company policies. Many have cited the business practices of multinational oil companies as a key source of instability and violent conflicts in the Niger Delta. The interviewees echoed Shell Oil Company's 2004 admission that its policies and activities in the oil producing communities fueled poverty, corruption, and conflict.[45] As shown in Table 1, five of the twelve ex-militants interviewed blamed the conflicts in the region on the policies of oil companies. Interviewee 7, aged 25, said, "It's them (oil companies) that cause the crisis in the communities because each community has oil wells.

We have problems because of the oil companies. . . . Since Shell entered the community, there is nothing like a memorandum of understanding (MOU). They are not writing MOUs with the communities. They are doing nothing for the communities. Shell is supposed to employ our youth and give scholarships. But the scholarships they give, they are sending them out to Shell police, instead of giving them to the youth. . . . They only bring a list and say to our community, this is for scholarships. But they give the scholarships to outsiders, outside the state, and even outside the Niger Delta. This is what is bringing problems in the communities. But if they gave to the majority of the communities, we would achieve something, but they don't want the youth to achieve anything in the communities. The companies know the right things to do but they are not doing it." Interviewee 9, aged 31, added that a major source of conflicts is "intimidation in the community, the process whereby some people are marginalized while some people are carried along by the oil companies." Interviewee 4, aged 24, stated that during situations of dispute in the community, "Shell, NDPR (Niger Delta Petroleum Resources), Elf, and Agip empower the wrong people. Instead of these companies to call the two parties and ask why they are fighting, they are taking sides with one to fight the other. The companies could have asked, is it because of the oil wells; is it why you are killing yourselves? And help us to find a solution. But they do not do that. What they do is to focus on one group, give them money, and at the end of the day, there is big violence."

Use of military force by government and oil companies. Nine of the twelve ex-militants attributed conflict in the region to the use of military force by government and MNOCs. Interviewee 7 said, "If this pen belongs to you now and the oil companies are going to take this pen that belongs to you, they come with soldiers wearing khaki with their guns. If you don't want that gun to shoot you, you don't go near them. So they come to the community, carry the Joint Task Force and do everything as they like and take everything away." Interviewee 8, aged 26, added, "Even now we have amnesty, they are still intimidating us with soldiers and with our brothers who are partnering with them." Interviewee 9 said, "The oil companies are adamant; they don't want to do anything for the community. We see them in the morning. They still carry their military men and come to do work."

Lack of transparency and inclusion. Nine ex-militants identified continued

exclusion of youth from oil industry-related employment, even in the post-amnesty era, as a critical source of conflict. Interviewee 8 said, "Even as I am talking to you now, there are many jobs in our community which they don't even disclose to the community—it's within their circles. So if you are not with them in that cartel, there is nothing for you. So such kinds of things can raise conflict and anger at the end of the day. People are going into these communities to make money and run away. Some of them run to Abuja. You know Abuja is a growing place so they hijack community money and run to Abuja and go to invest. You go to some Western countries, you see them using our money to go and invest there. Why? Meanwhile there are some people dying. When you want to tackle the problems of the Niger Delta, government should go inside the communities where the oil is being extracted, go there and see what is going on there—there is nothing going on there. Instead they go there and steal the money and we the poor ones are suffering. Such things can bring about conflict." Interviewee 7 added, "Shell is supposed to employ youth and provide scholarships. All these things I am calling now are supposed to come out after four years from each company. But these scholarships, they are sending them out to Shell police instead of giving them to the youth. They are sending them out to outsiders . . . outside the state, or even the Niger Delta. They just bring a list and say this is for scholarship." Interviewee 9 said, "As we . . . submitted our guns to the government, that is how the companies turned to worse. That time we were in the bush, they were complying with us small, small; but since we embraced amnesty, it's been worse. Instead of changing, there is much corruption in the oil companies. They are very corrupt." Corrupt practices identified by the interviewees included embezzlement of public funds, leadership failures, bribery, divide-and-conquer strategies and practices by oil companies, and the work of traitors-saboteurs within the communities. These reports confirm the findings of Samuel Aghalino, who urges the integration of the ex-militants into the operations of the oil industry so that they feel that oil production is benefiting them.[46]

Table 1: Sources of Conflict: Motivations for Joining Militancy and Activities as Militants

Motivations for Joining Militancy/Sources of Conflicts	**Number of Interviewees**	**Number of Times Mentioned**
Resource control and justice	12	21
Lack of employment	9	28
Poverty and exclusion	9	42
Use of military force by government and oil companies	9	16
Lack of transparency and inclusion	9	89
Social and economic neglect Lack of avenue for peaceful dialogue	8 7	20 14
Human rights abuses by government and oil companies	5	14
Oil company policies	5	6
Quest for material gain	3	3
Activities in Militancy		
Kidnapping and Killings	9	12
Pipeline vandalization and bunkering	6	11

Motivations for Militancy

The interviewees offered the following information regarding their motivations for militancy.

Quest for material gain. Interviewee 10, aged 44, said, "For me what made me join the militancy is because of the lack of help and jobs. I had to join so that I could get something." The theme of unemployment was echoed by interviewee 4: "Because of no jobs, we joined this street cult. From there fight in the village started and, as we were fighting, the leaders stopped us not to fight. They said that there is another thing coming, that we should come together as one and fight the government because we have oil; we have many things here, yet we don't have jobs and we are not enjoying the oil and nothing is happening. That is why all of us came out and joined

together and became one body; . . . that is how it happened." Interviewee 11, aged 27, added, "After I was driven out of the community, there was no way to eat. So instead of me to go to the roadside and steal or kill for food, I had to go to the people that would help me. I cried to them because I cried to government and government did not intervene. I cried to the local government, they did not intervene. So the only way was to attack them by force. So I said let me follow this violence, this militancy."

Justice and resource control. All twelve ex-militants indicated that they were fighting for resource control and for the good of the wider community. Interviewee 12, aged 26, said simply, "We were fighting for resource control." Interviewee 8 elaborated, "We did not fight the fight for individual interest. We fought generally so that everybody can benefit; because the oil is not only my own—all of us are from here. We are from the Niger Delta. What we are fighting for is resource control. And it's not for one person, the struggle was actually for everybody." Others expressed the struggle as a fight for equity and justice. Interviewee 10 stated, "I was fighting for justice because now there is no job, no help, and the oppression is too much." Said interviewee 8, "So, I was protesting that there should be equity, based on the fact that they are collecting oil from our community—so there should be equity. And that is why we joined the militancy." Participants were fed up with hunger, humiliation, and intimidation. To this, interviewee 8 said, "They say a hungry man is an angry man. Based on the hunger and intimidation and the humiliation, we had to react and we fought them and were able to have the crisis, and the crisis lasted for six years. So that is how the militancy started."

Poverty and exclusion. Nine of the twelve participants said they fought because of poverty and a feeling of being excluded. Interviewee 1, aged 30, who was unhappy about being unemployed and lacking the opportunity to attend university, explained, "I am a brilliant person. By right, at this time since I finished school, I am supposed to have graduated, but because I came out from a poor family I could not. That is why God gave us the oil resources to help us go where we want to go. By right the companies operating in our communities are supposed to give scholarships for my education." He went on to explain that his father was "a poor man" and his mother "died prematurely" when he was in primary school. This left him impoverished

and motivated to join the militancy. Interviewee 3, aged 31, who felt that the government was cheating the oil producing communities, explained, "We know that we are the oil producing state and normally the government is achieving something from us but they don't want to help us. That is why everybody was annoyed. Me, I was annoyed. Then we joined hands to fight this problem." Citing neglect as a motivation to join the militancy, interviewee 1 decried the lack of basic infrastructure in his community: "My community is a remote area. What is mostly there are mud houses and thatched houses. It's not supposed to be that way. Some mature boys in my community don't have houses to live in. . . . That is what makes us engage ourselves in militancy." Interviewee 2, aged 23, added, "In the community we don't have light, no electricity, no roads, no schools, no water. At least as a treasure community, we are meant to have all these things." Interviewee 6 said, "We have told them to come and build houses for us, they refuse. Like this Christmas, our mothers, fathers, everybody is dying of poverty, dying of hunger because there is no money. But we have something that can give us money."

Lack of employment. All of the participants in this study were unemployed and depended on monthly pay-outs from the Nigerian state. Nine of the twelve named unemployment as a reason for joining the militancy. When asked why he fought, Interviewee 2 said simply, "I don't have work." Further, his brother "was killed because of oil companies in 2000, in front of the oil company, Total E & P." Interviewee 3 added, "In the community, they are not empowering youth. Many youth are not doing anything in the community. In Rumuekpe community where we have four major oil companies, even inside the companies themselves, oga (sir), we don't have Rumuekpe people inside these companies employed as a staff; they are only running contractors." Interviewee 5, aged 31, said, "We looked for job, no way. When we tried to find work, no work; they don't want to give us work. We are the Niger Delta. We know that we are the oil producing state and normally the government is achieving something from us but they don't want to help us." Interviewee 8 stated, "What I want government to do is to provide jobs for us so that we cannot be idle. Because if you don't have work, you will eventually form a group and from there plan how to go and bust a place and get money." The participants indicated that they would prefer to be employed than to depend on monthly subsidies from government.

Lack of avenues for peaceful dialogue. Seven participants reported that they joined the militancy because they had no other way of expressing their grievances. Interviewee 6 stated, "Why we became a group is because we have seen our resources going to the wrong people. We said, my brother this kind of thing cannot be taking place like this. We met our elders and our elders said we should go to the government. We met with the government and they said we should go to the oil companies that have installations in our communities. We went to the oil companies and they refused to talk to us. They started using violence, the JTF and all the rest of the things. So we had to decide and say, okay, if it is like this let the federal government come because we are feeding the rest of the nation. You know what crude oil means today. You know what gas means. . . . That is what made us to carry arms." Interviewee 7 added, "Instead of them (oil companies) to talk to the landlords direct, they are not doing that, they are talking to people that are not landlords." Interviewee 10 elaborated, "For instance, inside Shell now, it's one person who has the land and because one person is higher than the other person, intimidation comes in, and when you talk they say you are putting your eyes where you are not supposed to put your eyes—and they will kill you. People are dying every day, dying because of hunger and people are afraid to talk. You don't know if you talk they will kill you." These reports confirm the findings of Aghalino and other scholars who suggest that the government and oil companies failed to engage disaffected youth in dialogue.[47]

Human rights abuses and use of military force. Nine participants stated that residents of the oil producing communities suffered human rights abuses and military violence at the hands of the oil companies and the government. Interviewee 8 explained, "We are from oil producing communities. Although the companies are there and are working, they don't want anything good for the community. They use the women and they abuse the elderly men; they don't want anything good for us. They choose to carry armed men, like military men, to guard them to come and collect the oil. Then, after servicing their oil facilities, they will go away with their military force. And so there is nothing we can do. So what we did was to make sure that we fought for our rights and we cannot fight for our rights with ordinary hands. We had to join and form a group called Icelanders. And we used that group

to fight them. And when they saw us, that we were fighting them, they had to buy some of our people over; the oil companies, they called some of our people over and started giving them bribes." Interviewee 7 stated, "The oil companies do not recognize our people. If they are going to the community, they will carry JTF to oppress the communities. We are not happy about it." Interviewee 12 added, "If you look inside the companies, what they are doing is really bad. They don't come to the community to know the welfare of the people. If you go to my community you will see that people are dying of hunger. Yet after Oloibiri in Bayelsa State, my community is the second place where they discovered oil in Nigeria. If you go to my community today, you will see that people are dying of hunger." These statements support prior analyses "that residents of the oil producing communities faced intimidation, exploitation, and violence by oil companies and the government."[48]

Activities in militancy

The interviewees offered the following information regarding their activities in the militancy.

Kidnapping and killings. Nine ex-militants claimed to have committed serious atrocities during their participation in militancy. They gave detailed accounts of their bombing campaigns, kidnapping, and assassinations. Interviewee 6 said, "The part I played, when the oil companies were coming to work, sometimes I stopped them. They used violence and I would order my people and they would start shooting. Yes, we start shooting. Sometimes they carried white men (expatriate oil workers) with them. By the time we are shooting them, we can go after the white men, seize them and carry them into the creek and we tell them to bring so and so amount of money, or if it is like that, we can kill the white men. Sometimes we used to go and stand on the roads. Any government person we saw, we killed because we were looking for our rights and they refused to give us our rights." Interviewee 10 added, "Like now, if we find that you are in a position to help us and make peace in the community and you don't want to do it, we will come to you. We will make some noise so that you know that people are there dying of hunger because they have nothing to eat. By the time we finish with you, as a human being and not wanting to die, you would give us a call and we would listen to you. When you find something for us that would help us take care of ourselves, we will leave you alone." Interviewee 1 lamented,

"Some mature boys in my community don't have houses to live in. They roam about doing things to some people. You can hear about them doing all this kidnapping to earn a living; they are supposed not to do that, based on the natural resources that we have in our community."

Pipeline vandalization and bunkering. Six ex-militants described their campaigns of pipeline vandalization and bunkering. Interviewee 6 said, "So, sometimes, we went out and destroyed oil installations and came back to make sure that the nation heard our voice." He elaborated, "Yes of course, because that is the main thing, like personally, I have destroyed different pipelines before the amnesty took place. I destroyed them because when I called them to come and take care of the community, our fathers and mothers who are dying, the youth who are dying, they said no they were not coming. The available place is what my father gave to me and then we would now enter that place, blast the place until the oil came out. If you are saying the oil is not a value for you, let the oil go to waste. So if we wanted to use the oil for another business, we could invite the white men to deal with us direct. So if the government said no we could not deal with the white men direct, we said na lie (you are lying), it's our own thing. We could invite white men to come inside our place, show them what we had. We asked them if we could do business with them. If they refused we started shooting at them." Interviewee 10 stated, "Because some oil companies are concentrating on certain people and taking sides; because they do not want to carry everybody along, we go to the nearest pipelines and blow them up. We will leave the pipelines alone once they give us our due." Interviewee 1 said, "I played an administrative role. For example when we vandalize pipelines, when the government or the oil company comes, I am among those people that will stand and negotiate with the company or the government."

Strengths of the Amnesty Program

The interviewees offered the following information regarding the strengths of the Amnesty Program.

Improved security and oil revenue. In general, all participants supported the amnesty program as a positive event in Nigeria and the Niger Delta. Five affirmed that the amnesty improved security and oil revenues for both Nigerians and the oil companies (see Table 2). Interviewee 1 said, "For one thing,

this amnesty, I can say, has helped Nigeria. It helps the federal government because when this program wasn't there, the number of barrels of oil Nigeria had, I can say from 2008 down, was below what we are having now. They get more barrels of oil than before. That is an achievement for the federal government. . . . The oil companies are gaining well-well because since we accepted the amnesty, we cannot tamper with their facilities." Others believe that the amnesty has caused specific violent and criminal activities to cease. Interviewee 10 said, "There is a difference because during militancy there were kidnappings, shootings, and killings everywhere, but now those kinds of things have stopped." Interviewee 12 said, "Some things that used to happen in the streets, kidnapping, robbery, killing people, not having peace, are reduced." Interviewee 6 added, "We don't rob any more, we don't kill people any more. Before, we used to kidnap white men. Now we can see a white man now and make him a friend, shake hands, and let him try to empower us because agreement is agreement."

Possibility for peace, unity, and development. All twelve ex-militants reported that the amnesty program has had some positive effects on their lives. Interviewee 1 stated, "The program changed my life because right now I cannot carry gun and kill somebody, I cannot engage myself in vandalizing company's property, that is, I can't involve in bunkering because all those things are against the amnesty program." Interviewee 5 said, "It brought us out of the creeks. At least they helped us and now we can move freely; even the people we fought with, the different cultism groups, we are no longer fighting one another. Even the troubles we caused, we are no longer causing trouble. Everywhere is in peace, no more bloodshed. Everybody is in peace—that is what the amnesty program mostly did. On our own side changes have come because as ex-militants we have changed." Interviewee 6 added, "Since Amnesty came up, everywhere is calm and I like that because before we couldn't walk like this. I could not come to this office like this. I could not dress like this. You would be seeing me in rags, different ugly things. But now since amnesty came up, we are living well and we don't want to go back to the creeks." The participants reported that the amnesty has united them and taught them to love, not hate. Interviewee 7 said, "The program gave us courage, understanding, to come together and unite. When we were not together, there was no peace because we had many factions—Soboma group, Ateke group, Tompolo, Fara group. There were

many groups and we were enemies. So we are now one. We can eat together, sleep together, bathe together, and bring love to one another because they say togetherness is love. So when we come together, we know that we have one voice. Before, I would not stay with Fara boys and talk to them, but now the federal government has brought us together as one." These reports confirm recent research findings that the amnesty program has brought relative calm, resulting in more security and increased daily oil output and revenue for the country.[49]

Table 2: Strengths and Limitations of Amnesty Program

Strengths of Amnesty Program	**Number of Interviewees**	**Number of Times Mentioned**
Improved security and oil revenue	5	12
Possibility for peace, unity, and development	12	92
Limitations of Amnesty Program		
Insufficient time and equipment	4	6
Monthly stipend inadequate and cut	8	11
Too narrowly conceptualized and implemented	5	7
No follow through	12	79

Limitations of the Amnesty Program

The interviewees offered the following information regarding the limitations of the amnesty program.

Insufficient time and equipment. Four participants lamented that the time and resources allocated for the implementation of the amnesty program were insufficient. Interviewee 1 explained, "This amnesty program, I am sure, is not working because the time is very short. The time they give us for the training was four months. But it was not up to four months because when we started, there were periods of good two, three weeks during which we did nothing. So it was after two, three weeks that we could do something. They say it is four months but we did not achieve what we went there for because of the time. The time was too short. Like now in one company, we

are more than sixty and eighty apprentices. So if we choose to learn typing, for example, the company is not able to afford a computer for each person. So during the training, they give one computer to four to five persons. So one cannot achieve something—the training is not okay." Interviewee 5 added, "Even when we went for the training, before we started the training, the company that they sent us to, the manager they sent us to did not even train us. Nothing. . . . For one month they left us in a hostel where they just kept us. We were arguing with them because mosquitoes were biting us as if we were inside the creek again. We were making problem with them—that they should let us out from the place. Before they found a hotel to put us, we had only one month left and we were one month behind before we started training." Interviewee 9 said, "After Obubra, they said I should come to Lagos on 8th of December. When I got to Lagos, we were 101 persons. Some people were under welding, some people water diving. So when we went there, we did tests. Some people their test came out and some people their test did not come out. At the end of the day, they sent some people back home because they could not take care of everyone. So for those of us who returned home, we told the government that sending us home could make us angry and with that anger we could do bad things." These reports confirm the findings of Akeem Ayofe Akinwale[50] and Joab Peterside,[51] who argue that preparation, implementation, and equipment available for the rehabilitation and reintegration phases of the Amnesty Program were inadequate to support meaningful training and development among the beneficiaries.

Monthly stipend inadequate and embezzled. Eight of the twelve participants stated that the monthly allowance given to them by the government was inadequate. Interviewee 6 explained, "They are giving us sixty-five thousand naira per month but what we have given to them is arms. One AK47 costs half a million naira so we have not achieved anything." Some noted that not all the monthly stipends got to them. Interviewee 2 said, "Actually the government is paying sixty-five thousand naira per month. I myself am not receiving sixty-five thousand; sometimes I receive forty-five thousand. Our leaders like Ateke Tom and Tompolo take twenty thousand to settle the government sometimes. They also settle some boys who don't have amnesty. They have no work. They don't have help. The only way is to give them the little one we have. I understand. We are all brothers because they say you must give to your brother." Others were less happy about the reduction in

their stipends. Interviewee 6 said, "Sometimes our leaders give us ten thousand naira or fifteen thousand or twenty thousand per month. We made a complaint to our various training supervisors from government and they said they would call our leaders. The leaders said they are paying the money to the wives of most of the people they killed, the people that were fighting that time—that they are using the money to settle their wives." Some preferred that the government pay directly to the rank and file, not through the leaders. Interviewee 6 explained, "What we want the federal government to do for us is collect our numbers, our account numbers. If they want to deal with Harry, let the federal government deal with Harry direct. If they want to deal with Dick, let them deal with Dick direct so that at the end of the day, after dealing with Dick, he would go and get rest and achieve something. But this one if they want to go to Harry, they will go through Dick and Dick cannot give Harry what he deserves. So the government should pay directly to us so that other people would not cut it." Interviewee 5 said, "Now you cannot use the money to do any reasonable thing. At least if we received that complete sixty-five thousand naira little things can be done, even to use and start up a small business." The participants agreed that the money was one of the reasons they stopped fighting. Interviewee 1 said, "If they stopped giving us the stipends, I know that peace will not reign in Niger Delta. The Niger Delta youth will then go back to the creek. . . . If they failed we would all go back to creek and start where we stopped." These complaints corroborate Akinwale's findings that the monthly stipends given by government are insufficient compensations for ex-militants whose activities in militancy, including oil bunkering, created alternative paths to wealth and influence.[52]

Amnesty too narrowly conceptualized and implemented. Five ex-militants emphasized the importance of extending support to the wider community. Interviewee 10 said, "Like in my place we have four multinational oil companies. For me I would like the federal government to go and talk to them to carry our fathers and mothers along because we are not all militants. Those who are not militants still have nothing. They should carry the community along. Like now, if you go to my place, every place is bushy, no houses, nothing is happening. People are managing with thatched houses. There are mosquitoes everywhere. Meanwhile, all the companies are there. It was because they did not want to carry everybody along that we went to the

nearest pipelines and blew them up. We will leave the pipelines alone once they give us our due. We are begging the government to go and ask the companies to help the community so that peace will reign." Interviewee 6 called on the government to "give us our own rights. It's not all about looking at amnesty; they should give us our own rights. It is the people that own the oil treasure, not just the militants." Interviewee 5 added, "Right now there is war going on in the community. They are not giving us anything. When we talk they say you people have done amnesty. Let the federal government talk to the companies because the companies are looking at if I can do amnesty and all problems will go away. It is the people that fought, the ex-militants, so let them know, yes, the treasure—it's the people that own it." These reports corroborate the analyses of scholars such as Emmanuel Duru and Ufiem Maurice Ogbonnaya, and Solomon Ojo, who argue that resource control, increases of oil derivation percentages, the Land Use Act, election rigging, government accountability and transparency, and responsiveness to the needs of the people have all been ignored.[53] Like previous attempts to address the Niger Delta question, the amnesty program focuses on negative peace or absence of manifest violence rather than building "cooperative and constructive relationships" and transforming the underlying sources of violent conflict.[54] Like past efforts, the program has been severely limited by the fact that it is not "people-centered and participatory" and is not based on a "bottom-up and down-to-earth" model of peace building and development.[55] It relies too heavily on the opinions of privileged and elitist governors and traditional rulers who are part of the problem in the region.[56]

No follow-through. All twelve participants raised concerns that the government was not following through on the promises it made during the amnesty. Interviewee 5 observed, "The thing that is not good is that after the training everybody is left like that for one year, two years—we are still in the house after training and nothing is happening. What they promised us did not happen." Interviewee 2 said, "Like for the training we have finished, at least the government promised us that they were going to find us work after the drilling school which was six months. Now we are expecting the government to do something, to call us for work because I myself I don't have work but they have issued me a certificate but I don't have work." Interviewee 1 said, "That is what I am saying, if they can fulfill all their promises, like now after training, they empower you and maybe those of

us that learned handwork, after learning, they engage them somewhere for them to earn money. Somebody that is earning money cannot go back and do all those bad things because by the end of the month you earn money for you to earn a living." Interviewee 5 added, "I wanted to choose hand work but they said even if you choose business that there was no problem—that the government would give you money for you to start up whatever business you wanted to do, so that you can be doing something. Till now since I left the training last year December, roughly one year now, nothing has happened. They did not call us to say come; still there are no jobs, no nothing." Interviewee 2 stated, "The federal government should do what they promised us they would do—that is the only way peace can reign in the Niger Delta, I know they are trying their best but we are still begging them to do more." These voices confirm research findings that suggest that the amnesty may be unraveling because the government is not following through on its promises to the ex-militants. For example, according to Paul Francis, Dierdre Lapin, and Paula Rossiasco, the skills and certification given to the ex-militants during the reintegration program are not being recognized and utilized by the government and oil companies.[57]

CONCLUSION

In this study participants identify oil company policies, the use of force in response to peaceful protests, and the lack of transparency as sources of conflict in the Niger Delta. They cite poverty, unemployment, neglect, and government repression of dissent as key motivations for participating in militancy. Most acknowledge that the amnesty program improved security and oil revenue in Nigeria and created an enabling environment for peace and development in the Niger Delta; it created a society where killings, kidnapping, pipeline vandalization, and bunkering were no longer practiced by militants. Nevertheless, the participants also recognize the implementation of the amnesty program as flawed; the program's scope, time, equipment, and other resources were inadequate and the government failed to keep the promises it made to participants and their communities.[58]

Collier[59] and Cesarz, Morrison, and Cooke[60] suggest that rebellion in the Niger Delta was driven by greed and criminal opportunism rather than by the existence of historical and social grievances. These explanations appear to ignore the preponderance of evidence chronicled in this study and in reports on the Niger Delta that span more than half a century.[61]

These reports, supported by numerous studies,[62] offer compelling evidence of historical and social neglect and popular grievances. Three interviewees do indicate that they joined the militancy for personal gain, but this may be common to contemporary conflicts and does not diminish the saliency of the broader issues they championed. Military campaigns by even the most established democracies, despite their ideals, are also often believed to be motivated in part by greed and personal interests. For example, many believe that the 2003 Iraq war campaign by the US government and allies was motivated by greed and oil interests and many soldiers enlisted because of promises of scholarships and other benefits.[63] Mixed motives do not negate the presence of issues and the need to address injustice.

Despite many limitations, the amnesty program has been a noteworthy departure from previous responses to the crisis in the Niger Delta, which were widely criticized as confrontational, patronizing, and oppressive. Although the amnesty program failed to address the sources of conflict in the Niger Delta, it provided a foundation for peace and a more realistic assessment of strategies to promote sustainable development in the region and the country.[64] To achieve these goals, the following specific steps are needed.

First, future programming for continued peace and development should recognize the importance of grassroots and stakeholder participation. Interviewee 7 mentioned the importance of this participatory approach: "Let the companies and government recognize the people that have the land, not one person, everybody. It's not one person who owns the land, don't deal with one person. We have elders, we have youth, we have women, we have old people, we have chiefs. Let the companies and government call these people together and ask them, what do you people want us to do for you and we will tell them."

Second, it is important to acknowledge and respect the right of aggrieved communities to protest peacefully. When dialogue overtures are spurned and voices of dissent are violently suppressed, people are driven to seek redress through violence. Third, the government needs to focus on resolving the sources of conflict in the Niger Delta, which include leadership failures, environmental pollution, unemployment, poverty, and corruption. Fourth, government and oil companies need to find more effective ways to support infrastructural development and provision of social welfare such as direct housing, food, and education subsidies to members of the

oil producing communities. Fifth, efforts must be made to integrate the ex-militants and other youth into the mainstream of the oil industry to give them a sense of belonging.

Finally, the Nigerian government should follow through with the promises it made to the militants, especially the promise to help them find employment to sustain themselves and their families. It is important to ensure that the stipends paid to the ex-militants are not embezzled by the militant leaders or government officials managing the amnesty program. This can be achieved by making the implementation of the program more transparent and by appointing an oversight committee that the ex-militants can trust.

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Generational Change and Redefining Identities: Post-Conflict Peacebuilding in Northern Ireland[1]

Timothy White

The peace process in Northern Ireland was built on the assumption that intergenerational change would transform historically sectarian conceptions of identity into less reactionary or hostile identities, thus gradually improving relations across the sectarian divide. Because Northern Ireland did not experience a Truth and Reconciliation Commission or a formal process of reconciliation, one cannot expect older cohorts to redefine their identities. However, there is evidence of significant generational differences in identity in Northern Ireland. Younger cohorts are less willing to identify as unionist or British while nationalists are more successful in transferring their identity across generations. Thus, there is greater need for a redefinition of unionism given the lack of successful intergenerational transmission of this identity.

Peace processes like that in Northern Ireland have many stages. In the earliest stages, mediators or arbiters often assist warring groups to reach a ceasefire. If the ceasefire holds, this leads to a period of negotiations in which combatants attempt to arrive at a more permanent peace agreement. Negotiated settlements may range from quite narrow to quite extensive as it is often difficult to reach a compromise acceptable to all parties. Negotiated settlements, like temporary ceasefires, often collapse because they may be difficult to enforce. If a negotiated settlement endures for a length of time, it becomes possible for those who fought against each other to move beyond a narrow ceasefire truce toward a more comprehensive peace that discourages

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the long-term prospects for renewed fighting. This consolidation of the peace process usually requires time and a successful process of restorative justice.[2]

While Northern Ireland's peace process has been successful in terms of the early stages of making peace, it has been less successful in transforming the sectarian conflict. Because Northern Ireland did not experience a Truth and Reconciliation Commission or a formal process of reconciling those who perceive themselves as victims and those who are identified as perpetrators, improving relations between Catholics and Protestants in Northern Ireland has proven slow and difficult.[3] Older cohorts have not redefined their identities and thus have not altered their political orientation. However, as James Fearon and David Laitin contend, identities can be reformulated to serve the interests of those who advocate peace as much as they can be manipulated by those who seek to mobilize a population for violence.[4] In Northern Ireland there is evidence of significant identity change occurring, especially among the younger cohorts of Protestants in Northern Ireland.[5] The peace process was built on the assumption that intergenerational change in terms of conceptions of identity would transform historically sectarian conceptions of identity into less reactionary and hostile ones. This would open up aspirations for new relations across the sectarian divide in Northern Ireland. The slow process of reconciliation that has been achieved thus far in Northern Ireland may accelerate as residual support for republican dissidents and loyalist paramilitaries fade. However, this will require significant reconstructions of identities, especially among Unionists in the near term. Many potential intervening events, so-called period effects, may intervene and stop, slow, and even reverse this gradual process of social and identity change in Northern Ireland.

THE NEED FOR RECONCILIATION IN NORTHERN IRELAND

Peace processes require more than just an "agreement" or an end to violence. The complex goal of reconciliation among those historically divided by ethnic or sectarian differences is central to peace processes.[6] Improving relations in conflict-ridden societies has often proven to be extremely difficult,[7] and Northern Ireland has been no exception.[8] Reconciliation requires a community development strategy that addresses human needs and encourages people to participate and build democracy together.[9] Recent research suggests that deliberation across the divide may help create increasingly

common goals and may encourage political elites to compromise rather than sell out.[10] An earlier study suggested that even mere contact between communities can play a positive role in dealing with the past, in allowing for greater forgiveness, and in the development of more positive views of the future built on greater trust of the other community.[11] Reconciliation must include a process that confronts the atrocities of the conflict so that those who perceive themselves as victims and those who admit their crimes can move beyond the past and envision a different future. Those who continue to mistrust and hold suspicions of the other side will be less willing to compromise and work with the other in society.[12] Ultimately, this requires identity change, as victims and perpetrators of violence remake their sense of self as well as the historic other in society.[13] This article focuses on how reconciliation is critical to building peace in post-conflict situations like Northern Ireland.[14]

The South African Truth and Reconciliation Commission is often cited as an example of a successful agent of fostering such a reconciliation process.[15] Why has Northern Ireland not had a truth commission or formal reconciliation process? Cillian McGrattan has argued that a truth commission in Northern Ireland would likely result in ethnic competition for the truth, rather than providing the opportunity for forgiveness and healing.[16] Similarly, Cyrus Samii contends that the political gains due to peace and peace processes may outweigh the perceived benefits of discovering the truth.[17] While it is impossible to know whether a truth commission would result in greater sectarian conflict or provide much needed social healing, postponing reconciliation has prevented or undermined the development of civil society in Northern Ireland.[18]

What are the consequences of the lack of a truth and reconciliation process in Northern Ireland? Sectarianism continues despite the achievement of the Good Friday or Belfast Agreement and efforts at power sharing in Stormont.[19] Because the Agreement attempted to be as inclusive as possible in order to bring all potential spoilers into the peace process, it necessarily did not exclude those who historically were associated with the violence of the Troubles.[20] Not only were prisoners released as part of the Agreement, but there was no systematic effort to ascertain the truth from those who had been held for their part in the Troubles. This allowed some within each community to conceal their role in the violence. There was no public acknowledgement of who was accountable for the more than 3,000

lives lost and many more injured during the Troubles.

Besides perpetuating mistrust, a lack of reconciliation process threatens the continued implementation of the peace process. The Agreement recognized the rights of victims as well as the need for all to be included in the political process. It also built institutions that demand acknowledging (if not addressing) the history of wrongs and injustices. Lacking such a confrontation of history, the Agreement creates a truce that contains the historical antagonism without transforming the communal divide. Thus far, efforts to create bridging social capital rather than bonding social capital have been difficult and largely ineffective.[21] As a consequence, Northern Ireland lacks a civil society, something that is often cited as important in peacebuilding. The lack of reconciliation gives fuel to spoiler groups, who seek to undermine the peace process and efforts at reconciliation. Spoilers can use mistrust and ethnic or sectarian divisions to achieve this goal. It is therefore crucial for citizens of Northern Ireland to reconcile and create a shared vision for the future. In this process, victims themselves can be moral beacons and help to promote political accommodation and reconciliation.[22]

As we look to the future in Northern Ireland, reconciliation between the communities would clearly make the building of civil society a much easier task as identities are redefined and reimagined. Reconciliation alleviates fear and mistrust, thereby opening possibilities for and raising expectations of future interethnic cooperation.[23] By constructing a shared history, the two communities can de-emphasize past events in determining their identity and set the foundation for healing the deep rifts that reinforce sectarianism and undermine civil society.

GENERATIONAL DIFFERENCES

The differences in reaction to the peace process in Northern Ireland can be analyzed from the changes taking place across different generations. The Greeks were the first to recognize that societal change was stimulated by generational change.[24] More contemporary social research builds upon Karl Mannheim who identified a generation as a group defined by their social and historical experience. A process of dynamic change in society occurs as each generation that emerges into adulthood replaces the generation that passes away.[25] In the 1970s, a number of studies highlighted the significant social and political changes caused by what was identified as a generation gap or generational differences between younger and older cohorts.[26] The

assumption of this research was that the different social and political experiences of those emerging into adulthood in the 1960s and 1970s would create differing political and social beliefs and attitudes and correspondingly different political behaviour. These differences would persist over time so that even if there are life cycle effects or dramatic events (period effects) that alter the attitudes and values of all generations, cohort differences would endure. The emphasis on the enduring generational differences that persist despite life cycle and period effects has been demonstrated in Ronald Inglehart's research.[27]

An assumption of a generational change is embedded in the logic of the peacebuilding process in Northern Ireland. Politicians as well as scholars assume and expect that those who emerge into adulthood without the same experiences of violence associated with the Troubles will have differing values and attitudes and will correspondingly display fundamentally different behaviour. This is especially the case if young people are educated and socialized in ways significantly different from those of earlier generations.[28] Even if younger generations hold the same nominal identity as previous cohorts, the inherited identities will take on new meanings for those in different generations. One of the most important debates about contemporary Northern Ireland is the extent of change that is being made as new generations raised after 1998 are replacing older cohorts. Are the values and identities of nationalists and unionists in Northern Ireland changing? Are Catholics able to reproduce similar attitudes and values among younger cohorts without the violence of the Troubles and while sharing power with unionists? Are Protestants able to transmit a historic unionist identity in Northern Ireland when they no longer dominate politically and have learned to share power with nationalists and republicans?

Answering these questions is not easy or simple. One needs to recognize the complexity and subtlety of change that has come to Northern Ireland in the last sixteen years. Often, there are processes at work that simultaneously reinforce sectarian divisions and help to overcome them.[29] Among those living in Northern Ireland, the identity changes that have taken place have been based on how existing or inherited identities interact with the changes brought about by the peace process.[30] Data from the Northern Ireland Life and Times Survey indicates that younger cohorts are more reluctant than others, especially the oldest cohort, to identify as unionist while younger and older generations do not differ much in terms of identifying

as nationalist (see Figure 1). Similarly, it appears that the young people of Northern Ireland are increasingly likely to identify as Irish as opposed to British compared to the older age cohorts (see Figure 2). This data suggests that intergenerational change is uneven in Northern Ireland with much more significant challenges and changes taking place among unionists than nationalists.[31] The Northern Ireland Life and Times Surveys have seen a consistent trend for younger cohorts to be much less willing to identify themselves as Unionist (see Figure 3) or British (see Figure 4) compared to older cohorts. Alternatively, every survey conducted since the Agreement in 1998 shows that the young are more likely to identify as Irish than older cohorts. The difference by generations is stark. The difference between the youngest and oldest cohorts' identification as unionist has averaged -24.6 percent while the difference among the youngest and oldest generation identifying as nationalist has averaged +2 percent. Similarly, on average the youngest cohort identifies as British 20 percent less than the oldest cohort while the youngest cohort on average identifies as Irish 10 percent more than the oldest cohort. The evidence clearly suggests that nationalists have been much more successful in transferring their political identity to younger generations than unionists.

Much has been made of how unionists are decreasingly able to reproduce their identity among the younger cohorts of Protestants. This may be because the loss of political dominance has required a new sense of unionism based less on sectarian domination and more on what the Agreement called a parity of esteem.[32] We know based on exit polling that even in 1998 a bare majority of Protestants voted in favour of the referendum ratifying the Agreement.[33] Claire Mitchell identified a variety of initial responses to the Agreement among Protestants and how this contributed to the varied conceptions of how unionist identity had been challenged and needed to be redefined.[34] Several scholars have emphasized how different individuals and groups have reacted to the Agreement, even within unionism.[35] Some initial findings in the wake of the Agreement suggested that Protestant dissatisfaction was at least partly due to the collapse of the institutions of Stormont over impasses regarding decommissioning and police reforms.[36] Graham Spencer argues that the political leaders of unionism who favoured the Agreement failed to articulate a new vision of unionism that was clear, coherent, and attractive to unionists. The lack of leadership may reflect the divisions that exist and the difficulty of communicating effectively in the

media.[37] It also reflects a lack of intellectual and cultural imagination to reorient and redefine unionism in the wake of the Agreement.[38] Whatever its sources and causes, the difficulty of transmitting unionist identity since the Agreement has led to what many have identified as "alienation" among the Protestant community in Northern Ireland.[39] This alienation suggests that unionism has struggled to redefine itself with a positive and attractive vision for younger cohorts who are decreasingly choosing a unionist and British identity.

The rapid change in political attitudes of the 1960s and 1970s generation in the United States and much of Europe may offer an instructive comparison. When social norms and traditions no longer make sense (and one could argue that the Agreement in 1998 challenged many assumptions of traditional unionism), the old basis of identity becomes discarded by the current generation as they seek more relevant contemporary cultural forms and practices. Some may see this as a crisis of unionism, but it seems inevitable in retrospect that the new basis of power-sharing in Northern Ireland necessitates a fundamental re-evaluation of traditional conceptions of Unionist hegemony in Northern Ireland. While in the short term these changes may compel a re-evaluation of unionism, what is now perceived as uncertainty and alienation may become a necessary transition toward a more stable future redefinition of unionism. It is impossible to be certain what may follow the current period of fluctuation. Given unionists' history of siege mentality,[40] the present drift may be seen in historic terms as providing more uncertainty and may serve to continue oppositional or reactionary conceptions of unionism. The recent alienation among many unionists therefore suggests the lack of a redefined sense of identity that is attractive and viable for those who feel as if their historic sense of identity has lost its meaning. However, if the political, academic, and cultural elites who tend to drive identity debates are able to create a redefined unionist identity that is compelling and attractive to younger cohorts, then unionism will be refashioned into a more sustainable identity that may be transferred more successfully across future generations. This would allow unionism to continue into the future, emphasizing new, more positive elements such as the success of Ulster-Scots diaspora in the United States, rather than traditional oppositional or sectarian conceptions of identity.[41]

While unionism may seem to be in the midst of greater generational change, nationalism in Northern Ireland has been criticized for the continuity

of its ideology in the last several decades.[42] Many of the contemporary political practices of Northern Ireland build upon aspirations and rhetoric that have been at the heart of nationalist desires since the Civil Rights movement. While the Agreement clearly and explicitly recognized Northern Ireland's status within the United Kingdom, the practical power-sharing arrangements of Stormont do not fundamentally challenge recent conceptions of nationalist ideology. As a result, nationalists and republicans do not need to remake their identity nearly as much as unionists. They are more smoothly transmitting older generations' conceptions of their identity to the younger Catholic cohorts. However, despite power-sharing and all of the political reforms that have come with the Agreement, the fundamental republican aspiration of Irish unification has not been realized. In the near term this may not be a challenge to nationalist identity. Most nationalists, including younger cohorts, seem satisfied to be Irish living in Northern Ireland as part of the United Kingdom. In the long term, however, as future generations re-evaluate what has been achieved, some will no doubt challenge and question a status quo that does not satisfy the goal of a 32-county republic. This contradiction between ultimate political goals and what has been achieved in recent decades may create a need for national and republican identities to transform as they become accustomed to sharing power with unionists.

CONCLUSION

Peace processes often aspire to conflict resolution. This requires that the nature of the conflict be fundamentally transformed so that the groups who historically engaged in violence never again think it appropriate or in their interest to do so. This kind of sustainable peace cannot rely solely on power-sharing but needs to include a process of reconciliation in Northern Ireland. This process of fostering a civil society between the two communities will inevitably take time, probably several generations.[43] It will require groups to address their past and construct a shared vision of the future, thereby reducing sectarian identities and providing room for the other in their own identity. Many groups, including not just local community groups or those specifically funded for peace[44] but also church groups[45] and business groups[46] can facilitate this process. Analyzing the evolution of identities requires a long-term perspective, in which the initial difficulties of implementing the Agreement and challenging extant conceptions of identity comprise part of a protracted transition to a more peaceful Northern Ireland.

This article has suggested that this process will occur over generations. How will each of the historic communal identities in Northern Ireland evolve? Thus far, survey research and the existing scholarship suggest that there has been a great need for unionist identity redefinition. Clearly, it appears that unionism is at present less able to reproduce itself to the youngest Protestant cohort. While some see alienation as a result, one can also see the existing need to reorient unionist identity as an opportunity to lessen its historic reactionary and oppositional elements and emphasize other elements such as its diasporic achievements. This would provide unionism with a less hostile view of the other community and provide real hope that improvements in a civil society could come to Northern Ireland. The ease with which nationalists have been able to transfer their identity across generations means that nationalism has required less critical self-examination thus far in the wake of the Agreement. After the benefits of power-sharing and greater equality have been realized and taken for granted in future generations of nationalists, the fundamental contradiction between the historic aspiration for a united Ireland and the reality that Northern Ireland remains in the United Kingdom may expose a need for re-evaluation and redefinition of nationalism and especially republicanism. We will have to wait and see if any dramatic events (period effects) alter the process of intergenerational transmission of identity in Northern Ireland. One must recognize that this process of intergenerational change is quite slow but accumulates over time. If peace can be maintained, it may eventually yield effective generational transformations of identities in Northern Ireland that create a more secure and sustainable peace.

Figure 1
Political Identity in Northern Ireland by Cohort
Unionist, Nationalist, or Neither
2013 Life and Times Survey

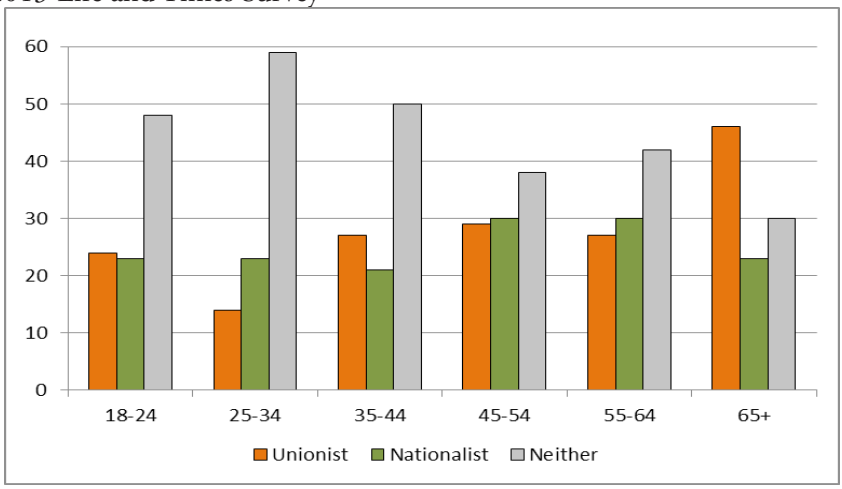


Figure 2
Political Identity in Northern Ireland by Cohort
British, Irish, or Northern Irish
2013 Life and Times Survey

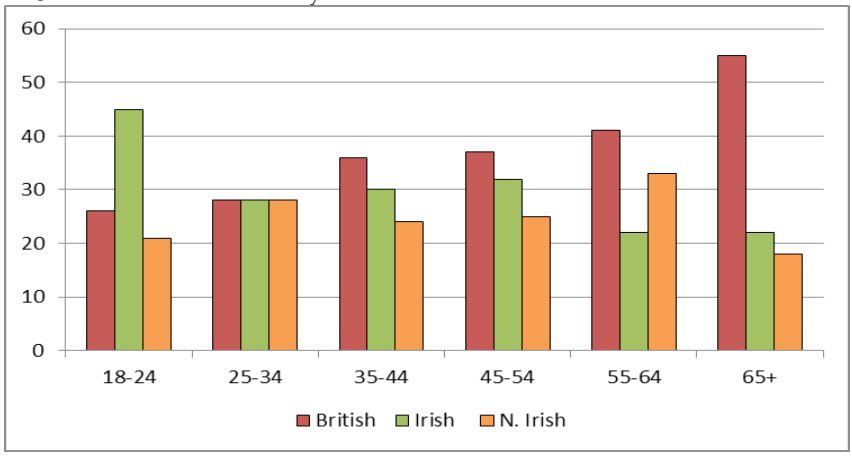


Figure 3
Differences between Youngest and Oldest Cohorts' Self-Identification
Unionist and Nationalist
Northern Ireland Life and Times Surveys 1998-2013

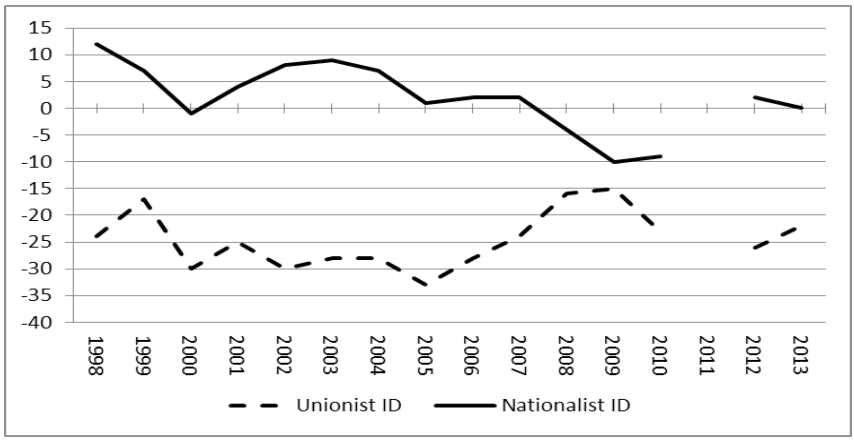
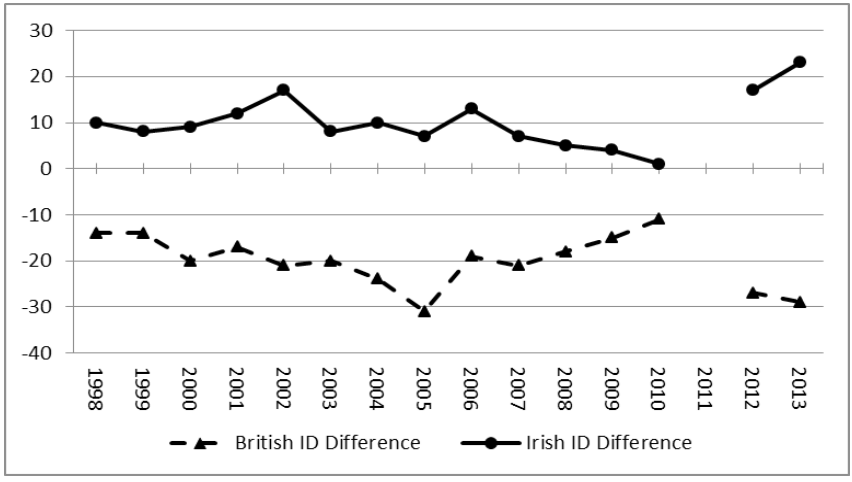


Figure 4
Differences between Youngest and Oldest Cohorts' Self-Identification
British and Irish
Northern Ireland Life and Times Surveys 1998-2013



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ENDNOTES

1. This article is a revised version of a paper of the same title presented at the Annual Meeting of the American Political Science Association, 30 August 2014 in Washington, DC.
2. The difficulty and frequent pitfalls that plague peacebuilding efforts in post-conflict situations are stressed in Astru Suhrke and Mats Berdal, eds., *The Peace in Between: Postwar Violence and Peacebuilding* (London: Routledge, 2012).
3. This is the challenge that Kay has identified as "ontological security" in Northern Ireland. See Sean Kay, "Ontological Security and Peace-Building in Northern Ireland," *Contemporary Security Policy* 33, no. 2 (2012): 236-63.
4. See James D. Fearon and David D. Laitin, "Violence and the Social Construction of Ethnic Identity," *International Organization* 54, no. 4 (2000): 845-77.
5. Earlier research found that identity in Northern Ireland had a capacity to change. See Cathal McCall, *Identity in Northern Ireland: Communities, Politics and Change* (Basingstoke, UK: Macmillan, 1999). Tilley and Evans have found that a generational shift has made younger cohorts slightly more moderate in Northern Ireland. See James Tilley and Geoffrey Evans, "Political Generations in Northern Ireland," *European Journal of Political Research* 50, no. 5 (2011): 583-608.
6. Jennifer J. Llewellyn and Daniel Philpott, eds., *Restorative Justice, Reconciliation, and Peacebuilding* (Oxford: Oxford University Press, 2014) and Jon Tonge, *Comparative Peace Processes* (Cambridge: Polity, 2014), 7.
7. The need for improved inter-ethnic relations in the peacebuilding process is stressed in Mehmet Gurses and Nicolas Rost, "Sustaining the

Peace after Ethnic Civil Wars," *Conflict Management and Peace Science* 30, no. 5 (2013): 469-91.

8. Duncan Morrow, "The Rise (and Fall?) of Reconciliation in Northern Ireland," *Peace Research: The Canadian Journal of Peace and Conflict Studies* 44, no. 1 (2012): 5-35 and Owen McEldowney, James Anderson, and Ian Shuttleworth, "Sectarian Demography: Dubious Discourses of Ethno-National Conflict," in *Political Discourse and Conflict Resolution: Debating Peace in Northern Ireland*, ed. Katy Hayward and Catherine O'Donnell (London: Routledge, 2011), 160-76. Recent research highlights the colonial origins of contemporary failures to control ethnic and sectarian conflict and bring about reconciliation in societies divided by colonization. For an attempt to explain the recent flags crisis in Northern Ireland from a settler versus native postcolonial perspective, see Adrian Guelke, "Northern Ireland's Flags Crisis and the Enduring Legacy of the Settler-Native Divide," *Nationalism and Ethnic Politics* 20, no. 1 (2014): 133-51.

9. For this conceptualization, see Connie O'Brien, "Integrated Community Development/Conflict Resolution Strategies as 'Peace Building Potential' in South Africa and Northern Ireland," *Community Development Journal* 42, no. 1 (2007): 114-30.

10. Robert Luskin et al., "Deliberating across Deep Divides," *Political Studies* 62, no. 1 (2014): 116-35.

11. Mike Hewstone et al., "Intergroup Contact, Forgiveness, and Experience of 'The Troubles' in Northern Ireland," *Journal of Social Issues* 62, no. 1 (2006): 99-120.

12. See Saul Newman, "Faith and Fear: Jewish and Unionist Attitudes toward Compromise in Israel and Northern Ireland," *Peace & Change* 39, no. 2 (2014): 174.

13. For how the ceasefires and the Agreement provided an opportunity for nationalists and unionists to modify their identities, see Landon Hancock, "Peace from the People: Identity Salience and the Northern Ireland Peace Process," in *Lessons from the Northern Ireland Peace Process*, ed. Timothy J. White (Madison, WI: University of Wisconsin Press, 2013), 61-93. Some have concluded that the peace process has not fundamentally altered the sectarian basis of Northern Irish society. For

this perspective, see Cillian McGrattan, *Memory, Politics and Identity: Haunted by History* (New York: Palgrave Macmillan, 2013).

14. This article's emphasis on local peacebuilding is stressed in the recent scholarly literature. See Roger Mac Ginty and Oliver P. Richmond, "The Local Turn in Peace Building: A Critical Agenda for Peace," *Third World Quarterly* 34, no. 5 (2013): 763-83; Timothy Donais, *Peacebuilding and Local Ownership: Post-Conflict Consensus-Building* (New York: Routledge, 2012). Richard Haass emphasized the need for reconciliation and confronting the past as part of the process of building peace in Northern Ireland when he accepted the Tipperary Peace Award on 23 June 2014 in Ballykisteen, Co. Tipperary.

15. For an analysis of what can be learned from the South African experience in terms of truth and reconciliation, see James L. Gibson, "The Contributions of Truth to Reconciliation: Lessons from South Africa," *Journal of Conflict Resolution* 50, no. 3 (2006): 409-32.

16. Cillian McGrattan, "Spectres of History: Nationalist Party Politics and Truth Recovery in Northern Ireland," *Political Studies* 60, no. 2 (2012): 455-73.

17. Cyrus Samii, "Who Wants to Forgive and Forget? Transitional Justice Preferences in Postwar Burundi," *Journal of Peace Research* 50, no. 2 (2013): 219-33.

18. For conceptualizations of the role of civil society in the Northern Ireland Peace Process, see Sean Byrne, "Consociational and Civic Society Approaches to Peacebuilding in Northern Ireland," *Journal of Peace Research* 38, no. 3 (2001): 327-52; Christopher Farrington, "Models of Civil Society and Their Implications for the Northern Peace Process," in *Global Change, Civil Society and the Northern Ireland Peace Process: Implementing the Political Settlement*, ed. Christopher Farrington (New York: Palgrave Macmillan, 2008), 113-41; and Landon E. Hancock, "The Northern Irish Peace Process: From Top to Bottom," *International Studies Review* 10, no. 2 (2008): 225-31. For the importance of civil society in peacebuilding in Northern Ireland, see Cathy Gormley-Heenan, "Northern Ireland: Securing the Peace," in *Beyond Settlement: Making Peace Last after Civil Conflict*, ed. Vanessa E. Shields and Nicholas D. J. Baldwin (Madison, NJ: Fairleigh Dickinson University Press, 2008), 224-36; Timothy J. White, "The Role of Civil Society in

Promoting Peace in Northern Ireland," in *Building Peace in Northern Ireland*, ed. Maria Power (Liverpool: Liverpool University Press, 2011), 37-52. Lafranc contends that bottom-up peace approaches attempt to delink individuals from conflict and therefore depoliticize what are inevitably group conflicts. See Sandrine Lafranc, "A Critique of 'Bottom Up' Peacebuilding: Do Peaceful Individuals Make Peaceful Societies?" in *Peacebuilding, Memory and Reconciliation: Bridging Top-Down and Bottom-Up Approaches*, ed. Bruno Charbonneau and Geneviève Parent (London: Routledge, 2012), 34-52. For the best critique of the civil society approach to building peace in Northern Ireland, see Paul Dixon, "The Politics of Conflict: A Constructivist Critique of Consociational and Civil Society Theories," *Nations and Nationalism* 18, no. 1 (2012): 98-121.

19. For the continuing sectarian divide in Northern Ireland, see Neil Jarman and John Bell, "Routine Divisions: Segregation and Daily Life in Northern Ireland," in *Everyday Life After the Conflict: The Impact of Devolution and North-South Cooperation*, ed. Cillian McGrattan and Elizabeth Meehan (Manchester: Manchester University Press, 2012), 39-53; Elizabeth Meehan and Fiona McKay, "'A New Politics' of Participation?" in McGrattan and Meehan, *Everyday Life after the Conflict*, 169-83. Even motherhood is divided by sectarianism in Northern Ireland. See Lisa Smyth and Martina McKnight, "Maternal Situations: Sectarianism and Civility in a Divided City," *Sociological Review* 61, no. 2 (2013): 304-22.

20. For a summary of this argument, see Timothy J. White, "Lessons from the Northern Ireland Peace Process: An Introduction," in White, *Lessons from the Northern Ireland Peace Process*, 7-8. For a further elaboration of this argument based on a critique of neoconservative arguments, see Paul Dixon, "The Victory and Defeat of the IRA? Neoconservative Interpretations of the Northern Ireland Peace Process," in White, *Lessons from the Northern Ireland Peace Process*, 117-47.

21. For an exploration of these difficulties, see Madeleine Leonard, "Bonding and Bridging Social Capital: Reflections from Belfast," *Sociology* 38, no. 5 (2004): 927-44.

22. See John D. Brewer and Bernadette C. Hayes, "Victims as Moral Beacons: Victims and Perpetrators in Northern Ireland," *Contemporary*

Social Science 6, no. 1 (2011): 69-84; John D. Brewer and Bernadette C. Hayes, "Victimhood Status and Public Attitudes Towards Post-conflict Agreements: Northern Ireland as a Case Study," *Political Studies* 61, no. 2 (2013): 442-61. For further analysis of the role of victims in the post-Agreement Northern Ireland context, see Neil Ferguson, Mark Burgess, and Ian Hollywood, "Who are the Victims? Victimhood Experiences in Post-agreement Northern Ireland," *Political Psychology* 31, no. 6 (2010): 857-86.

23. Recent research has shown that intolerance between groups tends to diminish once the fear of an existential threat to one's way of life is reduced. This would suggest that as Protestants in Northern Ireland learn that power-sharing does not result in the demise of Northern Ireland's status in the United Kingdom and that they need not fear Catholics and tolerance, a more successful democracy becomes possible. See Alan Arwine and Lawrence Mayer, "Tolerance and the Politics of Identity in the European Union," *Social Science Quarterly* 95, no. 3 (2014): 669-81.

24. Richard G. Braungart and Margaret M. Braungart, "Generational Politics," *Micropolitics* 3 (1984): 353-54.

25. Karl Mannheim, *Essays on the Sociology of Knowledge*, trans. Paul Kecskemeti (London: Routledge & Kegan Paul, 1952), 292, 303, 320.

26. Paul Abrams, "Rites de Passage: The Conflict of Generations in Industrial Society," *Journal of Contemporary History* 5, no. 1 (1970): 175-90; Paul R. Abramson, "Generational Change in American Electoral Behavior," *American Political Science Review* 68, no. 1 (1974): 93-105; Vern L. Bengston, Michael J. Furlong, and Robert S. Laufer, "Time, Aging, and the Continuity of Social Structure: Themes and Issues in Generational Analysis," *Journal of Social Issues* 30, no. 2 (1974): 1-30; Nobutaka Ike, "Economic Growth and Intergenerational Change," *American Political Science Review* 67, no. 4 (1973): 1193-2003; Ronald Inglehart, "The Silent Revolution in Europe: Intergenerational Change in Post-Industrial Societies," *American Political Science Review* 65, no. 4 (1971): 991-1017; M. Kent Jennings and Richard G. Niemi, "Continuity and Change in Political Orientations: A Longitudinal Study of Two Generations," *American Political Science Review* 69, no. 4 (1975): 1316-35; T. Allen Lambert, "Generations and Change: Toward

a Theory of Generations as a Force in Historical Process," *Youth and Society* 4, no. 1 (1972): 21-45.

27. See Ronald Inglehart, *Culture Shift in Advanced Industrial Society* (Princeton: Princeton University Press, 1990), 80-81.

28. See Tristan Anne Borer, John Darby, and Siobhán McEvoy-Levy, *Peacebuilding after Peace Accords: The Challenges of Violence, Truth, and Youth* (Notre Dame, IN: University of Notre Dame Press, 2006); Christine Smith Ellison, "The Role of Youth in Post Accord Transformation in Northern Ireland," *Peace and Conflict Studies* 21, no. 1 (2014): 25-48; Siobhán McEvoy-Levy, ed., *Troublemakers or Peacemakers? Youth and Post-Accord Peace Building* (Notre Dame, IN: University of Notre Dame Press, 2006); Siobhán McEvoy-Levy, "Youth Spaces in Haunted Place: Placemaking for Peacebuilding in Theory and Practice," *International Journal of Peace Studies* 17, no. 2 (2012): 1-32. For an overview of the politics of education in the aftermath of the Agreement, see Máiréad Nic Craith, *Culture and Identity Politics in Northern Ireland* (Basingstoke, UK: Palgrave Macmillan, 2003), 95-117. Previous research indicated that integrated education can make a difference in Northern Ireland, but the number of children integrated is so small that it has yet to make a substantial impact on changing identities. See Sean Byrne, "Conflict and Children: Integrated Education in the Segregated Society of Northern Ireland," in *Social Conflicts and Collective Identities*, ed. Patrick G. Coy and Lynne M. Woehrle (Lanham, MD: Rowman & Littlefield, 2000), 91-114; Sean Byrne, *Growing Up in a Divided Society: The Influence of Conflict on Belfast Schoolchildren* (Madison, NJ: Fairleigh Dickinson University Press, 1997).

29. For example, Wiedenhoft Murphy has argued that tourism has simultaneously reinforced and helped to undermine sectarian divisions. See Wendy Ann Wiedenhoft Murphy, "Touring the Troubles in West Belfast: Building Peace or Reproducing Conflict?" *Peace & Change* 35, no. 4 (2010): 537-60.

30. For historical overviews of the development of identities in Northern Ireland, see Marianne Elliott, *When God Took Sides: Religion and Identity in Ireland—Unfinished History* (New York: Oxford University Press, 2009); Patrick Geoghegan, "Beyond Orange and Green? The

Awkwardness of Negotiating Difference in Northern Ireland," *Irish Studies Review* 16, no. 1 (2008): 173-94; Claire Mitchell, *Religion, Identity and Politics in Northern Ireland: Boundaries of Belonging and Belief* (Burlington, VT: Ashgate, 2006); Brian M. Walker, *A Political History of the Two Irelands: From Partition to Peace* (Basingstoke: Palgrave Macmillan, 2012). For analyses emphasizing how identities in Northern Ireland are changing based on the interaction of these identities with the new political structures after the 1998 Agreement, see Jennifer Todd, "Social Transformation, Collective Categories, and Identity Change," *Theory and Society* 34, no. 4 (2005): 429-63; Jennifer Todd et al., "Fluid or Frozen? Choice and Change in Ethno-National Identification in Contemporary Northern Ireland," *Nationalism and Ethnic Politics* 12, no. 3/4 (2006): 323-46. Some have argued that the common membership of Ireland and the United Kingdom in the European Union (EU) would erode local identities as European integration created a common European identity. Survey evidence demonstrates that identification with the EU has been slow to arrive in Northern Ireland and has not undermined existing national identities. See Etain Tannam, "The Divided Irish," in *Divided Nations and European Integration*, ed. Tristan James Mabry et al. (Philadelphia: University of Pennsylvania Press, 2013), 269-71.

31. To actually demonstrate generational change, panel data or at least more longitudinal data is necessary. Thus, what can only be explored in this paper is based on the Northern Ireland Life and Times Surveys that have been conducted from 1998 to 2013; see http://www.ark.ac.uk/nilt.

32. For the historic construction of unionism, see Brian Graham, "The Past in the Present: The Shaping of Identity in Loyalist Ulster," *Terrorism and Political Violence* 16, no. 3 (2004): 483-500; David Officer and Graham Walker, "Protestant Ulster: Ethno-history, Memory and Contemporary Prospects," *National Identities* 2, no. 3 (2000): 293-307; Neil Southern, "Britishness, 'Ulsterness' and Unionist Identity in Northern Ireland," *Nationalism and Ethnic Politics* 13, no. 1 (2007): 71-102; Jennifer Todd, "Two Traditions in Unionist Political Culture," *Irish Political Studies* 2 (1987): 1-26.

33. See Bernadette C. Hayes and Ian McAllister, *Conflict to Peace: Politics*

and Society over Half a Century (Manchester: Manchester University Press, 2013), 91. An example of the reluctance and lack of enthusiasm for the Belfast Agreement and its consequences can be found in Peter Munce's "Unionism and the Northern Ireland Human Rights Commission 1999-2005: Hostility, Hubris and Hesitancy," *Irish Political Studies* 29, no. 2 (2014): 194-214. For further analysis of unionism after the Agreement, see Lee A. Smithey, *Unionists, Loyalists, and Conflict Transformation in Northern Ireland* (Oxford: Oxford University Press, 2011).

34. See Claire Mitchell, "Protestant Identification and Political Change in Northern Ireland," *Ethnic and Racial Studies* 26, no. 4 (2003): 612-31. The argument that there are multiple conceptions of unionism and this in part helps explain the trouble with Unionist identity after the Good Friday Agreement is further developed in James W. McAuley and Jonathan Tonge, "Britishness (and Irishness) in Northern Ireland since the Good Friday Agreement," *Parliamentary Affairs* 63, no. 2 (2010): 266-85.

35. The general argument that different groups learned different lessons from the Agreement is stressed by William A. Hazleton in '"Look at Northern Ireland': Lessons Best Learned at Home," in White, *Lessons from the Northern Ireland Peace Process*, 34-60. Different reactions and interpretations among republicans and unionists is also emphasized by Jennifer Curtis in *Human Rights as War by Other Means: Peace Politics in Northern Ireland* (Philadelphia: University of Pennsylvania Press, 2014), 3. Lee A. Smithey in *Unionists, Loyalists, and Conflict Transformation in Northern Ireland* (Oxford: Oxford University Press, 2012), 17 and Jennifer Todd in "Social Transformation, Collective Categories, and Identity Change," *Theory and Society* 34, no. 4 (2005): 429-63 contend that different Unionists reacted differently to the Agreement.

36. Bernadette C. Hayes, Ian McAllister, and Lizanne Dowds, "The Erosion of Consent: Protestant Disillusionment with the 1998 Northern Ireland Agreement," *Journal of Elections, Public Opinion and Parties* 15, no. 2 (2005): 147-67.

37. Graham Spencer, "The Decline of Ulster Unionism: The Problem of Identity, Image and Change," *Contemporary Politics* 12, no. 1 (2006):

45-63.

38. See Henry Patterson, "Unionism after Good Friday and St. Andrews," *Political Quarterly* 83, no. 2 (2012): 247-55, esp. 254.

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40. For example, see Arthur Aughey, *Under Siege: Ulster Unionism and the Anglo-Irish Agreement* (New York: St. Martin's, 1989); John Barry, "National Identities, Historical Narratives, and Patron States in Northern Ireland," in *Political Loyalty and the Nation-State*, ed. Michael Waller and Andrew Linklater (London: Routledge, 2003), 190-96. Loughlin claims that Unionism had earlier faced a crisis as it confronted modernity and social changes that came in the 1950s and 1960s. See James Loughlin, *Ulster Unionism and British National Identity since 1885* (London: Pinter, 1995).

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42. McGrattan, *Memory, Politics and Identity*, 146. Some would contend that a violent and virulent form of nationalism emerged during the

Troubles. For this perspective, see James Hughes, "State Violence in the Origins of Nationalism: British Counterinsurgency and the Rebirth of Irish Nationalism, 1969-1972," in *Nationalism and War*, ed. John A. Hall and Siniša Milešević (Cambridge: Cambridge University Press, 2013), 97-123. Even if many came to accept or were complicit in the violence used by republicans during the Troubles, nationalists have for the most part been convinced during the peace process to return to the aspirations for equality, opportunity, parity of esteem, and power-sharing that were the demands of the civil rights movement in Northern Ireland.

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46. For the role of business and the business community in promoting peace, see Guy Ben-Porat, "Between Power and Hegemony: Business Communities in Peace Processes," *Review of International Studies* 31, no. 2 (2005): 325-48; Shawn MacDonald, "Peacebuilding and the Private Sector," in *Integrated Peacebuilding: Innovative Approaches to Transforming Conflict*, ed. Craig Zelizer (Boulder: Westview, 2013), 127-50; Derek Sweetman, *Business, Conflict Resolution, Peacebuilding: Contributions from the Private Sector* (London: Routledge, 2009). Some recent research indicates that business interests do not have to lobby directly for peace since the neoliberal global economic order already

provides incentives for political elites to pursue peace. See Stephen G. Brooks, "Economic Actors' Lobbying Influence on the Prospects for War and Peace," *International Organization* 67, no. 4 (2013): 863-88. For the role of cross-border commerce after the Good Friday Agreement, see John Bradley, "The Island Economy: Ireland Before and After the Belfast Agreement," in *Crossing the Border: New Relationships between Northern Ireland and the Republic of Ireland*, ed. John Coakley and Liam O'Dowd (Dublin: Irish Academic, 2007), 61-86; Katy Hayward and Eoin Magennis, "The Business of Building Peace: Private Sector Cooperation across the Irish Border," *Irish Political Studies* 29, no. 1 (2014): 154-75; Eoin Magennis, "The Impact of Devolution on Everyday Life, 1999-2010: The Case of Cross-Border Commerce," in McGrattan and Meehan, *Everyday Life after the Irish Conflict*, 117-34; and Etain Tannam, "Cross-Border Cooperation between Northern Ireland and the Republic of Ireland: Neo-Functionalism Re-visited," *Regional Studies* 40, no. 9 (2006): 258-78. For a critical examination of the failure of peace to bring about social transformation of economically marginalized areas, see Denis O'Hearn, "Peace Dividend, Foreign Investment, and Economic Regeneration: The Northern Irish Case," *Social Problems* 47, no. 2 (2000): 180-200. Earlier research suggested that cross-border cooperation to promote business under the framework of the European Union might provide a boost to business activity in Northern Ireland. See Etain Tannam, "The European Union and Business Cross-Border Co-Operation: The Case of Northern Ireland and the Republic of Ireland," *Irish Political Studies* 11 (1996): 103-29.

Book Reviews

Trudy Govier. *Victims and Victimhood*. Peterborough, ON: Broadview Press, 2015. ISBN 978-1-55481-099-4 (Pbk). Pp. xiii + 232.

After impressive scholarship on themes of apologies, forgiveness, and reconciliation, philosopher Trudy Govier now turns her attention to the role of victims. Her latest book is an important addition to the scholarly forgiveness literature, raising crucial questions about the meaning of victimhood, the public expectations placed upon this role, and the appropriate degree of respect or deference to be given to victims and their testimonies.

The first chapter identifies several public attitudes toward victims, such as silence, blame, and unquestioning. Govier then introduces restorative justice as a fourth potentially much more positive alternative, neither ignoring, blaming, or completely giving in to the victim but respecting the victim as a fellow citizen with the power and the responsibility to participate in recovering from the harm.

Chapter 2 delves beneath these attitudes to explore the complexity of defining victims and victimhood. Such a definition forces us to grapple with the distinctions between "deserving" and "undeserving" victims, between passive "victims" and active "survivors," and between overlapping victim and perpetrator roles. Govier brings to light the dilemma of public responses to African child-soldiers who are simultaneously both victims and perpetrators. The third chapter further explores these complexities by pointing out various hierarchies of types of victims. Again the text is enlivened with frequent examples of the dilemmas to be considered, including the controversy of whether victims of obesity should be considered "deserving" victims, public responses to victims of historical trauma versus victims of specific individual harm, and the public disdain for victims from the "wrong" side of a political or ideological conflict.

In chapter 4, Govier addresses more directly the distinction between

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unquestioning deference to victims and a more nuanced respect which acknowledges the suffering but resists the temptation for the victim to wallow within a passive helpless role. This distinction provides the basis for the next two chapters which focus on victim testimony and probe the extent to which testimony should be believed or critiqued. Extreme damage can be done when victims are seen as not credible and their testimony is discounted, as happened for many decades to children abused in Irish church-run orphanages. The opposite danger is gullibility, without question believing something that later turns out to have been untrue. In this regard Govier discusses the controversial case of Rigoberta Menchu, the Guatemalan human rights activist whose work was tarnished by the revelations of a series of falsehoods in her autobiography.

So what is the appropriate response between outright rejection of victim testimonies and unquestioning belief? Govier responds in chapter 7 with a reflection on judging the credibility of victims and the plausibility of victim narratives. Again, Govier calls us to listen to the victims, respect what they have to say, but not let go of our own faculties of judgment and discernment.

In chapter 8, Govier focuses on the needs of victims and, more specifically, the efficacy of punishment and/or restitution for meeting these needs. The demand for punishment, often presented as the way to respond to victim needs, is more often enacted for reasons of making a moral statement or attempting deterrence rather than directly responding to victims. Full restitution, while a more direct response, may be impossible to adequately calculate or deliver, especially if victimization results in long-term trauma. Here, Govier returns to restorative justice as a more suitable alternative which can offer symbolic restitution by providing acknowledgment of the harm from the wrongdoer and some form of mutually negotiated amends.
The last two chapters may be the strongest in the book and are well worth intensive study. In chapter 9, Govier raises several significant questions about forgiveness: Do victims ever have an obligation to forgive? Is it only victims who can forgive? Underlying this discussion is also the caution that a focus on forgiveness tends to shift attention away from the needs of the victim toward response to the perpetrator. Thus the call to forgive should be seen as secondary to the call to care for and support the victim on the journey toward healing.

Closure, discussed in chapter 10, is also too often laid onto victims as

an expectation of some easily definable end-point of victimization and a socially acceptable happy ending. In reality, there may never be a satisfactory closure, but rather a slow uneven progress toward regaining a sense of agency as the victim begins to take on responsibility for making a better life in the aftermath of the victimization.

The book includes an appendix that acknowledges that issues of justice and victimization raise tensions between religious perspectives which hold a Supreme Being as ultimately responsible for human destiny and a secular view emphasizing human agency. This section could have been deleted or expanded into a much more thorough reflection. While it may be helpful to acknowledge the complexity of this debate, this short add-on does little to further the book's main themes.

Like any great text, this book leaves the reader hungry for more, for deeper immersion into themes and questions too lightly brushed over. For example, Govier hints at the ambiguities and complexities of overlapping victim/perpetrator roles, which could be explored in much more depth than is done here. One such major theme is restorative justice, presented here as a better alternative for navigating that fine line between victim blame and victim deference. More could be said how on this avowedly victim-centred approach can or should resist the attitude of total deference to the wishes of the victim.

All in all, *Victims and Victimhood* provokes deep questions about victims and about how we perceive and respond to victims in a variety of contexts. For advocates of restorative justice, the book also provides glimpses of a fresh perspective into restorative philosophies and practices. The book may stimulate significant philosophical and scholarly debate for years to come.

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Gregory K. Sims, Linden L. Nelson, and Mindy R. Puopolo, eds. *Personal Peacefulness: Psychological Perspectives*. New York: Springer, 2014. ISBN-10: 14 6149365X (Pbk). Pp. 250.

I was very pleased to see the publication of this edited volume on the subject of "personal peacefulness," the authors' term for what they acknowledge may also be called inner peace or intrapersonal peace. As a professor of conflict resolution studies who has taught a course on inner peace and conflict transformation for a number of years, I have searched in vain for relevant literature on this important topic. The authors themselves reveal that a PsycINFO search on the subject of "inner peace" produced only twenty-two references, and a search of "intrapersonal peace" produced one single reference.

The first part of the book presents several articles that focus on the concept of a peaceful personality and its correlates. The focus on personality posits the existence of non-observable internal states or conditions that are revealed to the outside observer through one's attitudinal or behavioural manifestations. A peaceful personality may be associated with positive attitudes toward nonviolence, for example. While useful for research purposes, it is difficult from a peacebuilding or conflict transformation perspective to see how such an approach can be usefully employed to promote the growth of personal peacefulness.

More promising initiatives are taken by Barbara Tint and Mary Zinkin in chapter 7, and by co-editor Gregory Sims in chapters 8 and 9. They identify three approaches to personal peacefulness that offer greater potential in the promotion of peaceful relationships with self and others. These authors discuss self as a relationship, human needs theory, and the application of mindfulness to the development of personal peacefulness.

The focus on self as a relationship with itself allows us, first, to understand personal peacefulness in terms of an ongoing peaceful relationship rather than a passive state, just as a focus on ongoing peaceful interpersonal and intergroup relations allows us to focus on dynamic processes of interpersonal and group interaction rather than passive states or conditions. Here the authors could have gone further toward recognizing the centrality of the relationship with self—how thought itself begins with the process whereby we signify objects and events to ourselves, and continues as we constantly assess and evaluate our selves in relationship to our environment.

Human needs theory is a second promising direction identified by Sims, and by Tint and Zinkin. The theory states that deep-rooted conflict arises when fundamental human needs such as security, recognition, identity, connection, justice, and self-determination are not met. The recognition of the impact of external social and political influences on inner peacefulness which this perspective entails is an important consideration. It provides a starting point from which we can go on to consider our relationships to our own needs, and how we can address those needs in the context of our selves. For instance, it is clear that a lack of recognition or respect from others can lead to inner conflict in our relationship to ourselves. However, to the extent that we are able to maintain our own self-respect and self-esteem, we are able to withstand a considerable lack of recognition from others. The same applies for other basic needs.

Third, Sims rightly grants an important role to the practice of mindfulness drawn from Buddhist traditions. His focus is primarily on the practice of mindfulness to achieve greater awareness of physical sensations, with personal peacefulness emerging through the conscious awareness and encouragement of "harmonious stimuli." Such awareness provides a helpful first step toward inner conflict transformation. As we become more aware of the centrality of our inner dialogue within our relationship to self, the practice of mindfulness allows us to move beyond the "noise" of cluttered thoughts and unexamined feelings to engage in active listening to the inner voice and get in touch with our true selves.

Finally, this volume includes an important article by Susan Heitler, who has written extensively on the subject of interpersonal conflict resolution. She offers a model for ways of responding to interpersonal conflict and describes core conflict resolution skill sets. However, she tends to fall back on a view of inner peacefulness as a passive state. It remains to move ahead to an understanding of peacefulness as a dynamic inner relationship to self. Once this understanding is achieved, the knowledge and skills that she describes can be effectively applied to inner conflict.

It is a pleasure to see this very important topic being addressed, and I have confidence that its publication will generate ongoing interest and study.

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Daniel Hunter. *Strategy and Soul: A Campaigner's Tale of Fighting Billionaries, Corrupt Officials, and Philadelphia Casinos*. Philadelphia: Daniel Hunter, 2013. ISBN 978-0-9885508-0-3 (Pbk). Pp. 338.

I have found the text for which I have been waiting. I teach nonviolent social change. Each year, I try a variety of ways to make the theory "come alive" for the students. One method I use is to include a book that depicts a nonviolent struggle which we can use as a case study. Having this example allows us to apply the material we are learning to "real life": Does it work? How? What else could have been done, given what we have learnt together? I have tried various books over the years, with more or less success. *Strategy and Soul* is the most effective by far. *Strategy and Soul* is a detailed study of a successful community-based campaign to keep casinos from being built in residential neighbourhoods in Philadelphia.

The strengths of this book are many. Author Daniel Hunter is an activist who also truly knows the theory. A graduate of Swarthmore College, Hunter uses his academic background to infuse and support his work. The result is a case study of "thick description," giving an unusual "backstage view" inside a case. It acts as a form of "How To Primer" on multiple topics: Conflict Resolution (such as Positions and Interests 7, 63; Intent/Action/Effect 22, 31; Negotiating 68-70), Organizing (for instance, the "Ask" 5, 24, 128; Ally Spectrum 9, 12, 127; Three-Touch Rule 141-42; Public Myth, Private Truth 19, 53, 80; Pace and Lead 85), and Nonviolent Action (examples include Relentless Persistence 152-66; Transparency 134-35; Targets 66-67; Jujitsu 103-4, 115; Dilemma Demonstrations 12, 29, 96). Underpinning much of the philosophy of the campaign is the idea of "Show, not Tell." Casino-Free Philadelphia created actions that demonstrated the injustices that were being confronted: "For several hours, the PGCB [Philadephia Gaming Control Board] shut down its offices rather than allow us to get access to some documents. Our message was embedded in our action so we didn't need our signs or press releases to explain our action. We were *showing*, not *telling*" (44, author's italics). Readers with a theoretical interest in nonviolent action will find much to explore, while activists will find inspiration and guidance. Hunter has followed up with a useful *Strategy and Soul Reader's Guide* which includes samples of campaign flyers as well as

discussion questions for teachers using *Strategy and Soul* as a textbook.

Another strength of the book is the contextualizing of the Casino struggle as another step in the history of nonviolent action. Casino-Free Philly took inspiration from earlier campaigns such as Turn Your Back on Bush (142), the 1970s Quaker Action "naval blockade" of Philadelphia ports to protest US arms exports (48), and the Canadian Union of Postal Workers' Easter Egg search and seizure to force the Canadian government to release documents related to Postal plant closures (12). We see from this book how activists and movements owe debts to earlier struggles, and we are introduced to creative nonviolent actions of which we might otherwise have remained unaware.

In a world crumbling at the end of empire and at the onset of potentially catastrophic climate change, a struggle that is endemic to activists is how to remain hopeful. Hunter tackles this head on, both in the campaign and in the book itself: "We found most people disliked casinos, or at least had grievous reservations. Yet when we invited people to stop them, they held onto the deeper, more cherished Philadelphia value: defeatism. Our battles often felt like it was more about giving people hope than about casinos" (94). Unfortunately, Philadelphia does not hold a monopoly on this "cherished value." Hunter does, however, remind us of Bill Moyers' antidote (Movement Action Plan, 162-63)—recognize that perception of failure is a natural part of the trajectory of any movement. Hunter adds another antidote: celebrate, celebrate, celebrate. Not only did Casino-Free Philadelphia create upbeat, celebratory actions (such as Operation Transparency), but successes were intentionally feted (90, 82). What gives these successes validity is Hunter's willingness to share his own struggles with despair. At one difficult moment in the campaign, when losing seemed inevitable, Hunter reached out to a mentor. He describes their conversation:

I felt a kind of power shooting down each of Philippe's ideas, a kind of sweet misdirected revenge. He refused to collude with the despair and kept offering ideas until he finally closed, "Where there's anger, there's hope. You have to help people tap it." I snapped my phone shut. Part of me gripped tightly to my grinding despair. Philippe's optimism was infectious and therefore unsteadying to me (157).

Strategy and Soul in its present format is self-published, which could be the reason for a few weaker points. The book would have benefitted from further editing and shortening, ideally from someone not familiar with

the ins and outs of Philadelphia or US politics. As it stands, much locally-specific material is given minimal explanation. Although one can skip over these details and not lose the value of the analysis or the thread of the story, I find myself wishing for an appendix with a flow chart depicting city/state political structures, a list of acronyms, and a list of characters/roles. These are small points, however. The book is humourous, well-written, and powerful. The activists whose work it details create brilliant and unique strategies such as Philly's Ballot Box (when a referendum question is illegally kept off a civic ballot) and "Where is the Transparency" window-washing. The book is easy to access copies via the author's website (www.strategyandsoul.org). I enjoyed the book and learned from reading it; better yet, so did the students in my class. Best of all, they were encouraged and inspired by it, motivated to actively engage their world, and given guidance in how to do it more effectively.

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