Ethical Advice: Conflict Management vs. Human Rights in Ending Civil Wars

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The theory of transitional justice, usually either war crimes tribunals and/or truth commissions, rests on the assumption that after internal conflict, societies must learn and accept the truth of what sort of violence has occurred in order to build a functioning, united society, and that any solution which omits such policies should be rejected. There is no empirical support for this assumption. Moreover, acting on it implies that civil war should be continued. Conflict resolution theory asserts that all major players, including those who have committed atrocities, must be involved in the settlement if it is to be stable. This seems a more appropriate strategy, especially when dealing with someone else’s country and war.

People interested in conflict management (conventionally misnamed conflict resolution) and human rights have traditionally regarded themselves as allies in a not always friendly world. They share a common concern for improving the welfare of people (it seems plausible that human rights suffer in war and that conflict management is easier when human rights are respected) and a common intellectual-policy adversary (the realist, nationalist view that both are at best distractions and at worst impediments to achieving the national interest). Indeed, their memberships overlap a good deal.

But, increasingly, there is intellectual and ethical tension between these two strands of thought. Ironically, it has developed because of their success. In both intellectual and policy terms, conflict management and human rights have become more important in recent years. We can argue about whether this is a long-term change or simply the result of the ending of the Cold war, but the evidence seems clear. Academics find the study of conflict management and human rights both more attractive and more professionally rewarding. Nongovernmental organizations (NGOs) are formed or strengthened to advocate and take action on these ideas in international affairs. Governments increasingly find themselves forced to engage the issues and more willing to at least listen to ideas from the outside.

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This article started as a talk at a conference entitled “Do Good Things Really Go Together? Assessing Human Rights and Peace in the Contemporary World,” sponsored by the U.S. Institute of Peace and Notre Dame University. Revised written versions were presented at the Workshop on Contentious Politics at Columbia University, the International Studies Association and in Saltzman Working Paper #4, Columbia University. The author would like to thank all his colleagues in these various venues for their suggestions and to the two anonymous reviewers of this journal.

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What was once an academic exercise has increasingly become an enterprise that has real impact on people’s lives. As a result, ethical issues have become more important.

In the process of translating theory into action, some problems have arisen, particularly in the debate over how to respond to civil wars around the world. Today, third-party groups of all sorts are deeply involved in attempts to end such violence. Much of this activity has centered on the attempt to end civil wars with negotiated settlements rather than military victories. Both outside involvement and negotiated settlements of civil wars are relatively new. When the Colombian civil war ended in 1957, for example, there was practically no outside involvement in the settlement process (Hartlyn 1993: 48); today all sorts of actors, from individuals to NGOs to states to international organizations, would have attempted to participate.

These actors overwhelmingly focus on stopping the killing as soon as possible. In part as a result of their activities, civil wars are increasingly likely to end in negotiated settlements, although military victories remain a real possibility. Almost by definition, negotiated settlements involve some sort of power-sharing arrangements among the participants.

However, conflict management and human rights increasingly suggest different prescriptions for such arrangements. The argument centers around issues such as (1) should human rights violators be allowed to participate in the negotiations and resulting settlement, (2) should agreements to end the war which do not materially strengthen human rights be opposed by outsiders if the locals approve them, and (3) should agreements to end the war which do not provide for some form of “transitional justice” (war crimes trials, truth commissions, etc.) be acceptable to outsiders if locals support them? To show my cards early, I am on the conflict management side in these issues; I see human rights as a means to the goal of ending war, not a goal in themselves or at least less important as a goal than ending war.

The functional dependence of human rights protection on the absence of war means it is unreasonable to demand, as many from the international human rights movement voice, that when human rights and political expediency require different courses of action, human rights considerations should be automatically accorded precedence. (Putnam 2002: 240)

The human rights perspective holds that civil war settlements without human rights provisions are flawed because such settlements will not last and will simply result in delaying rather than ending the violence. There are at least two separate arguments here: that transitional justice (1) will deter elites from carrying out human rights violations in the future and (2) will aid in reconciliation between the masses on both sides by establishing a common memory of the past and relieving some of the traumas of victims by giving them voice. Both of these desired outcomes are in the target country; in addition, the argument is that (3) transitional justice will deter similar human rights abuses in other countries, making large-scale violence there less likely. Thus, combatants should be strongly pressured to include them in the settlement. The extreme position is that agreements without such provisions should be rejected, even at the cost of continued civil war.

The conflict management perspective holds that the goal is to end the violence as quickly and with as few casualties as possible, with “justice” if possible, without it if necessary. This means negotiations with people and organizations with blood on their hands, not because we approve of them but because they often have the power to continue the war. It may be appropriate to accede to their demands (which will certainly include amnesty and may well include future restrictions on human rights) if this is the only way to end the fighting, with
the hope that after the violence ends progress on these other issues may be made. (A good summary of this argument is Baker 2001.)

Of course, this circle can be squared if there is persuasive evidence that the assumptions of the human rights perspective are correct, that negotiations that leave out human rights violators, civil war settlements that do not increase human rights (in practice often meaning creating more democratic governments), and settlements that do not hold past violators of human rights to account are more likely to fail than settlements that do these things. Unfortunately, such evidence seems to be in short supply.

These are empirical questions, and we have the usual problems of applied social science in international affairs: unclear concepts, poor information, few cases, and confounding factors of various sorts making systematic comparison difficult. Unfortunately, events will not wait until we resolve these problems. However, there is mounting evidence that the assumptions are incorrect.

(1) Can settlements end civil wars if human rights violators are excluded from the negotiations? Human rights advocates oppose the inclusion of such individuals and groups because if they are included in the negotiations, they will almost certainly get favorable consideration in the settlement. This assumption seems both empirically correct and normatively undesirable.

But one of the basic rules of conflict management is to include as many powerful players as possible in the settlement, even if some of them are human rights violators (Cohen 2000: 13–14). It may be easier and more pleasant to exclude such actors, but the result is likely to be a short-lived settlement because those who are not involved in the settlement usually have no reason to support it. Excluding powerful people from negotiations because you don’t like them is akin to the drunk who loses his keys in the dark but looks for them under the lamp post because the light is better there. Thus, Richard Holbrooke felt it necessary to negotiate with Milosevic at Rambouillet and Dayton not because he approved of his policies but because without his agreement there could be no peace settlement. Holbrooke believed that the alternative was not peace with him or peace without him; it was peace with him or continued war. Similar controversy raged over the inclusion of RENAMO in the Mozambique negotiations (Cohen 2000: 182) and the Khmer Rouge in Cambodia. Jimmy Carter’s reputation as a human rights advocate would seem secure, but he was criticized for giving overly generous terms to the former military dictator in return for a peaceful power transition (Baker 2001: 757). Of course, the assumption here is that such involvement is necessary for peace to occur; in many cases (such as Foday Sankoh’s involvement in the Sierra Leone settlement), this is controversial and may well not be true (Baker 2001: 758–759; Crocker 2002).

Of course, such efforts do not always lead to a settlement, as in the U.S. negotiations with Sudan that were derailed by the Gulf war (Cohen 2000: 67–75) or with Milosevic over Kosovo (Baker 2001: 758). We also know that a substantial number of civil war settlements fail; Hartzell, Hoddie, and Rothchild (2001: 195) said 37%; Walter (2002: 15) said almost half. However, without a settlement, the war will presumably continue until one side wins. Delaying a settlement almost certainly means more casualties.

(2) Are civil war settlements, which include provisions that increase human rights, more stable than those which do not? As far as I know, there is no quantitative study on this topic. We can break it down into several different issues: are these issues likely to be included in settlements, do such inclusion make it more likely that human rights issues will be observed during the transition period from war to the formation of a new government, does such inclusion make it more likely that they will be included in the subsequent constitutions, does this in turn make it more likely that they will be observed in the subsequent state, and
does this make renewed civil war less likely? This is a fairly complex causal chain, and some
tentative evidence suggests that these relationships are not simple and straightforward.

Tonya Putnam surveyed recent civil war settlements and concluded that few of them
include explicit human rights provisions. However, she noted that if international orga-
nizations are involved in implementing the agreements, they almost always bring human
rights concerns to the area, regardless of the terms of the agreement. She cited Namibia,
Mozambique, and Lebanon as settlements without a human rights component but where in
practice human rights have improved substantially.

When she looked at constitutions as opposed to settlements, every new constitution
in her sample included significant human rights provisions, regardless of whether they
had been included in the settlement. However, these provisions were not always observed
afterward by the successor government (Putnam 2002: 246–248). Thus, their inclusion in
the settlement seems to have no connection with whether they will be implemented, even
when assuming that implementation would make renewed civil war less likely.

A specific case concerns the decision of the Bosnian government to reject the agreement
negotiated on September 21, 1993. An anonymous author argued that it was clear that the
West was not prepared to intervene militarily to alter the situation on the ground, that
this agreement was the best that could be obtained, that it was rejected in part because of
the advice of critics in the international community who felt it violated human rights and
rewarded aggression (which it clearly did), and that the final outcome at Dayton a year and
a half later was actually somewhat less favorable to the Bosnians.

What had the critics done between 1993 and 1995: Had they prolonged the war
and multiplied the deaths? Are their victories to be found in the graveyards of
Bosnia? What lessons should the human rights community learn from this sorry
tale? ... Thousands of people are dead who should have been alive—because
moralists were in quest of the perfect peace. (Anonymous 1996: 253, 257)

Two passionate responses to this article (Boyle 1996; Gaer 1996) argued that Western
governments bear the primary responsibility because of their unwillingness to intervene.
This is undoubtedly true. However, they both evaded the question of what should outsiders
do in such a situation, whether it is appropriate to reject an unjust peace if no other peace
is available. Should outsiders oppose such a settlement only if they expect a better one to
result later (as did not happen in Bosnia), and if so, how should such predictions be made?

In practice, supporting human rights often translates into encouraging democracy in
postwar governments, which is clearly a goal of many in the “international community.”
Two problems with this overly simple formulation should be noted. Democracy may not be
synonymous with human rights:

...in the short run—where most governments actually live—democracy and
human rights often conflict, and popular sovereignty for a majority is often
achieved at the cost of ethnic cleansing for a minority. (Ignatieff 2001: 25; cf.
Baker 2001: 754)

The extreme case is probably Rwanda, where a minority Tutsi government keeps control
with the support of much of the “international community” because of fear that democratic
elections would bring Hutus back into power, restarting the 1994 genocide. As Baker (2001:
754) noted, “(h)istory abounds with examples of the oppressed becoming the oppressors.”
The argument also assumes that the institutions specified in the settlement will be permanent. However, this is often not true. Sometimes the institutions collapse because of inadequate support. In other cases, it is useful to change them in the longer run because the tensions of the war decline and efficiency becomes more important than representation and veto powers (the shift from the Articles of Confederation to the Constitution in the United States is instructive).

Leaving these issues aside, what happens when democratic institutions are in fact installed in post-civil war governments? Despite the general enthusiasm for this strategy, a controversy remains. On the one hand we have a new but impressive statistical analysis arguing that democratic post-settlement governments do reduce the likelihood of renewed civil war substantially (Dubey 2002a: 20–21; Dubey 2002b). On the other hand, we have a substantial literature on democracy and violence, showing very persuasively that violence is least likely in strong democracies and strong autocracies and most likely precisely in those countries moving from one form to another, regardless of direction (Mansfield and Snyder, 1995a, 1995b; Snyder 2000; Lake and Rothchild 1998: 345; Hegre et al. 2001; Gurr 2000: 81–87). The State Failure Task Force contended that state failure is 3.4 times more common among what they call partial democracies than autocracies and a full 11 times more common in Africa (Esty et al. 1998: 5–12). Of course, these studies are not quite to the point, since we are interested in democratic governments after civil wars, in which the environment is considerably more demanding than after less violent democratic transition, presumably making its success substantially less likely still. For what it’s worth, my own incomplete study (2006) found it difficult to uncover the links assumed between post-conflict democracy and less likelihood of renewed civil war. Nonetheless, the Dubey findings, which address the issue most directly, suggest that this part of the human rights argument has substantial weight.

In any case, of course, we can still make the argument that encouraging democracy may produce violence in the short run but that in the long run, if stable democracy can be attained, the violence will subside. Unfortunately, the long run may be very long indeed for countries engaged in civil war, many of whom seemed unlikely to attain stable democracy even without internal violence. This does not strike me as an attractive prescription. If we are advocating policy because of it, we should at least make it clear to the locals whose lives will be directly affected by it and who will presumably have to make the ultimate choice.

often a state that abuses human rights remains a better option for its citizens and for the rest of us than an anarchy or collapse into long-term civil war. (Appiah 2001: 101)

(3) Are settlements that provide for “transitional justice” more stable than those that do not? To put it simply, there is absolutely no evidence that this is true, since we have basically no historic examples on which to draw. (More detailed and sophisticated critiques of the arguments for “truth telling” are in Mendeloff 2004.) Such provisions have not been included in negotiated settlements to civil wars (which have themselves been fairly scarce) until the past few years, although the restoration of Athenian democracy in 403 BC has been suggested as an exception (Cohen 2001). Interestingly, we have somewhat more evidence of a related topic, the utility of apology, in interstate relations (Barkan 2000; Feldman 1984; Wolffsohn 1993; Lavy 1996; Lind 2008; Berger 2003).

There are at least three separate arguments about why transitional justice may help secure a civil war settlement: it may allow victims (and perhaps the perpetrators) to accept the past and work together in the future if guilt is acknowledged and compensation of
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some sort is offered; it may create a common memory, which can help overcome the deep divisions within the society, including bystanders and victims and perpetrators; and it may deter groups from acting in the same way in the future.

(3a) The theory that victims will be aided by transitional justice is not implausible, but it is drawn from ideas that have been applied with somewhat mixed success to individuals in Western cultures. (At least in my family, at holidays some subjects are “forgotten” for the sake of harmony.) And Western psychology usually would not simply ask people in grief to tell their story once in public and then go away, which is what truth commissions usually do; it would recommend a more gradual process, followed by support of various types.

There has been no study to date of the psychological impact of truth commissions on survivors, but the evidence that is available is enough to raise some serious questions. ... The assumption that knowing the facts about what happened will always contribute to healing is too simplistic, and is sometimes just not true. (Hayner 2001: 135, 142; cf. Minow 1998: 70–74; Mendeloff 2004; Pupavac 2002)

(3b) At another level, it is not at all clear that such strategies can successfully be applied to entire societies in very different cultures. Forgetting may be more important than remembering in such circumstances. Rudolph Bell (1994) has looked at how people in the same Croatian village who fought one another during World War II have managed to live together, even though they know who did what to whom and when conflict will collapse the village’s entire social and economic system. He finds that they cooperate and don’t talk about it, and he notes that none of the towns planned celebrations of the fiftieth anniversary of the end of World War II.

It is probably not coincidental that there are very few public memorials to civil wars around the world. (The U.S. is a conspicuous exception; for a comparison of the memories of the American and Nigerian civil wars, see Licklider 1995b.) A Colombian friend says the Colombian civil war was not taught in schools. Mozambique is a particularly striking example.

There has been almost no focus in Mozambique on accountability for past crimes. In a country where some one million civilians were killed, thousands tortured, and some of the most gruesome acts of mutilation and barbarism documented, there have been virtually no calls on the national level for justice, accountability, punishment, or banishment from public office—which is where many of those responsible for orchestrating past crimes now sit, in Parliament or in the armed forces. (Hayner 2001: 187)

The strategy in Mozambique was not simply silence; the widespread use of traditional healing ceremonies was apparently instrumental (Hayner 2001: 192–194). But it also involved a rejection of Western notions of “transitional justice.”

It is perfectly plausible that “transitional justice” may increase tensions among groups who have recently been at war with one another. In fact, I deliberately put “justice” in quotation marks in this context because, after the deep divisions of civil war, no one version of justice is likely to be accepted by all. A recent systematic analysis reached distinctly pessimistic conclusions. The Serbian government refused to hand over Milosevic to the international tribunal in The Hague for years despite abundant evidence of his behavior. When a reform government did so, it was clearly an unpopular move. The comparable Rwandan
tribunal has had so many problems that the Rwandan government has refused to cooperate with it. Domestic trials in Argentina, Ethiopia, Rwanda, Kosovo, East Timor, Indonesia, Sierra Leone, and Cambodia had similarly unimpressive records (Snyder and Vinjamuri 2003/2004: 20–31). This analysis isn’t definitive, but it certainly suggests there is no guarantee that war crimes trials will encourage rather than discourage societal reconciliation.

We also have some indirect evidence. If transitional justice is necessary for reconciliation, then presumably no prior civil wars has ever ended since “transitional justice” institutions have not been built into their settlements. In fact, this is not true; most civil wars do end and are not resumed (Licklider 1995a: 683–684). That is not to say that the conflicts that “caused” the war have been solved, but people all over the world for hundreds of years have somehow managed to live together without killing one another in large numbers, not a trivial achievement, without the assistance of transitional justice. “There can be no peace without justice” is a plausible slogan; unfortunately there is no evidence that it is true.

(3c) Nor is there much empirical evidence that transitional justice deters future violence. The Serbenica massacre occurred two years after the U.N. resolution creating the International Criminal Tribunal for former Yugoslavia. The Rwandan tribunal has had major problems and has been unable to deter large-scale violence in Congo, often by the very people it has targeted (Snyder and Vinjamuri 2003/2004: 20–25; Bass 2000: 290–307).

Having said all this, punishing people who are guilty of terrible deeds is undeniably an attractive policy. The uncertainty about its utility would not be so troubling if it did not sometimes come at a high price for conflict management. Arguably the major innovation in peacemaking since 1989 has been the negotiated settlement of civil wars (Fortna 2008). One study shows that 25% (15 of 60) of the civil wars that ended between 1945 and 1990 ended in negotiated settlements (as opposed to military victories) but that the comparable figure was 70% (23 of 33) in the next decade (my calculations from data from Hartzell and Hoddie 2007: 10). Another analysis noted that this trend has continued into this decade (Human Security Brief 2007: 36). This development has been driven and widely supported by both the conflict resolution and human rights communities, but transitional justice poses a fundamental challenge to it. The flashpoint is amnesty from transitional justice to secure peace.

It seems unlikely that leaders will agree to a civil war settlement that would put them and their followers at risk, so their first (and probably nonnegotiable) demand for a settlement is likely to be amnesty from transitional justice. Since the definition of a negotiated settlement is one in which either side can reject and continue the war, the choice may be to grant their request or continue the war. Tonya Putnam (2002: 240) lists Angola, Guatemala, Namibia, Sierra Leone, and Bosnia as cases where amnesty has been critical in getting settlements; South Africa might be another candidate. (She also notes that amnesty is recognized in international law as an appropriate response to internal war, citing Dinstein and Tabory 1996: 319.) In practice this has been resolved by two strategies: (1) agreeing on truth commissions and similar institutions that will not penalize individuals for their actions, even though this in turn may undercut the already tenuous theory that they will aid in reconciliation and deterrence, and (2) giving amnesty and then reneging on the promise when the political system allows it.

The poster child of the first strategy is South Africa’s Truth and Reconciliation Commission (TRC). It has justly attracted attention and admiration around the world. In a stunning series of public hearings, held all over the country and televised almost nightly for years throughout South Africa, the historical record of human rights violations on both sides under apartheid was written for all to see. Fortunately, an extraordinarily sophisticated study is under way to attempt to determine its impact. Presumably, the underlying theory of the
TRC was that by persuading people of its version of what had actually happened ("truth"), they would become less hostile toward members of other races ("reconciliation"). The study shows quite clearly that whites who have accepted this "truth" are less hostile to blacks than whites who have not done so, confirming the value of the strategy. However, it also shows no relationship whatsoever among the 70% of South African blacks who are religious; accepting the "truth" of the TRC is quite unrelated to their attitudes toward whites. (The good news is that religious blacks are much more tolerant of whites than non-religious ones, but apparently this is not due to the TRC. Close prior contacts with whites also correlate with greater tolerance; distressingly age and education are not; Gibson 2004: 135–142.) Since approximately 77% of the population of South Africa is black (Gibson 2004: 32), 70% of that means that the basic concept of "transitional justice" does not seem to have worked a majority of the population.

This is not to say that the TRC has been a terrible thing; indeed, Gibson showed plausibly that it almost certainly did contribute to reconciliation and certainly did not hinder it (as has been suggested by some, particularly in South Africa). There are many reasons to admire the work of the TRC, in particular for creating a record of the apartheid regime, but aiding reconciliation of blacks toward whites does not seem to be among them. (Page Fortna noted that, among other things, we do not know why the TRC had different impacts on different kinds of people.)

One of the critiques of the TRC has been that it does not have the power to actually punish evildoers. It is not clear that simply revealing the truth about terrible atrocities and then seeing the perpetrators go free will lead to reconciliation. Gibson’s work suggests that it has not, at least among South Africa blacks. We do not know if a different system, in which the malefactors were punished, would have different psychological effects. We do know that we are unlikely to have a more favorable environment than South Africa for a truth commission; if it does not succeed here, the strategy is unlikely to work in less favored locations.

It remains an open question whether through taking testimony and publishing reports, a truth commission can also help to reconcile groups that have been warring or otherwise engaged in deep animosities. (Minow 1998: 79)

A survey of truth commissions in countries that had ended wars in negotiated settlements (El Salvador, Guatemala, Haiti, South Africa, Sri Lanka, Burundi, Chad, and East Timor) concluded that in such situations the commissions are often given very little leeway by the authorities and sometimes serve as “fig leaves” for governments continuing to do bad things. They noted that truth commissions have had positive effects only in countries like South Africa and El Salvador where they have been supported by reformist political forces and that these are exceptional rather than normal. Indeed, they suggested that one way in which truth commissions can help is to provide political cover for amnesties that are the real forces supporting reconciliation (Snyder and Vinjamuri 2003/2004: 20, 31–33). Gibson himself has responded to these concerns and concluded that it is possible that the success of the TRC has been largely due to the political culture of South Africa.

But just what specific aspects of the political culture might contribute to a successful truth and reconciliation process? From the South Africa case, several factors seem to be important, including the following: the nature of the legislation establishing the truth and reconciliation process, the support within South African political culture for the rule of law, political pluralism, the amnesty
process itself, the size of the victim and perpetrator populations, and the leadership of the truth and reconciliation process. (Gibson 2006: 421)

He concluded that these factors may in fact have made the success of the TRC possible and that it might not work that well in other places. He also argued plausibly that even with these favorable circumstances, success was by no means inevitable in South Africa, as shown by the substantial political struggle which it involved. He also noted that the “truth” of the TRC helped reconciliation because it stressed that both sides had done bad things to one another, making it more difficult for groups to regard themselves as simply victims and their former opponents as totally evil and that this was not an inevitable result of the TRC, although he suggested it is probably a truth that is generally available in these sorts of political conflicts (Gibson 2006: 427).

The second strategy is to promise amnesty to get peace and then to break the promise when possible. This seems a dubious strategy to me. It raises several different issues. (a) I understand the argument that it morally acceptable to break promises to people who have done evil deeds in order to end those actions. (b) However, within the country this involves violating the terms of a negotiated settlement of a civil war and runs triggering similar repudiations on all sides and the risk of reigniting the conflict. Still, presumably the people doing it can make reasonable judgments about this, and so far this hasn’t happened. (c) However, it’s hard to believe that this strategy will not make it more difficult to reach negotiated settlements to other civil wars in the future. Prosecutions by third parties such as the Spanish case against Pinochet raise the same difficulty. If leaders cannot count on amnesty, they have little reason to end the war short of military defeat, which may be very costly, although probably not for the outsiders who recommend the policy. And if war crimes trials are supposed to deter future human rights violators, it’s hard to believe that breaking amnesty promises will not deter the same people from accepting settlements based on such promises.

Conclusion

What should one do if the quest for justice and retribution hampers the search for peace, thereby prolonging a war and increasing the number of deaths, the amount of destruction, and the extent of human suffering? The quest for retribution or for a perfect peace can result in a long war. Is this defensible? (Anonymous 1996: 250)

Morally, the clearest example of this problem is how outsiders should respond if the local combatants reach an agreement that neglects human rights provisions. Until firm empirical evidence to the contrary is mustered, I do not expect major benefits from excluding human rights violators from negotiations or from including democratic or “transitional justice” institutions in the post-war final government. On the other hand, the value of ending large-scale violence seems fairly clear. I would therefore be reluctant to give up reasonable chances for peace in the short term to ensure the inclusion of these ideas in a civil war settlement process.

This is not an argument for peace at any price. Local combatants may have any number of reasons for continuing the violence. If I had been living in the North when outside negotiators advocated a negotiated settlement to the American Civil War in 1862, which would have preserved slavery in return for ending secession and avoiding the killing of
several hundred thousand Americans, I hope that I would have had the courage to oppose it. (Indeed, Union soldiers chose something similar when giving Lincoln a substantial majority in the 1864 election.) But outside conflict managers and human rights advocates claim to have the best interest of the local population as their overriding goal, and I do not believe that we have sufficient evidence to sacrifice lives in the “short term” because more will be preserved in the “long term” if the local combatants are prepared to settle.

At one level this article is about another failure of social science. The task of social science is to establish generalizations buttressed so solidly with replicable evidence that they will be widely accepted, even by people who initially disbelieve them. We don’t do this very well for a variety of reasons. This is only one of many issues in which the critical questions are empirical and for which we have no unanimous, persuasive answers.

The moral implications of this failure are substantial. As human rights and conflict management have become more prominent in foreign policy, the research in those fields takes on a new importance. We are not just engaged in academic debates now; we are talking about other people’s countries and other people’s lives. And we do not know, in such a manner as to persuade others, what is true, what will work, even in general, much less in particular situations that may not follow the general patterns we seek to trace.

And yet, we cannot simply stand aside from the debate. Many years ago, when I was presenting a paper on economic sanctions, someone asked about the food blockade by the Allies of Germany after World War I, and I said truthfully that I didn’t know anything about it. A senior scholar jumped up in the audience and demanded that I answer the question, saying that I knew a lot and that if I didn’t answer people who knew less and were less careful would answer the question instead. We were both right; that is our dilemma.

I have no magic answer to this problem, although I think (or at least hope) that more research would be helpful. One approach would be some brush clearing on what aspects of transitional justice are associated with success in reconciling populations and deterring future actions, taking advantage of the fact that we now have a fair number of cases to work with. An alternative strategy would be to apply Gibson’s template to other cases than South Africa. A third would be to follow up on the ideas of Snyder, Vinjamuri, and Gibson about the role of political institutions and culture to specify more clearly the alternative causal processes involved in reconciliation so that we can start tracking them and specifying the kinds of conditions that make them processes more or less likely to function. Can we find out anything about the deterrent effects of actions in one country outside that country, to deter either human rights violations or negotiated settlements to civil wars? My own interest has been primarily in the use of transitional justice after civil wars, but there are other cases in which the level of violence has been much less; what difference does this make?

I certainly don’t have the answers to all these questions, much less a general prescription for when large-scale violence is morally justified. But, given our uncertainty about many of the empirical assumptions of transitional justice, I think that a lot of humility on our part is appropriate when making recommendations that may lead to war in other people’s countries. At a minimum, that choice should be made by people who are likely to be most affected by it. To put it differently, I have no problem if someone echoes Patrick Henry and says “Give me justice or give me death.” I am much more dubious of outsiders who say “Give them justice or give them death.”
References


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