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PEACEMAKING NETWORKS AND RESTORATIVE JUSTICE | 9

John Braithwaite

Policing peace

This chapter argues that police peacekeepers have an important role in building peace in nations that have been racked by armed conflict. Their role is conceived as sustaining networks for the governance of peace and being part of such networks. Because peacebuilders are vulnerable to assassination by actors with a stake in the war, I will argue that the crucial role for the police is to protect such peacebuilders. The case of the civil war in Bougainville is used to illustrate the potential of restorative justice in peacebuilding. Circles of reconciliation in one pacified space can be networked out through to victims and perpetrators from unpacified spaces. Police can help identify combatants who might join peacebuilding circles and thus forge crucial links between war-making and peacebuilding networks. When combatants give up their weapons, the objective is to reintegrate them into a democratic society by providing legitimate opportunities for a productive future. They need to be given a stake in peace. Peacekeepers are conceived as supplying a responsive regulatory capability to escalate up a regulatory pyramid of progressively more coercive strategies to motivate peacebuilding at the base of the pyramid. Democracy-building is then conceived as accomplishing multiple

separations of semi-autonomous powers in civil society. The ideal for sustained peace is seen as a plethora of civil society actors, all with their own capacity to regulate one another (and the state) by escalating from more deliberative to more deterrent political strategies that stop short of violence.

New wars

From the time of the rise of strong states in the Middle Ages until 1989, the way to understand war and how to prevent it was to grasp shifts in the balance of power among major states. From 1945 to 1989, the key thing to understand about the maintenance of peace between major states was the relationship of those states to the two superpowers. When war broke out in minor states – in Cuba, Korea, Vietnam, Angola, Vietnam, Afghanistan – it had to be understood in terms of superpower rivalries in the periphery. Of course there were many other schisms. It is not as if ancient divides such as that between Islam and Christendom had disappeared; it was just that it was clear which was by far the most consequential schism between 1945 and 1989 in shaping the outbreak of wars. This meant that to be effective, diplomacy had to engage superpower elites – negotiating diplomacy was something Kissinger and Gromyko did. Such men are no longer the principal architects of war and peace:

> Who are the architects of postmodern war, the paramilitaries, guerrillas, militias, and warlords who are tearing up the failed states of the 1990s? War used to be fought by soldiers; it is now fought by irregulars. This may be one reason why postmodern war is so savage, why war crimes and atrocities are now integral to the very prosecution of war (Ignatieff 1999: 5–6).

Contemporary wars, Keen (1998) points out, are numerous (51 nations were involved in internal armed conflict between 1994 and 1998), and in many cases seem intractable, with hostilities resurfacing repeatedly after they seem to be resolved. The problem, according to Keen, is that in many of the most crippled states in the contemporary world, war is more an economic opportunity than a problem to the protagonists. Securing control of some weak states has less to offer than do pillage, collection of protection money (Mafia style), monopolising trade of key commodities such as oil through violence, forced labour, appropriating depopulated land and mineral resources, selling

off the forests or the ivory, stealing foreign aid and/or simply setting up roadblocks and making people pay 'taxes' to be allowed through.

Persistence of conflict can therefore in part be understood by armies on both sides having an interest in keeping the war going, at least at some points during complex shifts in alliances. Relations between warlords can be cordial in such circumstances of co-operative conflict. Keen's analysis (1998: 18–19) can make sense of practices such as avoiding pitched battles (for example, in Liberia) and selling arms and ammunition to the other side (for example, in Cambodia, Chechnya, Sierra Leone, Sri Lanka). 1993 was the first year since the recording of conflicts when armed conflicts over autonomy or independence markedly outnumbered conflicts over the type of political system or government composition (Australian Department of Foreign Affairs and Trade 1999: 74). A connected statistic is that between 1975 and 1995, unregulated population movements – forced movement or movement across borders unsanctioned by governments – increased over 1000 per cent; most of these people were trans-border refugees, internally displaced as a result of war or persecution (Dupont 1999: 162).

However collaborative warlords are, hatred and fear across the schisms of dominated populations are necessary to keep these wars going. Accomplished warlords have cruel skills in exacerbating the fissures in contemporary weak states. Part of our analysis of what is therefore needed in the contemporary world is grass-roots peacemaking skills for healing these fissures, so that power-hungry, money-hungry, rape-hungry warlords have less fear and division to work with. What late-modern warlords need is a situation where terrified citizens are saying, 'Who is to protect us now?', so that they can say, 'I will protect you.' Yugoslavia since Tito is an example of ethnic political–military elites filling a power vacuum in a disintegrating state by offering protection from other ethnic groups, thereby furthering the disintegration of the state and driving other ethnicities into the arms of warlords.

At the same time as globalisation increased the interests of developed economies in a peace that secured their trade networks, it also increased the rewards of warlordship in weak states. Warlords establish linkages with organised criminal elements in wealthy states: they sell drugs into affluent markets out of the Golden Triangle, Afghanistan, Tajikistan, Peru or Colombia and through states like Nigeria; they profit from global markets in arms; they hold western business executives or tourists hostage for ransom payments; they do dirty work for a fee for western security agencies; they

dump toxic wastes on the land of their people in return for large payments from western business; they plunder foreign aid supplies; they hire themselves out as enforcers of western intellectual property rights against pirate manufacturers in the periphery, while themselves replacing real and expensive medicines with valueless counterfeits. The drugs situation in AIDS-ravaged nations says something of the ruthlessness of the criminal exploitation of the people of Africa that is occurring. Pharmaciens Sans Frontières estimates that 60 per cent of Cameroon's national market in medical drugs is pirated products, sometimes just capsules filled with flour (Hibou 1999: 107).

Hence the globalisation of markets simultaneously increases the costs of warfare to major states and increases the rewards of warlordship and state crime within weak states. To understand contemporary African wars, we need to recognise the process of the criminalisation of the state in Africa, which has both required and produced symbiotic relationships among official controllers of state and military power, international organised crime and local warlords (Bayart, Ellis & Hibou 1999). One of the reasons restorative justice notions developed in criminal justice systems are relevant to late-modern wars is that war and state crime are part of the same phenomenon. They co-exist in processes of using violence to acquire power for purposes of plunder.

The networked governance of peace

Kaldor (1999) concluded that islands of civility always survive, even in countries ravaged by the worst of wars. Her peacebuilding strategy is to link those islands of civility to support from transnational institutions – aid organisations, human rights non-government organisations (NGOs), pro bono lawyers, the Red Cross, peacekeepers. I would add that these islands of civility in the war-torn civil society should also be linked to support from restorative justice initiatives and an International Monetary Fund (IMF) and World Bank that have been reformed and now follow a strategy of bottom-up consent. Regional experts from specialist institutions such as the IMF should be important participants in high-quality deliberation for peacebuilding, not only because they are indispensable stakeholders, but because they have an expert competence that should not be dismissed by their political critics.

As UN Secretary-General Kofi Annan is fond of saying, 'We can't impose peace.' But the United Nations must be adequately funded to support peacemakers and their democratic institution-building. The evi-

dence from Doyle and Sambanis's (2000) multivariate analysis of 124 wars of the late 20th century is that international peace operations are more likely to end violence and increase prospects of postwar democratisation when the United Nations is involved and when the operation involves a more holistic commitment to peacebuilding through multidimensional development of institutions (as opposed to just peacekeeping, as in patrolling borders and monitoring ceasefires). An objective of peacebuilding becomes to shift states out of the category where plunder is the best strategy for the acquisition of wealth and power to the category where development through peaceful trade creates the most lucrative paths to wealth and power.

Of course the worse the war has been, the more decimated the islands of civility will be and the more outside support they will need. Yet Kaldor (1999: 121) argues that there were many cases of locally negotiated peace accords between factions in South Africa, Northern Ireland, Central America and West Africa and even Somalia. They are zones of peace that can be expanded outwards into the zone of war; they are repositories of local knowledge about how to heal the conflicts at issue. The appealing thing about Kaldor's approach is that it transcends the barren stand-off between those who favour a truce and top-down structural adjustment versus defenders of humanitarianism and neutrality.

Sadly, criminalised governance in war-torn societies often appropriates humanitarianism to line its pockets. Neutrality – studiously avoiding taking sides on any controversial issue – is fine for the Red Cross, according to Kaldor, but impartiality is the principle she suggests peacemakers should follow. Impartiality means an absence of discrimination on the basis of nationality, race, religion, political party and the like, but impartiality is not neutral on the law. It stands for justice and protecting the victims of human rights abuses, for being clear that abuses of human rights are wrong and must stop.

This mirrors the distinction in the restorative justice literature between neutrality in mediation of 'conflicts' and restorative justice to right 'wrongs' of injustice. In the worst wars, islands of civility need courage and protection from outside – police protection, lawyers promising to launch war crimes prosecutions against anyone who liquidates them, perhaps regular video reports to sister NGOs outside, peacekeeper patrols around their homes. If all we promise is neutrality, then we promise them death. The United Nations ran when members of the exemplary human rights community in Rwanda were systematically assassinated after they predicted 'massive atrocities unless named perpetrators were called to account' (de Waal 1997).

That story needs to be told across international civil society, so that such desertion of human rights advocates is constituted as shameful. Kaldor (1999: 124–25) also argues that peacekeeping is not enough. What is needed is capability to enforce international humanitarian and human rights law. In the theoretical frame of responsive regulation (Ayres & Braithwaite 1992), what is needed is a capability to escalate up an enforcement pyramid from non-intervention to dialogue and preventive diplomacy, to peacekeeping, to peace enforcement (see Figure 9.1). This means mostly policing with consent rather than soldiering with force. It is what the British peacekeeping manuals describe as 'minimum necessary force', contrasted with the Weinberger/Powell doctrine of 'overwhelming force', which failed so spectacularly when applied in Somalia (Kaldor 1999: 129). It implies adopting the Brahimi Report (2000) recommendation about shifting the balance of peacekeeping personnel from military to police. The role of such police is to secure islands of civility as nodes from which peacebuilding networks are built outwards.

We don't need to stretch our imagination even as far as the troubles of failed states to understand this need. What happened after the New Orleans hurricane of 2005 was a failure of initial policing capability to secure nodes such as hospitals from which humanitarian assistance could be networked. Once the breakdown of policing allowed the gangs and the looters to take over the city, security faced an enforcement swamping problem as well as swamping by water. Humanitarian workers were kept out for want of secure nodes from which to network their assistance.

Where there are injustices in terms of breaches of international law and injustices that are root causes of a war, the difference between a restorative justice philosophy and a philosophy of peacekeeping (as in simply ending the conflict) is that the restorative justice approach demands best efforts to right the wrongs, to heal the injustices. If amnesty of a war criminal is necessary to end a war, to begin reconstruction and to right structural injustices, then such an amnesty can be justified according to a responsive theory of restorative justice. Granting amnesty to specific rapists can be necessary to preventing further rape in war; equally, promising war crimes prosecution of rapists if they walk away from the peace negotiations can deter rape. The objectives are healing survivors, prevention of rape and communication in a morally clear way that rape is never acceptable in war; the restorative justice objective is not the consistent punishment of rape.

Figure 9.1: A responsive regulatory pyramid of international diplomacy

Starting up restorative justice in islands of civility

Restorative justice is a strengths-based approach. When children from a particular family are constantly in trouble with the law, the key question is not, 'What are the problems of that family and those children and how can we fix them?' It is, 'What are their strengths and how can we build upon them?' Typically, we build upon them by mobilising networks of support from the extended family, from a school community, a neighbourhood, a church community, a sporting club, who sit in the circle of a restorative justice conference. Equally, Kaldor's islands of civility strategy is a strengths-based approach. Her key question is, 'What are the locales where civil society is surviving as a foundation from which the development of peace, human rights and democratic governance can be networked? Those islands of civility might also be the locales from which restorative justice can be networked.'

Restorative justice is a process where all the stakeholders affected by an injustice have an opportunity to discuss who has been hurt by the injustice, how those harms might be repaired and how the needs of those affected

might be met (Zehr 1990; Van Ness & Strong 1997; Howley 2002). With a war crime, it can mean a process like the South African Truth and Reconciliation Commission. Or it can mean restorative justice conferences conducted in ways that accord with local custom, where the alleged war criminal, with support persons from their family or tribe, sit in a circle with victims of the war crime, their loved ones, other community supporters and others who can help meet their needs through, for example, providing trauma counselling. First the truth of the crime must be confronted. In general, reconciliation without truth will not work. Once there is a certain level of agreement on the terrible truth of what happened, those who have been damaged by it have the chance to bear testimony to the nature of their family's suffering. Then they are encouraged to express their needs. Do they need to know where their son's bones can be found? Do they want him to be remembered before voices for 'putting the war behind us' prevail? Perhaps someone in the circle suggests renaming his old school in his memory so the young will forever remember the tragedy of the war and this particular victim's place in it. Perhaps they just want to hear an apology from their son's killer. Maybe that killer, for her part, wants to give them a gift in hope of healing. Perhaps they want support from the community to pay for the education of the dead man's children and the rebuilding of the house burnt down during the conflict. They might want assurances from political leaders that the political project in whose name their son was murdered is a political project that will be forever defeated in a new democracy with a new rule of law. Sometimes none of this would be enough, and the victim's family asks for support from a circle to persuade a war crimes prosecutor to mount a criminal case against one or more of the perpetrators.

Mostly, perpetrators and their supporters will come from a different community than victims and their loved ones. So a conference convened in an island of civility, where some perpetrators live, would invite victims and their families from surrounding communities to hear the terrible truth uttered in hope of reconciliation. When that reconciliation happens, a bridge is built from the island of civility to the neighbouring community. If that neighbouring community's citizens believe they benefit from the ritual of healing, their perpetrators might be persuaded to offer up their truth, apology and gifts of repair to a third community. This is the restorative justice ideal: ripples of peacebuilding moving out from islands of civility. Local creativity, and familiarity with local custom, are crucial to turning ripples into waves of peace that wash across a nation. In the Bougainville case study of such a restorative justice process discussed in the next section, music delivered by police peacekeepers was culturally important to creating pacified spaces for restorative justice; leadership from women's NGOs was also critical, as this is a matriarchal society where much of the conflict was over land, and women are the traditional custodians of the inheritance of land.

Civil war and restorative justice in Bougainville

The civil war on Bougainville concerned secession of this island from Papua New Guinea and fighting between different local factions. It has been a testing ground for a restorative justice approach to peacemaking. From the mid-1990s, women's NGOs joined hands to create ever-wider spaces for peace. They organised women's peace marches winding across long distances of the island, networking together so many women who had never met before in their shared aspirations for peace. They were a driving force for reconciliation at the crucial peace talks of the late 1990s (Sirivi & Havini 2004). Bougainville women on both sides of the conflict worked together at the Global Conference on Women in Beijing, in 1995, attracting considerable international attention with their pleas for peaceful intervention (Spriggs 2004: 122). Sirivi explains the role of reconciliation in Bougainville society very clearly:

> Reconciliation has been the mainstay of the strength of the Bougainville peace process. Ten years of war, suffering, numerous failed negotiations and peace agreements from 1989 to 1997 were more than we, the mothers of Bougainville, could bear ...
>
> Because the reconciliation process is a tried and true part of Bougainvillean culture and is integral to who we are as a people, it has come to form part of our political process. This process mends and heals, restores peace and harmony and puts relationships back in their rightful place ... Traditional processes represent a holistic approach for conflict resolution, restorative justice and reconciliation. The clan looks after its own. No matter how gross the offence, the clan will represent the offender – but the clan will also make them address their behaviour. The individual is always accountable to their family and clan. Very often, the clan will ask for some act of good faith from their erring member before they will agree to stand for the guilty and act for them in the reconciliation ...

Humility is an essential part of the process. Forgiveness must be accompanied by an acceptance of truth by all parties to create a meeting point where an agreement on compensation or atonement can be negotiated. In traditional culture, as in Christian teachings, for forgiveness to be genuine, the feelings need to be real and deeply felt from the heart. There would be no point proceeding with a ceremony if there was any doubt that one party was genuine (Sirivi & Havini 2004).

The PEACE Foundation Melanesia, funded by Caritas, the New Zealand Overseas Development Agency and the Princess Diana Fund, has given basic restorative justice training to 10,000 people on Bougainville, including 500 as facilitators (this group includes many traditional chiefs), and 50–70 as trainers (Howley 1999, 2002). Out of this, the PEACE Foundation Melanesia produced some 800 active village-based mediators to deal with the conflicts that have arisen in the aftermath of a civil war, from petty instances of ethnic abuse up to rape and political killings. The Bougainvilleans are discovering their own ways of doing restorative justice, consistent with their Melanesian principle of 'wan bel' (literally one belly), or reconciliation.

Former PEACE Foundation Director Brother Patrick Howley points out that civil war becomes an opportunity for old grievances between people that have nothing to do with the war to be acted out. Unless these conflicts are healed when the shooting stops, they may lay dormant, waiting to contribute to or escalate the next outbreak of hostilities. For example, men used the war to win old disputes over land by making allegations that their adversary was a spy, in an effort to have them killed so the land could be seized. Howley believes that the new hatreds that are most damaging for long-term peace, the hatreds that must be healed, are in the hearts of traumatised children who witnessed their parents being tortured in sadistic and degrading ways – sodomised by a rifle barrel, for example. These children need help to heal so that they do not become the avengers who cause the next war. Remarkably, Howley reports that there were cases of the civil war being used to even scores from World War II, when some Bougainvilleans helped the Japanese and others the Americans. In Bosnia such failures to heal after World War II atrocities are even more important to understanding the violence of the 1990s (Shawcross 2000: 47).

Realist international relations theorists might look at a case like 'Now Buin is moving again' and say this is not the stuff of war; this is the settling

Now Buin is moving again

Reprinted from PEACE Foundation (1999b)

In October 1998, Paul Bobby the BRA [Bougainville Revolutionary Army] Commander for Buin was shot dead in his village Kararu in Buin District. Since this incident the situation in Buin had been tense. The peace process not only halted but several ambushes and shoot-outs threatened to return Buin to the conditions of the crisis. In a wave of reprisals and counter reprisals, the ensuing 8 months saw armed clashes between the relatives, soldiers and supporters of Paul Bobby and the followers of Thomas Tarii (the other main BRA Commander in Buin). During this period the BRA splintered into factions and all efforts by the higher BRA commanders to resolve the conflict failed.

The conflict resulted in restrictions of movement especially on the Buin highway to Arawa and the strategic road to Kangu where ships are unloaded. Consequently there was a disruption to the delivery of services to the district ... Incidents of lawlessness increased especially in Buin town and a general feeling of fear and uncertainty prevailed. The conflict threatened to spread into neighbouring Siwai and Kieta districts as incidents spread ... [I]t was generally acknowledged throughout the island that this conflict represented the gravest threat to the peace process ...

[A]s the number of incidents escalated, individuals and organisations from outside the BRA became more active in trying to begin the process of reconciliation. Enormous credit should be given to the various women's groups in Buin who initiated discreet dialogue between the factions. Their efforts gradually restored a sufficient level of trust between the factions to allow them to come together for the first time to try to resolve the conflict through discussions rather than violence. With the initiative of the Telei District Peace Committee Chairman (Steven Kopana) and with the support of the [UN-backed] International Peace Monitoring Group (PMG) based in Buin, Francis Kauman and Joe Nakota were requested to mediate in the reconciliation. These two experienced PEACE Foundation Conflict Resolution trainers were recognised both for their skills and neutrality as key people in the meeting.

The reconciliation took place at the 'PMG Haus Garamut' (meeting house) in Buin High School on 21/5/99. The meeting started at 9.30 am and concluded at 4.30 pm and was witnessed by hundreds of people who had gathered from the east and the west ... After moving speeches, tears and the shaking of hands, the reconciliation concluded with the signing of a Memorandum of Understanding by the eleven BRA Company and Platoon commanders involved in the conflict. The seven points agreed to in the Memorandum of Understanding (written in Tok Pisin) state clearly the common desired goal, i.e., 'Bai yumi lusim pasin bilong fait na kirapim bek bel sis na trust namel long yumi yet' (We will reject violence and initiate again peace and trust between ourselves). The other points agreed are brief but poignant. Upon close examination they reflect a deep understanding of the root causes of the conflict and possible obstacles in implementing the agreement. This indicates that the Memorandum of Understanding was clearly agreed to after a great deal of honest and assiduous discussion ...

Whilst time will be the ultimate test of the Agreement, there is now a general feeling of relief that an encumbrance has been lifted from the people of Buin. Freedom of movement has been restored and the path has now been cleared for the establishment of a Buin Joint Police Force consisting of ex-BRA and resistance [pro-PNG] soldiers ... In his closing speech at the reconciliation Col. Edgar (CO PMT Buin) remarked that had Francis and Joe not gained these skills there couldn't have been reconciliation. In thanking Francis for his efforts, Linus Konukun, the newly elected Speaker of the recently established Bougainville Constituent Assembly, remarked 'Now Buin is moving again'.

of an insignificant factional conflict. But perhaps this perception of what is an insignificant conflict juxtaposed against real structural conflicts between a reified Bougainville Revolutionary Army and a reified Papua New Guinean state which is attributed unitary interests is the problem with realist diplomacy that occurs in places such as the White House.

This is Shearing's (1995, 1997, 2001) Hayekian critique of state planning to control violence. The social engineers of statist diplomacy don't have enough local knowledge to understand the real conflicts that are touching people's lives. The conflicts on the ground are always more complex than their reifications, more rapidly changing than the intelligence reports from diplomats in air-conditioned offices can keep up with. Only indigenous ordering in a Buin schoolhouse to define the cross-cutting conflicts in local terms will deal with the local drivers of a war. Equally, there may be geo-political dimensions of the conflict that can only be understood in the language that is spoken in a meeting between major and minor state powers in the Office of the Secretary-General of the United Nations in New York. If they want to be effective in making peace, the big-men of Buin and of New York both must learn when to defer to the local knowledge of the other.

The New Zealand, Australian and South Pacific military and police peacekeepers on Bougainville played a complementary role here as well. Their commanders rewarded them not so much for military accomplishments, such as completing patrols, but for building relationships with the people through sporting and musical events where good food and fellowship were provided.[1] This means a military and police presence that complements a restorative approach to peacekeeping, as illustrated by the role of the Peace Monitoring Group in 'Now Buin is moving again'. The peacekeepers were unarmed, a symbolism that seems to have impressed local warriors (see Keelty, Chapter 5). It is the symbolism of a pyramid of restorative and responsive regulation: 'Yes we are warriors who can call upon the firepower required to put down challenges to the peace. But we do not need it; we can do the job with good food, good music, good relationships and goodwill.' Australian Foreign Affairs Minister Alexander Downer has reported how on visiting Bougainville he was moved by the reciprocal gestures of breaking of spears by warriors and spontaneous singing by women. This signifies the difference between realist elite diplomacy and idealist peacemaking with reconciliation that touches the hearts of ordinary men and women.

Motivating the networking of democratic governance with restorative justice

There is quite a deal of evidence that top-down elite mediations initiated by presidents and foreign ministers of powerful states frequently work in brokering ceasefires. However, Touval and Zartman's research (1985, 1989) shows that top-down peacemaking is much less successful in building permanent peace, because it mostly fails to heal the hearts of people who have been pitted against one another. When there is escalation to dominated mediation in which a major power bangs the parties' heads together and the prospect of escalation beyond this is displayed, we create conditions for the de-escalation of disputing to democratised restorative justice. Co-operative peacemaking should normally be rewarded by de-escalation down the responsive enforcement pyramid. Power-based mediation can sometimes create a temporary peace that opens an opportunity for a restorative justice process to struggle for an enduring peace based on justice, healing and an ongoing commitment to preventive diplomacy. Arguably, the foreign troops and police of the Peace Monitoring Group in Bougainville did just that – they created pacified spaces, with guitars rather than guns (as documented in the film *Bougainville Sky*) so the Bougainvillean factions could meet and discover for themselves the terms of their reconciliation.

While ethnic hatreds, war and plunder are recurrently characteristic of dozens of weak contemporary states, according to my analysis they are consequences of weak institutions of governance that are denied legitimacy by their people. A peace process is actually a historic opportunity to fix institutions. Germany, Japan, Italy and Austria seized this opportunity for democratic institution-building help (with a lot of reconstruction) between 1945 and 1950. The Marshall Plan was costly to the United States, but through trade and collective security it was one of the best investments US taxpayers ever made in their own peace and prosperity.

Restorative justice may have the elements needed to transform a crisis of war into an opportunity for institutional renewal, a potential South Africa may have realised. The main reason for this is that it involves a bottom-up process that seeks to engage civil society in a discussion of the institutional renewal required to make the peace just and permanent. Working together to put the institutional problems in the centre of the circle is a good start to transcending ethnic hatreds. Global financial institu-

tions need to be in the circle as well – listening. When asked to speak, their obligation is to say that lending and investment will not flow unless bankers see fiscal balance, an independent central bank that resists printing money to pay for private armies and like criminalisations of the state. Ultimately, structural adjustment is inevitable, but imposed structural adjustment is not. It can be explained that the new policy of the global financial institutions is for a war-wearied civil society to commit to institutions that will prevent the return of the kleptocratic state, that will replace forever the rule of armies with the rule of law. To get an excellent education system for the new generation, commitment in civil society to this goal and to a legitimate tax system to pay for it, is essential. Understanding is also essential, understanding among the people that the alternative is an inexorable slide down the slippery slope of a structural adjustment package that will cause retrenchment of teachers.

Just as we think the family crisis of arrest for a serious crime can be a resource in a restorative justice conference for finding the motivation to kick a heroin habit, so we propose that the crisis of war can be a resource for restorative justice conferences to motivate institutional renewal that transcends reliance on tyrants for protection from the ethnic other.

Finally, restorative justice may supply a valuable philosophy of diplomacy because late-modern war is a criminal matter much more than modern and early modern war was, waged more against civilian populations than against other armies. Most contemporary wars are systemically criminal and many of their root causes lie in the criminalisation of the state – the use of the institutions of the state as an apparatus of plunder, impoverishing the people and causing them to withdraw legitimacy from the state. It follows that peace is unlikely unless the people can come to terms with their anger and hatred over those crimes. Rituals are needed to heal the damaged souls of the people, to help them find ways to transform hatred into sorrow or forgiveness, to be able to move forward with hope rather than wallow in the evil of the past. Restorative traditions have been developed through the ages in all the world's cultures to help with that transition. The global social movement for restorative justice is now a rich collective memory file for retrieving bits and pieces of those traditions and putting them to use in helping people deal with their most difficult conflicts in a way that is culturally meaningful to them. Desmond Tutu (1999) is probably right that in a society torn by ethnic war there can be *No Future without Forgiveness*.

Rituals of a funeral character have a place in helping survivors put hatred aside to grieve for their people and then resolve to push on in the way their loved ones would have wanted. But if the shame of the survivors' degradations is not acknowledged and discharged, if the hatred festers below the surface, when the next national crisis comes along the political niche will still be there for the demagogue to seek power by blaming the nation's woes on the evil other.

Forgiveness cannot be forced; it can only come when survivors are emotionally ready for it. What we can do, what the great global project for peace must do, is provide ordinary citizens with rituals which expose us personally to the sorrows and suffering of the other, and expose them to ours; rituals that create spaces where apology and forgiveness have a chance to be expressed. That is why the PEACE Foundation Melanesia is on the right track in training a thousand Bougainvillean facilitators to move around their villages convening restorative justice conferences to heal the emotional wounds of their war.

Police, security and democracy

The special competence of police in enabling restorative and responsive justice for peacebuilding is in securing pacified spaces. If necessary, though they hope force will not be needed, police stand ready to mobilise coercion to that end, up to calling in military peacekeepers with heavy weaponry. The crucial role of the police is not to create circles of reconciliation, but to secure the perimeters of such circles when they bubble up from civil society with support from outside NGOs, from the World Bank and others with the resources that count for peace. When the Bougainville Women for Peace and Freedom lead peace marches and summits, the job of the police is to ensure they are not killed. In Kaldor's broader terms, it is to ensure that islands of civility are not crushed. In responsive regulatory terms, police peacekeepers are not the primary agents of capacity-building and restorative justice at the base of a regulatory pyramid. Where they become more important is in escalating to the deterrence and ultimately the incapacitation of those who wish to mobilise violence against capacity-building and restorative justice. That in turn creates the conditions where warlords who fear deterrence or incapacitation decide that they can accomplish more by peacefully joining the circle. Of course a form of capacity-building for which

police peacekeepers must be more directly responsible is developing indige-nous policing to take over from them the roles discussed in this chapter.

Peace does require that sympathetic combatants be drawn into reconcil-iation processes. These key combatants who first step in to the circle can then become translators of the mentalities of the peacemakers to the mentalities of the warmakers, and vice versa. The warmakers then learn that, for example, the peacemakers have proposals for them to hand in their weapons; the peacemakers learn that the warmakers will not do that until there are certain guarantees that their voice will be heard in new political institutions that are an alternative to their guns being heard. Once the initial link has been estab-lished between peacemaking and warmaking networks, new nodes of gover-nance can be established – a working group of both peacemakers and warmakers here on weapons surrender, another there on constitutional revi-sion, another somewhere else on preparing for an election, another on food and safe transit back to their homes for hungry refugees.

As in networking islands of civility into surrounding regions of inci-vility, confidence-building is possible by acts of generosity to individuals with the courage to cross over into a peace process. That can be the gen-erosity of forgiveness, of a compensation payment, of an empathic speech, or return of land appropriated during the war. Police have an intelligence role in this confidence-building process. Their contacts with and knowledge of the warlord camps may allow them to suggest to the peacemakers who might be the individuals in the warlord camps who are ready to be the first movers across to reconciliation. If requested to assist in setting up direct peace talks between antagonistic factions, they can provide the food, the venue and the logistics for such an event. They can even provide the music!

Democratic state control of the war of all against all

States control armed conflict when they have an effective monopoly on the use of the most sophisticated armed force. But to be effective in regulating violence, the state needs more than guns. It needs a pyramid of regulatory escalation (Ayres & Braithwaite 1992). At the base of the pyramid it needs the capacity to regulate conversationally (Black 1998). To be effective at this, the state needs legitimacy in the eyes of its people (and the interna-tional community). It also needs an image of invincibility – a belief on the

part of regulated actors that if they walk out on dialogue, the state will be sure to escalate its regulatory response. The state needs to be able to esca-late through various more potent forms of deterrence, until ultimately it incapacitates insurgents through imprisoning or killing them.

An invincible state will still be vulnerable to externally funded armed malcontents, however, if those malcontents do not have any capability to influence the state. It is such an ability to influence the state, especially through dialogue and elections, that constitutes state legitimacy. Actors in a differentiated civil society need access to their own regulatory pyramids, so they can regulate the state and other elements in civil society, such as a religious group that vilifies them. If the only weapon they have is to nego-tiate, if they have only a base to their enforcement pyramid without any bar-gaining chips above it, they are vulnerable to predation. If they have no base to their pyramid, only guns that give them the one big bargaining chip of war, they are liable to be predators. Indeed, the more factions there are with a capacity for armed force and without ability to influence deliberation and power-sharing, the less likely peace is (Doyle & Sambanis 2000: 789). It follows that peace is more in prospect when a rich plurality of constituen-cies in civil society, including all vulnerable ones, have an escalated set of deliberative and deterrent regulatory tools available to them, but not the tools of violence (see a dynamic powerpoint of this model at <http://www.anu.edu.au/fellows/jbraithwaite> [all websites listed were correct at the time of writing]). Second, peace is more likely when a state with legit-imacy has available to it an escalated set of deliberative, deterrent and inca-pacitation tools.

The police and military must also be effectively regulated by the execu-tive of an elected government, by courts that are not intimidated by them, and by the consent of the people who they perceive themselves as serving. Peacebuilding is achieved by constituting a complex separation of powers in a society where each separated power has enough independence of action to regulate other powers and not so much unregulated power that it can dom-inate all other sources of power in the society. An all-powerful presidency is conductive to dictatorship, an all-powerful army to military coups, and all-conquering multinational business to economic dependency. None of these circumstances is conducive to long-run peace. Semi-autonomous police that are institutionally separate from the military are an important ingredient of such a complex separation of powers. States where power is too unitary are

especially vulnerable in societies divided into two or more major ethnic groups (Maley 1995). If a unitary presidency controls all power that matters, as in Rwanda, for instance, when the Hutus control that power and exploit it for the benefit of Hutus, legitimate opportunities are blocked for others – in this instance, for Tutsis. Tutsis will then be tempted to remedy this by seeking illegitimate opportunities to seize that unitary power. State structures thus must disperse powers responsively to historical context so as to give all nations, religions and peoples within the state some meaningful sense of self-determination.

Peacebuilding in a failing state without these governance capabilities

A state can fail so badly to regulate armed violence that international intervention becomes legitimate in the eyes of its citizens, and internationally, to establish supra-national authority to prevent war. It is hypothesised that legitimacy is especially likely if the intervention is sanctioned by the United Nations. Peacekeepers only maintain that legitimacy if they are procedurally just (Tyler 1990), administratively efficient (Fishel 1998; Manwaring & Joes 2000), enabling of humanitarian assistance and long-term development, and if they eschew predation themselves (especially crimes such as rape and corruption).

Peacebuilders depend on the same capabilities to secure peace as a competent state – legitimacy, leadership, effective monopoly of armed force, responsive regulatory capability to escalate from conversational to deterrent to incapacitative regulation, professional competence and training, non-corruption, commitment to a rights culture, rule of law and procedural justice (Brahimi 2000), commitment to pluralising governance, to separations of powers, to building collective efficacy in civil society so that even formerly excluded fractions of civil society have a range of responsive capabilities to regulate the polity without armed force. The starting theory posits that peacebuilders will be effective to the extent that they enable an opening of legitimate opportunities to all sections of society and the closing to all of illegitimate opportunities to deploy armed violence. Peacebuilders can work with NGOs and UN agencies that provide humanitarian assistance with competence and in ways that do not sustain the domination of warlords (Andersen 1996).

They must work with the IMF and the World Bank, domestic econocrats, business and civil society to stabilise the economy and rebuild investment confidence. Institutional rebuilding need not be 'one-size-fits-all' (Stiglitz 2002); it can be diagnostic, identifying the bottlenecks that chill investment (Rodrik 2004). It is most likely to sustain peace when collaboratively designed by the emerging separated powers that are nurtured by the peacekeepers. The separated powers with the capacity to responsively regulate one another can be developed contextually and nodally (Shearing & Wood 2003; Drahos, Burris & Shearing 2004). This might be done by networking nodes of conversational regulation of the emerging democracy. For example, the responsive regulatory capability of local human rights NGOs can be enhanced by creating spaces where workers are safe to network with Human Rights Watch, with UN human rights officials, with journalists and women's groups sympathetic to building a rights culture.

Reintegration of combatants

Peacekeepers typically face an enforcement swamping problem. There is too much murder, rape and pillaging going on for enforcement action to be taken against even a tiny fraction of perpetrators. A clear, contextually attuned strategy is needed to resolve enforcement swamping. Usually, this will include negotiating ceasefire terms that are likely to involve qualified amnesties and protection for those who put down their guns, ignoring in the first instance enforcement against atrocities that preceded the ceasefire. This is so that enforcement can be concentrated on guaranteeing escalated action against any combatants who cross the lines in the sand drawn in the ceasefire agreement. Confidence-building is then needed, trust that peacebuilders keep their guarantees, so that decommissioning of private armies can proceed. All this means a deep peace process, not one-day meetings but multiple iterations of living and negotiating together for long periods, tackling root causes of conflict in depth.

Humiliation of combatants sets back peace processes (Kennedy 1969); it is important to save face while backing down from armed confrontation (Ting-Toomey & Cole 1990). Integration with development assistance helps when it includes retraining and creating new life opportunities for combatants (Brahimi Report 2000: 8). As illegitimate opportunities to survive through violence are closed off, opportunities to survive through legitimate means need to

be opened up to combatants. Trauma counselling, medical and financial help are needed for victims on all sides. This is not only important in itself; it is also vital to trust and reconciliation. Availability of restorative justice to victims and combatants may help with this (Lederach 1997). If truce agreements deliver amnesties, they can be qualified by perpetrator obligations to speak truth, listen to victims, answer their questions (Gibson 2004). Peacebuilders can deal with refusal to co-operate with reconciliation by widening the circle – progressively inviting more senior bosses of war criminals into the circle until undertakings of restorative justice, even at the price of amnesty, are secured. Without truth, testimony, memorialising loss, a hearing that takes seriously the ideas of victims for permanently suppressing the political project that victimised them, space for micro acts of apology and repair in local communities, national reconciliation and reconstruction, short-term ceasefires may not be consolidated into permanent peace (Braithwaite 2002: 170).

Conclusion

That is the responsive regulatory theory of how to build peace through justice. Doubtless any explanatory power it has is very partial. Doubtless systematic empirical enquiry will prove it wrong in fundamental and contextual ways. The above is the sketch of a starting theory that is laid out in tabular form at < http://www.anu.edu.au/fellows/jbraithwaite>.

The expectation is that the above explanatory framework for moving into this program of empirical research will be found to be wrong in some ways, in need of revision in others, and less illuminating than utterly different frameworks for some kinds of understandings. Nevertheless, the thoughts in this chapter offer a starting framework that has some significant empirical grounding and that points towards a more evidence-based approach to building permanent peace. As it happens, police who secure networks that ripple democratic governance outwards from islands of civility are central to its vision.

Note

1   Here and in the following sentences I rely on remarks by Brigadier Bruce Oxborn, Colonel Bob Breen and Australian Foreign Minister Alexander Downer at a seminar, Monitoring Peace in Bougainville, organised by the State, Society and Governance in Melanesia Project, Australian National University, Canberra, 8 September 1999.

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