



SYMPOSIUM

PEACE ON EARTH? INITIATIVES FOR DISARMAMENT, NON-VIOLENCE AND DIALOGUE

Cluster event in the framework of the 30th Anniversary Conference of the Right Livelihood Award ("Alternative Nobel Prize") "CHANGINGcourse-reclaiming our future," 16 September 2010, Bonn



ACKNOWLEDGMENTS

The editor would like to thank her colleagues Daniele Dickmann, Marie Müller and Juliette Schlebusch at BICC as well as Nadja Douglas (SEF) for their support in summarizing the main topics and recommendations of the workshop discussions. Thanks to Lena Guesnet (BICC) for translating Laureate Ngongo's speech into English and to Denis Lucy Aviles for translating Mauricio Hernandez' statement. Heike Webb (BICC) did sterling work on copy-editing the contributions for final publication.

Thanks to the Uniclub Bonn for the excellent organizational cooperation.

The conference was organized by BICC and SEF with the generous support of the Stiftung Umwelt und Entwicklung Nordrhein-Westfalen.



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PREFACE

“Peace on earth?” was the title of an expert meeting organized by BICC and SEF during the Right Livelihood Award's 30th Anniversary Conference in Bonn in September 2010. Personally, I would replace the question mark in the title with an exclamation mark: Peace on earth! Peace on earth must be the guiding imperative for all our work! Peace is at the heart of each and every challenge we tackle. Peace is not only the absence of an armed conflict, not only Global Zero and disarmament: every treaty, every step towards the global recognition of the illegality of nuclear weapons and towards disarmament is crucial to our very survival. But Johan Galtung, the 'grandfather' of peace research and Right Livelihood Award Laureate also emphasizes the importance of structural violence, which manifests itself in many ways, often coupled with economic power, and is therefore more difficult to detect than direct violence. Right Livelihood Award Laureate Dekha Ibrahim Abdi has especially addressed the ethnic and gender aspects of structural and cultural violence. For her, any conflict demands that all actors recognize and identify their part in it—including their part in the solution. Peace is not something to impose but a process that demands the ownership of each and every actor of society. This means that peace may not be a simple process, but the good news is: The power to get there lies with all of us.

Regarding structural violence, I am also very happy that at this event, Rene Ngongo from the Democratic Republic of the Congo (DRC) could share his experience with so many experts. Rene Ngongo's work puts a spotlight on the fact that armed conflicts co-originate in our Western world: with the mobile phones we buy, containing coltane mined in the rainforests of the DRC and the greed that remunerates the destruction of the most valuable ecosystems on this planet. Rene Ngongo stresses that the struggle for the control of natural resources has been the main driving force behind the conflicts in his country that have already killed millions. We must understand these links between our own actions and war. Our priorities must change, as well as the ways we conduct business and consume, in order for our planet to become a much safer place. Or do we really think that the need for GDP and profit makes peace too expensive?



The meeting highlighted another aspect of peace: true peace cannot exist without peace of mind. Reconciliation requires truth, justice and reparation! Victims must not be forgotten, neither should they just be numbers. Victims have names—as have those who killed, raped or tortured them. These criminals need also to be named. They must be caught, prosecuted and punished under international law. Impunity defies everything peace stands for and will enable the perpetrators of violence to celebrate victory.

Peace demands justice. And it requires us not only to have a vision but to act on our vision. I was very happy to read that BICC described the aim of this event as “the implementation of dialogue and networking between international and national peace and conflict researchers on the one hand and Laureates of the Right Livelihood Award on the other in order to find a basis for common activities in the future.”

I sincerely hope that this plan will not remain black ink on paper but that collaboration and joint action between our Right Livelihood Award Laureates and the experts affiliated with BICC will help shape a peaceful future for our planet!

Jacob von Uexkull
 Founder Right Livelihood Award

FOREWORD

In September 2010, the City of Bonn, together with the Right Livelihood Award Foundation, hosted the 30th Anniversary Conference of the Right Livelihood Award. For Bonn, as the German United Nations City and home to more than 150 organizations working for sustainable development worldwide, welcoming about eighty Laureates from the past 30 years was a very special occasion. The Right Livelihood Award Laureates are pioneers for a sustainable way of life. Often, they have dedicated their lives to finding practical and innovative answers to the most urgent challenges we are faced with today. It was therefore an enormous privilege to meet these men and women serving as impressive role models in the struggle for peace and conflict resolution, global justice and the conservation of the environment.

Jointly with many other organizations in Bonn and throughout North Rhine-Westphalia, BICC together with SEF used the opportunity to contribute to the conference program with special events and to engage in an active dialogue with the Right Livelihood Award Laureates. The Symposium "Peace on earth? Initiatives for disarmament, non-violence and dialogue" brought together peace and conflict researchers and seven of the Laureates active in similar fields. In various panel workshops, Dekha Ibrahim Abdi, Katarina Kruhonja, Susanne Kjaer (representative of International Rehabilitation Council for Torture Victims), Theo van Boven, Neshan Gunasekera (representative of Weeramantry International Center for Peace, Education and Research), Mauricio Hernandez (representing Asociacion de Trabajadores Campesinos del Carare) and Rene Ngongo discussed future scenarios for change with experts from BICC and other institutions.

The Laureates all were very impressed with the encounters they had with experts and involved citizens in Bonn. They exchanged experiences, built new networks and strengthened already existing ones.

With this publication, the Bonn International Center for Conversion and the Development and Peace Foundation render a further contribution to the lasting success of this Anniversary Conference. The documentation of the results of the BICC Symposium visualizes the scope and the outcome of the discussion and I am very pleased to see that



the content of this valuable dialogue are made available to further interested parties.

This Symposium was one of the very fine examples of the cooperative ventures the City of Bonn and BICC have engaged in and I am highly looking forward to continuing our fruitful cooperation in the future.

Jürgen Nimptsch
Mayor of the Federal City of Bonn

WELCOME ADDRESS

“Swords to Ploughshares”—“Spears to Sickles”
... even if we, as Bonn International Center for Conversion, concord with the gist of this slogan, I would like to say: THIS IS NOT ENOUGH to ensure lasting and sustainable peace.

I would like to cordially welcome you to the international Symposium “Peace on earth? Initiatives for disarmament, non-violence and dialogue.” I also welcome you on behalf of the Development and Peace Foundation (SEF), today represented by Dr. Michele Roth who was the co-organizer of this Symposium.

Today is dedicated to the exchange and dialogue on ‘Peace.’ But what kind of peace are we looking for? Peace is not only the absence of a visible conflict. Only peace that is based on the inalienable rights and the dignity of the individual can be true, lasting and fair.

A fair peace does not only contain civil and political rights—it must also guarantee economic security. Not only does true peace mean to be free of fear but also free of need and misery.

Human security of such understanding also includes access to education and health, financial stability, an unspoiled environment, the fight against poverty, job and job market security, income security, the protection against domestic violence and violence in war and goes as far as to include food security.

Human security also includes the demand to abolish the causes for insecurity of the most vulnerable; in short, the term human security is guided by a holistic approach which does not reduce security to the military level of states but wants to express a sustainable term of security geared to the people.

The participating Award Laureates

- Dekha Ibrahim Abdi from Kenya,
- Katarina Kruhonja from Croatia,
- Theo van Boven from The Netherlands,
- Rene Ngongo from the Democratic Republic of the Congo, and
- Mauricio Hernandez from Columbia

represent such a train of thought.

We regret very much that Christopher Weeramantry from Sri Lanka, former judge at the International Court of Justice has fallen ill and wish him a speedy recovery. Neshan Gunasekera will participate in his stead.



Susanne Kjaer will speak in Inge Genefke's stead, who received her award for her work at the International Rehabilitation Council for Torture Victims (IRCT) in Denmark.

We are proud to have the Award Laureates with us today and look forward to an animated discussion.

The program of today's Symposium is quite ambitious. There are four panel discussions on the following topics:

- On the way to Global Zero nuclear armament—Where are we now?
- Ethnic conflicts—Solutions from theory and practical experience
- Victims of war—A challenge for post-war reconciliation
- Resource management in a fairer world.

The Laureates will report on their practical experiences which we would like to discuss against the backdrop of current peace and conflict research activities.

It is our goal to give the impetus for a dialogue between Laureates and peace and conflict research that is to reach far beyond today's activities and the event here in Bonn. As a beginning, we will sum up the outcomes of this Symposium, which will then be published.

We explicitly put a question mark after the title of this event “Peace on earth?” as we know that there are no simple solutions—see above.

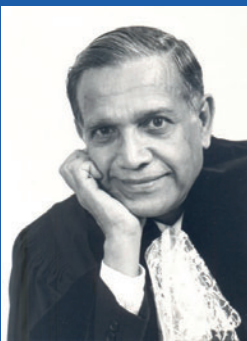
What we do know, however, is that solutions depend a lot on the commitment, the creativity and the wealth of ideas of each individual. The bearers of the Right Livelihood Award have provided us with impressive examples. But also in research, and particularly in applied research: commitment is everything.

I do look forward to the initiatives for disarmament, non-violence and dialogue which will take center stage today and wish us all a successful conference!

Peter J. Croll
Director BICC

PANEL 1: ON THE WAY TO GLOBAL ZERO— WHERE ARE WE NOW?

« Nuclear weapons violated every principle of humanitarian law and every principle that international law had evolved to reduce the brutality of war »



CHRISTOPHER WEERAMANTRY, LAUREATE 2007

A highly renowned legal scholar, he has always been particularly concerned about nuclear weapons. When the International Court of Justice made its decision on nuclear weapons in 1996, Weeramantry strongly disagreed with the majority's decision to leave undetermined the legality of one area of the use of nuclear weapons—nuclear weapons in self-defence when the survival of the state was at stake. His dissenting opinion recognized that this exception would in practice be widely used by the nuclear weapon states, and he categorically asserted their illegality "in any circumstances whatsoever."

He set up the Weeramantry International Centre for Peace Education and Research in Sri Lanka in 2001. It rests on the three pillars of Peace Education, Cross Cultural Understanding and International Law as an Instrument of Peace.

The fact that nuclear weapon states who, under the same Court ruling, are obliged to continue and to conclude negotiations leading to the abandonment of nuclear weapons do not follow their obligations, still occupies him today and he is currently working on another case to bring back various aspects of these issues to the International Court.

**PRESENTED BY NESHAN GUNASEKERA,
ATTORNEY AT LAW, LEGAL ASSISTANT TO
JUDGE C.G. WEERAMANTRY**



I must preface the ensuing observations with a reminder that the situation has grown so urgent and dangerous that we have little time to indulge in legal quibbling and argumentation but need to get down to the very fundamentals in non-legal terms which any laymen anywhere in the world would understand.

The question to be examined at this panel discussion is „Are nuclear weapons illegal?“ Regarding this I have very little to add to what I stated in my Dissenting Opinion in the case relating to the threat or use of nuclear weapons.

I there indicated that nuclear weapons violated every principle of humanitarian law and every principle that international law had evolved over the centuries to reduce the brutality of war.

Its illegality goes far beyond illegality towards one's opponents and involves illegality to non-combatant states, illegality towards the environment, illegality towards future generations, and illegality towards all of humanity past, present and future.

It involves illegality to the past in that we are taking upon ourselves the responsibility of destroying all that humanity has achieved over the millennia.

It involves illegality to the present because of all humanity alive here and now is being imperiled.

It involves illegality towards the future in that we are imperiling all generations to come by depriving them of their birth rights to a safe environment and

the cultural inheritance bequeathed to them from generations past.

We are indeed shutting our eyes to a weapon so callous that generations to come will suffer birth deformities and will not even have the right to breathe pure air.

Is there a human right to pure air? The seeming absurdity of this question highlights the criminality of any conduct that denies it. Yet this is the conduct we indulge in if we do not eliminate the weapon. Those who justify the manufacture and use of the nuclear weapons seem insensitive to this, and seem prepared to deny this right and a series of equally fundamental and obvious rights to human beings of future generations.

When the nuclear weapons case was argued I recall an argument put to us, that if stone age man had polluted the environment in such a manner that we were suffering adverse effects today we would have condemned them as savages, brutes and barbarians who knew not what they did. We are fully aware of what we are doing and yet proceeding to do this. To do so with knowledge is a thousand times more brutal and barbaric than to do so without, and we have that knowledge a thousand times over.

TO ACCEPT THE PRINCIPLE OF THE TOTAL ILLEGALITY OF THE USE OF NUCLEAR WEAPONS

I am sorry to say this but if we seek to justify nuclear weapons, the appellation of savages, brutes and barbarians would become applicable, with that barbarism magnified a thousand fold. Yet those who do this claim to be torch bearers of civilization carrying the light of civilization to those who are without the law.

All civilizations, e.g. the wisdom of ancient Africa, remind us that the human community is threefold—past, present and future—and that we must have regard for all these three segments of the human community when we take a major decision. We are committing a crime against humanity in regard to each one of these three elements because we destroy the past, the present and the future at one go.

To put it bluntly, the question of crass illegality of nuclear weapons is a matter beyond all sensible argument and if any one of us had been told that there was a debate on another planet as to whether it was legal to continue with steps that would endanger and destroy the entire planetary population, we would have consigned this to the realm of fantasy and concluded that such a scenario was not possible in a sane community.

One clear road towards the desired goal is for every single member of the community of nations to accept the principle of the total illegality of the use of nuclear weapons in any circumstances whatsoever. This is very simple if we all accept the authority of international law. It means a total commitment to international law in its full implications and practical applications, and not merely lip service to it. How far away are we from this? We are as distant as ever if there is any single power in the world that claims for itself any exemption on any grounds whatsoever.

If major states claim such an exemption for themselves, other states can scarcely be denied a claim to do the same.

Nothing is so derogatory of the rule of law as for the enforcement authority to be the violator of the law while seeking to enforce it on others. A kindergarten child would perceive the absurdity of a policeman seeking to enforce a law and mete out punishment for its disobedience when the policeman himself is violating the very law he seeks to enforce.

Sadly, the global community has placed itself in this situation not so much by the volition of the great majority of states but by the intransigence of a few of the most powerful members of the global community.

Surely, this obstacle is so manifestly a danger to all humanity that all humanity must unite in eliminating it. This cannot be achieved if the bulk of the citizens of the global community and particularly of the members seeking special privileges for themselves, continue to turn a blind eye on a conclusion so obvious to a kindergarten child.

The process of education of the general public in the basic principles of international law relating to crimes against humanity is long overdue.

I believe that the most urgent task is to introduce into every school and educational forum an awareness of this outstanding danger threatening the lives of us all. If done on a massive scale, this can change public opinion sufficiently to make an impact on political decision-makers and with an intensive education campaign such a result can be achieved within a comparatively short time.

Another much neglected aspect of this problem is that the expertise for the construction of nuclear weapons comes from the scientific community. All the generals and the political figures in the world putting their intellects together cannot manufacture a single nuclear weapon. A major effort needs to be mounted therefore to instill into the scientific community a realization that they are participating

in a crime against humanity in lending their expertise for the manufacture of these weapons of death.

Many years ago, I addressed this problem in 'Nuclear Weapons and Scientific Responsibility' and drafted a code of ethical responsibility for nuclear scientists. This draft was adopted and reproduced in the Encyclopedia of Social Inventions in 1990 as one needing urgent attention at the level of the United Nations. I believe this is another much neglected area which we need to address. The scientific community needs to be addressed on the criminality of using their expert knowledge for a cause so unworthy of their intellectual attainments.

I believe we need to be realistic enough to accept the fact that getting to Global Zero is a task so urgent and demanding that we need to address and overcome each and every one of them. Each one of us can make our contribution. We can do it together but without total togetherness the road block will remain.

The danger is enormous. It is getting closer to us by the day. The necessary sense of urgency needs to be generated at every level, in every region and in every way. Most importantly, the message must go up from the grassroots to the corridors of power, for it is there that a vital decision can be taken at any time that could alter forever the history of humanity.

This is an argument I have been pressing for decades in every possible forum from the schoolroom to the International Court of Justice. The time for discussion is over and the time for action is upon us. Let us not betray our trust, destroy our civilization and annihilate our race. There is still room for hope if we renew our commitment to the values that we cherish, the action that is needed, and the resolve that is essential to lead humanity to that sunlit plateau of peace and justice that has been the dream of the ages.

Judge C.G. Weeramantry

(Presented by Neshan Gunasekera, Attorney at Law, Legal Assistant to Judge C.G. Weeramantry)

« The question of nuclear weapon use is political and military as well as legal »



SVERRE LODGAARD is currently a Senior Research Fellow at the Norwegian Institute of International Affairs (NUPI) that he directed for 10 years (1997–2010). He was Head of the United Nations Institute for Disarmament Research (UNIDIR) from 1992 to 1997. Lodgaard is member of the Pugwash

Council and Executive Committee, and chairs BICC's International Advisory Board.

In September 2010, he published the book "Nuclear Disarmament and Non-Proliferation: Toward a Nuclear Weapon Free World?" (Routledge, UK).

Are nuclear weapons illegal? There are two parts to this question. One relates to use and the other to possession of nuclear weapons.

First, is the threat or use of nuclear weapons illegal?

In its Advisory Opinion of 1996, the International Court of Justice (ICJ) said that "there is in neither customary nor conventional international law any comprehensive and universal prohibition of the threat or use of nuclear weapons as such." But the Court found that "a threat or use of force by means of nuclear weapons that is contrary to Article 2, paragraph 4 of the United Nations Charter and that fails to meet all the requirements of Article 51, is unlawful" and, furthermore, that "a threat or use of nuclear weapons should also be compatible with the requirements of the international law applicable in armed conflict, particularly those of the principles and rules of humanitarian law, as well as with specific obligations under treaties and other undertakings which expressly deal with nuclear weapons." In practice, it is hard to imagine a use of nuclear weapons that would be compatible with international humanitarian law.

It is sometimes invoked that the ICJ Opinion was “only an advice”. Different from a Court Decision on inter-state affairs, an Advisory Opinion is not legally binding on states. However, states are obliged to follow international law, and an Advisory Opinion is an interpretation of existing international law by the highest international legal authority. Therefore, it is misguided to refer to it as “merely” an advice.

The question of nuclear weapon use is political and military as well as legal, so what is the utility of nuclear weapons from a politico-military point of view? In what kinds of situations can threats by and use of nuclear weapons be credible and feasible?

During the Cold War, the utility of nuclear weapons was much inflated. The nuclear weapon establishments tried to convince their national leaderships that the weapons could be used to advantage in a variety of situations, especially when being in a position of superiority. Fortunately, some of the most glaring exaggerations are now receding. The nuclear war fighting doctrines—among the most bizarre products of the Cold War—have been toned down if not totally laid to rest. The credibility of US extended deterrence doctrines for Europe and Asia has always been in doubt and is now ripe for revision. Shows of force and threats of nuclear weapon use may or may not have worked: in most cases, the effects can neither be proved nor disproved. Realistic reviews of nuclear history in these respects, deleting the propagandistic arguments to uphold deterrence and justify investments in huge arsenals, therefore lead to much more modest assessments of their utility. In reality, the inhibitions against nuclear weapon use—the indiscriminate nature of the weapons and the norm of non-use—probably leave a very narrow range of situations where employment is feasible and credible.

One such situation concerns the use of nuclear weapons where national survival is at stake. In its Advisory Opinion, the ICJ was evenly split on this issue: “in view of the current state of international law, and of the elements of fact at its disposal, the Court cannot conclude definitively whether the threat or use of nuclear weapons would be lawful or unlawful in an extreme circumstance of self-defence, in which the very survival of a State would be at stake.” The prime example at the time was Israel. Today, Pakistan could be added, and possibly Russia, and even China. The Russian doctrine of 2010 appears to tighten the criterion for use of nuclear arms, but allows for employment when “the very existence (of Russia) is under threat”. China’s no-first-use policy may not apply if its own territory, or territories that it claims as its own (such as Taiwan and Arunchal Pradesh), are under threat. The fear in these huge

state conglomerations is that dismemberment, even on a small scale, might be the beginning of national breakdown. The role of nuclear weapons as an insurance premium of last resort for national survival speaks to the obstacles that have to be overcome for an all-encompassing international agreement on no-first-use to be reached.

Second, is possession of nuclear weapons illegal? The ICJ emphasized that no treaty language specifically forbids the possession of nuclear weapons in a categorical way. However, Article VI of the NPT—the obligation to disarm—comes close.

THE NPT CONTEXT: NEGOTIATIONS AND SEARCH FOR COMPROMISES

In the world of international law, failure to take “effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament” does not necessarily amount to non-compliance by any particular state. Progress depends on the seriousness of all negotiating parties and is arguably beyond the powers of any single participant. Article VI fails, moreover, to specify which measures should be pursued. The principles and objectives of nuclear disarmament adopted by the 1995 NPT Review and Extension Conference, the Middle East resolution adopted on the same occasion and the 13 steps towards nuclear disarmament agreed by the 2000 Review Conference do not make up for this lack of specificity, for none of these documents qualify as “subsequent agreements” within the meaning of Article 31 of the Vienna Convention on the Law of Treaties. They are political commitments, not legally binding interpretations of Article VI. The Article is simply too vague to provide benchmarks for legal assessments of compliance the way e.g. safeguards agreements do.

Seen in the political context in which the NPT evolved, as part of a larger political bargain, the meaning of Article VI looks different, however. Right from the beginning of the NPT negotiations in the mid-1960s, disarmament was considered to be a *quid* for the non-proliferation *quo*. On 15 August 1968, one and a half months after the NPT was opened for signature, the co-chairs of the Eighteen Nation Disarmament Committee—the USA and the USSR—presented an agenda for the Committee that struck a compromise between those NNWS who had wanted commitments to specific measures to be written into the NPT and those who were willing to leave it for follow-up action. The nuclear part of the agenda was essentially a package proposed by India and Sweden that had argued for inclusion of specific measures in the Treaty text. A month later, the non-nuclear members of the Committee presented a

comparable agenda. Both agendas included a test ban, a cut-off of all production of fissile materials for military purposes, security assurances for NNWS, and reduction and subsequent elimination of nuclear weapon stockpiles. The co-chairs as well as the other members of the Committee emphasized that the viability of the Treaty depended on the results achieved in this field, and the review conferences were mandated to assure “that the purposes of the Preamble and the provisions of the Treaty are being realized” (Article VIII.3). Clearly, Article VI was conceived as part of a dynamic bargain to be implemented over time, erasing—in due course—the distinction between NWS and NNWS. Measures were identified, converging expectations were created, and a review mechanism was set up to facilitate realization of them. Although no timeline was given, “cessation of the arms race at an early date” left a sense of urgency.

Article VI therefore calls for negotiations in *good faith*. In the view of Judge Muhammed Bedjaoui, President of the International Court of Justice at

the time its Advisory Opinion on nuclear weapons was issued (1996), “good faith” as applied in the NPT context means sustained negotiations and search for compromises; refraining from acts that are incompatible with the purpose of the Treaty; proscription of any initiative that would render impossible the conclusion of disarmament treaties; prohibition of unjustified termination of negotiations; no selectivity regarding which provisions to implement; and a general obligation to inform and communicate—mainly on the part of the NWS—since the pursuit of disarmament is an obligation on all parties and the status of the Treaty is a matter of global concern. In short, the “good faith” provision was inserted to enhance the prospects of “systematic and progressive efforts to implement Article VI”. The ICJ Advisory Opinion therefore held that Article VI amounts not only to an obligation to negotiate, but also to an obligation to bring the negotiations to a conclusion (ICJ, 1996).

Sverre Lodgaard

DISCUSSION

Laureate Weeramantry’s arguments against the exceptional legality of the use of nuclear weapons presented by Neshan Gunasekera found unanimous consent and endorsement in the discussion following the presentations. Initially, the question whether the International Court of Justice had also discussed the illegality of the possession of nuclear weapons was raised. Although the possession had not been declared illegal officially, **Neshan Gunasekera** explained that the provisions concerning the use and possession of nuclear weapons had barely been specified by the court. Yet, in line with past prohibitions, e.g. of chemical and biological weapons, there were many arguments that would support a complete ban of nuclear weapons. Gunasekera further deplored that despite the explicit recognition of customary law as norm and decision-making source in Article 38 of the Statute of the ICJ, the international lawyers had not referred to the customary moral ban of nuclear weapons. This question concerning the illegality of possession hence triggered the endeavor to bring the case, now after 14 years, again in front of the ICJ. IALANA, the International Association of Lawyers Against Nuclear Arms, however faces a lot of obstacles in pursuing this objective, because it needs a state or a UN institution to seize the ICJ. Hence the challenge remained and a lot of lobbying

JERRY SOMMER (moderator)

is Research Associate at BICC and a freelance journalist. After studying history and political science at the University of Hamburg, he began working as a journalist specializing in international arms control and disarmament. Living in Düsseldorf, he works for BICC and for German radio and television, such as ARD, Deutsche Welle, WDR, NDR, and Deutschlandfunk.



was required to file a new court case, Gunasekera explained.

With regard to the Non-Proliferation Treaty, the situation of separation between nuclear powers and “other states” was criticized. Replying to the question whether nuclear states such as the United States and Russia were above the law, Gunasekera stated that as a matter of course the states of concern did not

wish to assume such a status, but the respect towards international law in this matter left a lot to be desired. He continued that the moral leadership of nuclear states had partly been lost. Especially now, a few months after the Nuclear Non-Proliferation Review Conference, some frustration could be sensed.

Sverre Lodgaard added that there was no doubt about the complexity of Article 6 of the Treaty that was binding for all member states, namely to fulfill their unequivocal commitments in the field of non-proliferation. He illustrated this by comparing the legal reasoning of former US Special Representative for Nuclear Nonproliferation, Christopher Ford, who had once stated that the nuclear states could be made accountable for not making progress in proliferation issues as stipulated in the NPT, with the political reasoning of Ambassador Thomas Graham, long-term political advisor on nuclear and arms control issues to the US State Department who in turn emphasized the historic context of the NPT as well as the necessary bargain of non-proliferation in exchange for nuclear disarmament. Lodgaard stated that both approaches were discussed today and relevant.

With regard to the dangerous issue of nuclear weapons in the hands of terrorists and possible means of prevention, Lodgaard pointed out that terrorists could not produce fissile material by themselves, but only try to get hold of them. There was a big gap between the prominence given to the threat and action taken to deal with the problem. Also, UNSC Resolution 1540 on the non-proliferation of weapons of mass destruction had few implementation mechanisms, Lodgaard emphasized. Moreover, it criminalized states that did not manage to prosecute proliferating non-state actors.

Neshan Gunasekera replied to a question concerning further projects and initiatives by Mr Weeramantry, that he had no intention to go back before the ICJ in order to file a new case, but had been engaged in regional fora and at the grassroots level by consulting NGOs and lobby groups.

The new START Treaty, voted on in the US Senate on the very day of the Symposium, was mentioned by one member of the audience, followed by questions on the legal framework of regional strategic dialogues. **Lodgaard** responded by revealing the slightly feigned complexion of Nuclear-Weapon-Free Zones (NWFZ), which were always handy for political leaders when they reached a dead end and had no other proposals to make. In that respect, he saw little chance for concrete steps towards NWFZs, as suggested for the Middle East or North-East and South-East Asia. In Europe, Lodgaard argued further,

there would be no progress if Russia was not finally integrated into the European Security Structure. **Gunasekera** however pointed to the successful achievements of NWFZs in Africa, which should be regarded as an example and step forward towards Global Zero.

With reference to the question about leadership in the global endeavor concerning nuclear disarmament and the role of the United Nations, **Lodgaard** specified that in the long run, progress in US-Russian relations was indispensable, since both countries were accountable for 90 percent of the nuclear arms stocks worldwide. Their agreement on benchmarks regarding nuclear warhead reduction could be decisive and at the same time an incentive for others to also return to the negotiation table. Without question, Obama had entered a new stage in the disarmament struggle by being the first to have actually spoken about a nuclear-free world, Lodgaard underlined. He continued that he could very well imagine a body under the UNSC, mandated to promote the elimination of nuclear weapons.

Moderator **Jerry Sommer** summarized the discussion by commenting on the necessity to put pressure on the big powers to push for an abolishment of nuclear weapons. He then expressed his doubts about the current position on the way to Global Zero, seeing that more than 20,000 nuclear warheads remained. In his conclusion, Sommer drew up two ways of coming closer to the Global Zero target: one, by a new ICJ decision that would take a firmer stance towards a de-legitimization of nuclear weapons, and two, by an elimination of tactical nuclear weapons in Europe to eventually enhance relations with Russia.

Nadja Douglas

PANEL 2: ETHNIC CONFLICTS—SOLUTIONS FROM THEORY AND PRACTICAL EXPERIENCE

« Culture and tradition provide valuable resources for peacebuilding »



DEKHA IBRAHIM ABDI, LAUREATE 2007

In 1992, Dekha Ibrahim Abdi started a grassroots peace initiative, bringing together people from all clans, which later developed into the Wajir Peace Committee.

She is Founding Member of the Global Peace Practitioners Network ACTION for conflict transformation and, since September 2000, has been a member of a consortium of African and international conflict transformation specialists working together on the development of a series of intensive, participatory workshops for the United Nations Department for Economic and Social Affairs (UNDESA).

Dekha's religious and spiritual identity as a Muslim forms a strong foundation for her peace work. She encourages individuals and communities affected by conflict to critically analyze themselves using verses from the Qur'an, which she states will enable them to build their conflict transformation on a religious and spiritual base.

She has experience of comprehensive peacebuilding, linking peace theory and policy with pragmatic action, and private lobbying/ advocacy with public mobilization. Sometimes she expresses this through the acronym AFRICA: Analysis, Flexibility, Responsiveness, Innovation, Context-specific and awareness, and Action/learning-orientation.

The causes of conflict are often complex and multifaceted. A conflict has usually been caused by a multitude of factors and parties, but often in describing it, we give it a single name such as 'ethnic', 'race', 'identity', 'political', 'resource-based' or 'religious'. In any given situation in Kenya, all or some of these aspects and factors exist as well as multiple actors involved, all operating on different levels—local, national, regional or international.

Kenya is a functioning state with many nations which are polarized along ethnic lines. Loyalty and followership to ethnic leaders not to the state and nation prevails. This has contributed to prejudice and stereotypes leading to social fragmentation of the people of Kenya. A state has been created and state-hood, but not nation-hood.

Ethnically based patronage politics is a key factor leading to incitement and violence and contributes to other structural causes of conflict. Individuals

and groups have regularly exploited existing and longstanding grievances and mobilized groups along ethnic lines and social groups and identities (often around resource allocation and inequity) and at times even paid criminal groups to propagate acts of violence as a way of expressing their issues of concerns.

A contemporary social researcher, Ashutosh Varshney¹, explores why some inter-group conflicts become violent while others do not. He stresses that the mere existence of different communal identity groups does not, in itself, generate violent conflict. The key variable, Varshney argues, is the strength or weakness of inter-communal civil society. If members of different groups have regular means of interacting with each other and participate in common institutions or other common spaces, the risks of violence are greatly reduced even if conflict dynamics continue.

¹ Ashutosh Varshney. 2002. *Ethnic conflict and civic life: Hindus and Muslims in India*. New Haven & London: Yale University Press.

TRADITIONAL AND CULTURAL PROCESS

Culture and tradition provide valuable resources for peacebuilding and the conceptual thinking knowledge and experience of traditional conflict transformation has been appreciated.

Traditional and customary peacebuilders have their own understanding of the concepts, for example of 'prevention,' as the duality of the concept informs their intervention into a conflict context as illustrated below:

1. **Prevention before it happens.** This is practiced when some signs and symptoms of conflict are sensed in a certain area. Here, elders of a settlement consisting of different sub-clans or with different livelihoods (i.e. farmers and pastoralist) meet and discuss on how to prevent a potential conflict from breaking out and try to make the participants understand its patterns in the local context before it erupts.

A scenario of pastoralists and farmers during dry season was given as an example. When the grazing lands get exhausted, pastoralist shift to river banks while the farmers are about to harvest. Here, the probability of livestock feeding on the farms' harvest is very high, hence a potential for conflict. To prevent this, elders have to meet and draw up rules and regulations for the farmers and pastoralists to coexist and to use the resource respecting the respective livelihood of the other.

2. **Prevention of escalation after conflict has begun.** Here, prevention is understood as the prevention of an escalation of the violence so that the negative impact is minimized. The strategy is to have immediate intervention by the elders of the involved sub-clans who meet, discuss and solve the issues by mediation, arbitration or even penalizing the offending clan; appealing to the offended clan to exercise restraint and not to take action that will further escalate.

A cultural, traditional religious peace process has its merits and its limitations; the process of conflict transformation is the preserve of male elders, the youth and female gender have no room due to the exclusive value and attitude that inform the day-to-day practice.

The traditional cultural peace process in my experience is not homogenous; in trying to determine the effectiveness of a traditional peace process, one needs to explore the role of elders and their sphere of interaction and influence:

- An elder can be a pastoralist in a rural setting or an urban, Western-educated person with

business links, or elders can combine to be religious leaders combining both religious, cultural and Western education.

- One elder may have some influence within his clan only, or within his community; another elder can have some influence on government institutions within the state.
- An elder can have influence due to social and economic ties with neighboring states (between states).
- Some elders may only influence social issues while others may influence social and political issues.

Another dimension to look for in a traditional process is that of the role and function of traditional peace actors. In my experience, elders can have the following roles:

1. Elders as clan representatives and clan negotiators;
2. Elders as employees, Chiefs and Head men;
3. Elders as advisors to government institutions (security, political, religious);
4. Elders as societal mediators and negotiators.

In my view, a peace process led by members of the first three categories has limited success. This is due to the limitation of their role, while the fourth one of being a societal mediator and negotiator stands for the good of the whole system.

GENDER AND PEACEBUILDING

Taking a gender perspective is an essential starting point for any strategy designed to understand and promote social justice in development and social justice; in turn, it is considered an essential ingredient for any sustainable development and peacebuilding activity.

There is increasing realization of the gender dimensions of conflicts and their implications for the peacebuilding process. Women have diverse experiences in war, including their particular and distinctive peacemaking roles and the psychological, physical, mental consequences of violent conflicts on women, such as trauma and war injuries.

The men's and boys' experiences in war are often overlooked. Many men who are heads of their households can no longer exercise their primary responsibility to fend for their families and protect them. Most get conscripted and are forced to join the fighting forces. Women and men not only have different access to power structures and material resources before, during and after the escalation of a conflict; they also experience the pre-conflict phase, the open conflict, and the post-conflict

situation in rather different ways. One example of this is peace negotiations. In the great majority of peace negotiations women's experiences and situations are neither mentioned nor taken into account, and gender equality has not been adopted as an explicit aim.

It is in this light that we have used verses from the Qur'an to advocate for the inclusion of both genders in the public process. One of these is Surah 49 Hujurat². Verse 13, for instance, says: "O mankind! We have created you from a male and a female, and made you into nations and tribes, that you may know one another. Verily, the most honorable of you with Allah is that (believer) who has At-Taqwa (i.e. he is one of the Muttaqun (the pious)). Verily, Allah is all-Knowing, All aware."

CIVIL SOCIETY PARTNERSHIP FOR PEACE

There are various approaches to transform violent conflict in Kenya: judicial, administrative, traditional or the use of military—each with its own limitations. An effective response to conflict needs a blending of approaches and processes. Peacebuilding³ is no longer a preserve of the government, and stakeholders need to continue seeking and playing their roles in this process and to be proactive rather than reactive. Conflicts are transformed when all actors and stakeholders are participating in the process and where the outcome is sustainable, as was the case of Samburu/ Pokot conflict of 2006⁴, where the government was the guarantors to the process and it was facilitated by civil society.

Ethnic conflict is not a stand alone issue, it is part and parcel of a wider societal conflict system, no one structure and institution can transform the conflict and build the resilience of the society. Such a process requires a shared vision, a collaboration effort of all actors to harness their collective wisdom and more importantly to transform the victims and perpetrators of violence into a resource for peace as societal mediators and negotiators.

Dekha Ibrahim Abdi

² Used during Gender Audit August 2009 Interpeace, Regional Office for Eastern and Central Africa. *Audit Carried Out by Dekha Ibrahim Abdi and Saadia Mohamed Camel Bell; Consultants*

³ Laikipia District Commissioner Mr. Wilson Njenga in his opening remarks at workshop in Nanyuki, May 2005 on policy guidelines for Peace Committees.

⁴ Samburu Pokot Mediation in Naivasha in October 2006.

« Ethnic conflict is good for you: Views from a non-humanitarian perspective »



MICHAEL ASHKENAZI began working at BICC in March 2004. He has been contributing to collaborative projects in SALW, SSR, DD&R, (traditional) conflict resolution, etc..

Since receiving a PhD in anthropology from Yale University in 1983, Ashkenazi has taught at universities e.g. at the University of Calgary, USA, and Ben Gurion University of the Negev, Israel. His specialties have included the study of East Asian religion, rituals, and social organization, analyses of business cultures, the study of food cultures, and of immigration.

He has training experience in different cultural settings.

“I am not a humanitarian for dietary reasons: contemplate for a moment on what vegetarians eat.” (An anonymous realist)

Like the Buddhist elephant, 'ethnicity' means different things to different people. To some it may mean bounded differences, sometimes based on genetics, between groups of people. To others, 'ethnicity' is in some indefinable way a 'way of life' different from that of other ethnicities, including cute costumes and strange eating habits. To politicians, it is a flag that can be mobilized, often violently, a wave upon which the politician can reach the heights of his or her ambition.

To a social scientist, 'ethnicity' rests on three bases. Kinship (including marriage choices) is one. As a rule of thumb, if the marriage rules incumbent on me are the same as those incumbent on you, we are most likely of the same ethnicity. The second base is language. If two people speak different languages, it is likely that their semantic and meaningful domains differ, and this can be a basis for emphasizing difference. Finally, perhaps most importantly, is choice. The actors and audience in the ethnicity play, particularly those on the boundaries (physical, kinship, linguistic) must choose to be 'ethnic' and

often disagree on precisely and in essence what the 'ethnicity' consists of.

Ethnic 'conflicts' are thus conflicts in which the participants *can* be mobilized on the basis of ethnicity. Quite often being a member of a particular ethnicity implies a particular lifestyle (roughly, production, reproduction, and consumption). A member of the Somali ethnicity in say, southern Somalia/northern Kenya is 'Somali' because (a) they have a particular lifestyle (often determined by ecological considerations) which (b) they choose to maintain. Move to a large city, and presto! Being 'Somali' is a matter of choice and mobilization.

All this is to say that 'ethnic' conflicts, once one digs deeper, come in two flavors: those in which types of economies (real differences) compete and where a particular 'ethnic' lifestyle conflicts with another, and those in which a particular ethnic choice is mobilized for some purpose, often by groups or individuals with their eyes on the main chance.

Conflicts are inevitable in human affairs. My lifestyle choice opposes yours. *I like* my lifestyle, in fact, I think it's better than sliced bread. Or *fufu*. Or *injirah*. Or cooked rice. Variety is good, and homogenizing us all into the great globalization is bad (for varied Darwinian reasons). Let the ethnicities (that is, the multiple collective choices we do and can make) live themselves out side by side, or even compete, struggle, with one another.

THE ISSUE IS NOT SO MUCH THE 'ETHNICITY' OF THE CONFLICT AS ITS VIOLENCE

It is when someone—more often than not some politician on-the-make, or in-the-making—encourages, advocates, or promotes *violent* conflict that things get dicey. The issue is not so much the 'ethnicity' of the conflict as its violence. And, when the conflict gets violent, that the 'my lifestyle/ ethnicity is the best, and it makes me human, whereas yours, not as superior as mine, means you are subhuman' phenomenon takes hold, 'ethnicity' becomes a problem. And, since ethnic conflict already has a 'moral boundary' (in-group/ out-group) built in, it is more conducive to violence than many other types of conflicts.

This is precisely where traditional conflict resolution steps in, and, often enough, should not. Traditional conflict resolution is based on two essential premises *both* of which are extremely difficult. The first premise is the idea that conflict resolution/ suppression is needed to ensure community survival and unity. The rights and the survival of the individual are far less of concern in all TCR systems we have examined. Individual injury is collective injury and thus must

be dealt with. If it is not collective, then it does not matter. The second premise is the concept that conflict resolution is *for community members only*. Outsiders need not expect, nor receive, assistance unless they can make some claim to membership. This also applies to 'not full members': lower castes, women, children, those on the margins.

Very clearly, neither of these premises is acceptable in a universal juridical regime, where individual rights predominate, and where the regime is supposed to be *universal*. Enter for example religious law, which often places limitations on the abilities of non-religionists to apply to the law (see Islam, Judaism); cultural systems, which do not allow women, for instance, equality (cf. the role of the *wali* in Islam; the minuscule number of female and black 'elders' amongst Mormons; and the small number of female judges in the rest of the world).

All this is to say that *superficially* and at an *intra-ethnic* level, traditional conflict resolution has its place. TCR *can* help members of the same ethnicity (as we have defined: they speak the same language, they practice the same production, reproduction, and consumption patterns) settle problems among themselves. This is acceptable *provided* some higher authority, adhering rigidly to principles of universal law and justice as they are understood today, ensures that (a) violence is not allowed, and (b) those who are structurally excluded or marginalized, or demeaned, have an alternative venue where they can function equally with all other individuals in the ethnic group.

Unfortunately, universal legal regimes *that actually practice what they preach* are few and far between. *All* systems are corruptible. Juvenal's comment is as true today as it was during Roman times. Who will guard the guardians, indeed? This is where, to my mind, the relations between traditional justice/ reconciliation systems, and state/ modern ones are critical. Just as it is the job of the state system to keep an eye on the traditional/ ethnic/ cultural systems, to ensure fairness and equality, so too it is the function of the traditional/ ethnic/ cultural systems to ensure that the state judicial systems are kept neutral, honest, and professional. Clearly, it is in the interests of each institution to cheat. Just as clearly, it is in the interests of individuals in both systems to restrain the cheating of others.

In Chinese traditional jurisprudence, there was supposed to be a balance between *ren* (roughly speaking, benevolence and human feeling) and *li* (roughly speaking, strict adherence to the letter of the law). It is useful to recall that balance today. Untrammelled *ren* leads to cronyism and the

substitution of cozy social arrangements for the rights of the individual. Unlimited *li* brings about a harsh regime in which often principles are upheld whereas human lives are ignored.

Traditional conflict resolution systems run the risk of comfortably supporting those with more social capital: I and those with whom I feel comfortable, my relatives, my co-ethnics, will be supported. State legal systems run the risk of completely misunderstanding the social constraints within which people act (though, as the example of Guantanamo Bay suggests, state systems can become 'ethnicized' with outsiders' rights ignored as well). Differences of production,

reproduction, and consumption are to be ignored in favor of the lowest common denominator. In a multi-ethnic world, where we have a multiplicity of choice, and where more and more individuals can belong to more and different groups (including ethnic groups) this cannot be allowed.

So, roll on ethnic conflict. Just leave the violence behind. And may the more interesting, varied, and productive/ reproductive group have more fun. Oh, and please keep the humanitarians away from me.

Michael Ashkenazi

DISCUSSION

The discussion of ethnic conflicts continued after the panel. The Israeli–Palestinian conflict mentioned by one participant as an example clearly showed the political dimension of identity and underlined the fact that ethnicity is not only a matter of cultural self-perception and group inclusion, but could also be seen as a tool to justify political action when excluding others and provoking conflict between actors of different interests.

Besides this external process, there are also internal factors that contribute to the construction of identity, such as the practice of so-called "traditions" one participant pointed out. Traditions as a form of social interaction make differences to the cultural behavior of other groups overt. Tradition can be a contentious issue as demonstrated by the discussion on female circumcision.

Whereas on the one hand, social interaction in terms of traditions and cultural patterns strengthens community ties, on the other, it often serves as an excuse for brutal and sometimes inhuman practices, as **Michael Ashkenazi** pointed out. In his eyes, excusing the tradition of female circumcision, for instance, by saying "it has always been like that" and "it is a part of our culture and identity" simply ignores the dynamics of culture and traditions. Culture is attached to time and people. Any cultural expression and even tradition is subject to change given that time and people change. In this context, Ashkenazi marked out the attempt of some people to revive cultural patterns by "inventing" traditions.

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*The Invention of Tradition*¹ notes that most traditions are reconstructions, using historical projections of the past for legitimation.

Dekha Ibrahim Abdi spoke of her practical experience in conflict resolution. Commenting on the issue of female circumcision, she noted that in this particular case, violent behavior is directed towards a subordinate group. She continued further that in recent years women have been realizing the great health risk involved with this practice. Abdi also

¹ Hobsbawn, Eric and Terence Ranger (eds.), 1992, Cambridge: CUP.

commented that the awareness of the health risk finally provides a slightly critical view of this custom.

This led towards the question of who interprets ethnic conflict. One member of the audience identified ethnicity as the primary subject of anthropology. According to his opinion, part of the anthropologist's responsibility derives from the physical process of research: how data is recorded, the reasons and context of research, and often the relationship with the donor. Anthropology has neither been completely independent nor objective, it referred to records of missionaries and colonists in the past, reflecting some ecclesiastical, Spanish, Portuguese, British, French, Dutch and other Western views. Modern anthropology relies on the authenticity of its informants since Bronislaw Malinowski encouraged scientists of his discipline to get out of their armchairs and actually participate in the field. Ethnicity does not only exist because anthropologists needed something to be occupied with. Ethnicity exists because it is subject of social interaction and discourse—and so is ethnic conflict, the participant stressed.

As **Abdi** emphasized, reading a conflict as a conflict is very much interlinked with the issue of writing it down. The question is: Who is writing it down? And who is reading it? Also, who is reconciling it? As for the last question, Abdi noted that conflict resolution involves people from different levels: grassroots organizations, politics, education, local and religious institutions, and even the military. Success of conflict resolution depends on the number of social actors involved, and of course on their collaboration.

During the discussion it became clear that conflict is a part of social life. Even in mono-ethnic places conflict exists because people have different aims and backgrounds. **Ashkenazi** illustrated this with an example from Erich Kästner's *The 35th of May, or Conrad's Ride to the South Seas*, referring to that part of the story where two groups of similar people were considered "ethnically" different, while actually only differing in their attitudes towards life.

"What does that mean for conflict resolution?", one member of the audience wondered. Does addressing the ethnic dimension in a conflict seem reasonable, or should resolution systems rather forget about it than draw attention to it? The panelists seemed to agree in that if one wants to understand what a conflict is about and to be able to solve a conflict, one must not forget the ethnic dimension. They argued that identity and ethnicity are essential for social life and personal well being, because they seek to offer stability and safety in a world of increasing instability and multiple choices. Furthermore, humans need the

comparison with others. On the one hand, dealing with conflict, which emerges out of differences can confirm one's own cultural traits. The contours of one's own self become clearer while reflecting and projecting on the disparity with others. On the other hand, the process of reflection can challenge one's own world view and encourage to think beyond own cultural horizons. In this regard, "Ethnic conflict is good for you!", to cite Ashkenazi, is to be understood as the encouragement of variety among people as a way of enriching life.

Ethnic conflict loses attraction and its "goodness" for the involved, though, if someone throws light on differences of others aiming to hide what actually is an economic, political or social problem. It gets worse when one group starts to dehumanize the opposing party. In this case, ethnicity turns into an instrument of fundamentalism. It then helps to make degradation, humiliation and killing easy for the perpetrators by justifying their deeds on a psychological basis with a very simple but efficient remedy: "They are not humans." Abdi underlined that conflict resolution could, for example, start to help to reconstruct the human image of the dehumanized by focusing on possible similarities of opposing parties in a conflict situation.

The discussion was summarized by **Jochen Hippler** who stated that, rather than asking "What makes a conflict ethnic?", the question should be: "Who makes a conflict ethnic?", and "Through which instruments is this achieved?". The question about the actors seems reasonable because identity and ethnicity are dynamic processes and depend on social interaction and definition of the person or the group claiming them. This means that first, a conflict considered to be ethnic is not independent of those writing and reading it as a conflict—its actors. Second, the question "How should we deal with ethnic conflict?" needs to be rewritten into "Who is dealing with it?" since the output of the conflict depends on the collaboration of people from different levels and institutions. Finally, it has to be emphasized that identity and ethnicity are important matters of social and personal life, because they seek to offer stability and safety. Ethnic conflict provides a variety of social constructions that makes life interesting, but it turns ugly when ethnicity is exploited or used in order to disguise an economical, political or social problem. Therefore, instead of "ethnicizing" political conflict, ethnic conflict needs to be "politicized".

Juliette Schlebusch

PANEL 3: VICTIMS OF WAR—A CHALLENGE FOR POST-WAR RECONCILIATION

« A common vision of a peaceable future is important in the post-war activities of peacebuilding and reconciliation »

There are several reflections on the discussion about “*Victims of war—A challenge for post-war reconciliation*”, which I wish to share with you. They are based on my personal experience in the peace and reconciliation work during and after the war in Croatia—and this work is still going on. Three, in my opinion highly important, lessons learned are:

First, conflict transformation toward a peaceful resolution is feasible (and desirable) at each stage of an armed conflict. Therefore, even *during the war*, one consciously has to make steps toward peace by preserving the essence of peace: human dignity. *After the war*, it is important not to ignore or neglect the need of victims for justice. This also includes efforts to confront society with its responsibility for atrocities committed by own community members.

Second, victims of war¹ need and deserve support so that they can *become a part of problem resolution*. Like this, they obtain room for their own development and become a constituent of peace whereby they avoid two threats—to remain captured in the victimhood or to be sucked in a continuation of violence realized through an endless ‘victim–perpetrator’ cycle.

Third, one must be aware of the fact that there is always a risk that even ‘actions with good intentions’ can cause additional damages to already harmed individuals or the community. Therefore, a non-violent, inclusive action guided by a common vision of a peaceable future is important in the post-war activities of peacebuilding and reconciliation. It is initiated with the question: What kind of peaceable future do I/we want? Another question to ask is: What specifically can I/we do to have such a future?

¹ In the term ‘victim’, I include all persons exposed to any suffering because of war violence like, for instance, the Gaza inhabitants who have already been suffering for decades as victims of the armed conflict.

KATARINA KRUHONJA, LAUREATE 1998

Co-founder of the Centre for Peace, Non-Violence and Human Rights in Osijek in the East Slavonia region of Croatia, Katarina Kruhonja makes a major contribution to peacebuilding in the region.



She engages in the protection of human rights, peace education, organizing seminars and workshops for primary school teachers and children as well as post-war peacebuilding, including psychosocial support to the wounded population and preparing the ground for the return of displaced persons and refugees.

In 2004, Katarina Kruhonja, together with other organizations founded DOCUMENTA, a Center for Dealing with the Past. The key reason for establishing this center was the experience of suppression and falsification of war crimes and other war events in the younger history of the Balkans.

PEACEBUILDING IN TIME OF WAR

We, the Centre for Peace, opted for peace and strived toward peace even when war was still ongoing by using the following three approaches: (1) helping the needy ones; (2) taking a stand against humanitarian law and human rights violations by our own community; (3) pleading persistently for peaceful conflict resolution or by constant, unremitting efforts in favor of a peaceful resolution of the war.

By helping the needy ones we have contributed to interconnectedness and solidarity between people. We have organized workshops on dealing with stress

and trauma for the staff involved in emergency care of displaced people and refugees as well as to the teachers working with exiled children. We have also provided psychosocial support directly to displaced people and refugees from expelled villages, to women and children in the expellee settlement. For many years, we have organized camps for children and youth to have a rest and take a break from war. These activities have been beneficial in dealing with trauma and stress on an individual level. By doing so, we have supported the members of a wounded population in overcoming their traumas. In addition, such support has always empowered some of them to become helpers within their own group(s), but also in activities aimed toward peace and reconciliation. Empathy and solidarity that persons receive will safeguard their capacities necessary to recover from their own traumas, to forgive and to try to start living a peaceful life again, and, even, to contribute to peacebuilding.

Despite uneasiness and fear, we have been organizing non-violent protection for our co-citizens, ethnic Serbs, in cases of threats and dispossession. We have also started to publicly come forward against human rights violations and against the idea of an ethnically clean Croatia. In war, although it may seem a paradox, *paying respect to the dignity of each human being, including the enemy*, may not be postponed. Actually, the ordinary person knows that it is not permissible, not even during war, to abuse and kill children, women, civilians, detained persons and persons who are ill. Such atrocities, however, are usually justified by the arguments of endangered national security and the nation's future. This is why it is difficult and dangerous to publicly announce in one's own community: "Not in my name!" But by preserving the attitude and practice that the principle of freedom and justice must be applied equally, even under circumstances of war, in respect of all humans, including the enemy, we have contributed to sustainable peace in several aspects. First, we were preserving our own value system, our mental and spiritual health. Further, it was a contribution to prevent the continuation of violence through an endless 'victim-perpetrator-victim' cycle. On the contrary, grounds were being prepared for a community built up on human rights.

The Centre for Peace supported the peace process in eastern Croatia at a time when only few believed (and those who could give rational arguments for that process could not get the floor in the public) in the end of war without a repeated military action. In cooperation with peace organizations from other parts of Croatia and from Serbia and with the help of the international organization "Peace Bridge", we organized meetings in Hungary for about

1,300 people who were from war-divided families, their friends and previous neighbors. Actually, the expellees were the ones who suggested having such meetings/ visits organized because they wanted to see what people on the other side of the frontline think about their return, whether there are people willing to support peace. The mentioned peace-oriented expellees became important stakeholders in the peaceful integration process in eastern Croatia—the end of war without military intervention. Such peace-oriented efforts during the war may prevent an escalation of war conflicts leading to mutual and self-destruction. Such efforts may open avenues for a cessation of war and for conflict resolution agreeable to all parties.

TRANSITIONAL JUSTICE IN THE POST-WAR BUILDING OF SUSTAINABLE PEACE AND DEVELOPMENT

A peace agreement and its implementation should incorporate elements of transitional justice in order to preserve the human dignity of victims of war and their involvement in peacebuilding. Elements of transitional justice include:

- establishing the fate of missing and detained people;
- determining human losses and facts about war crimes;
- establishing retributive and restorative justice (war crime trials, truth telling mechanisms, apologies, erecting monuments and compensations to victims of war crimes);
- providing professional assistance to victims suffering from physical and post-trauma difficulties;
- creating opportunities for the re-socialization of victims.

In Croatia, but also in other countries established after the fall of Yugoslavia, the international community mostly put on the pressure for minority rights to be respected after the war and to enable the repatriation of refugees (refugees have every right to express their dissatisfaction with the implementation). The second step included the obligation to process war crimes before the International Criminal Tribunal for the former Yugoslavia (ICTY). The state did not really create opportunities for civic involvement. Luckily, civil initiatives came from the grassroots level (bottom-up principle).

Despite certain controversy, in my opinion, the work of ICTY is positive and significant. Facts about the most serious war crimes and genocide have been investigated and established. Following that, those responsible who were indicted had been persons from high commanding levels. Besides, ICTY trials

represent a civilizational step forward toward the prosecution of perpetrators regardless of their ethnic affiliation, i.e. intention (aggressor, liberator or defender). In this way, the ICTY contributes to justice for victims and the establishment of social standards taking into account all victims, and condemning all crimes and criminals.

It is true that the process of establishing a social consensus concerning the justice for *all* victims and condemnations of *all* crimes (establishing of retributive justice) is not completed yet. It still presents a challenge. But this consensus is extremely important because it creates an environment in which the victim will be relieved of a burden of shame, fear and even guilt, where the victim will have a better chance to work on his/her trauma and loss, to testify more easily about his/her suffering. This is a path heading toward victim re-socialization and their involvement in reconciliation and peacebuilding. The same applies to the perpetrators—they also need an environment in which assuming one's own responsibility toward the victim and society presents a basis for their re-socialization.

Prominent is the connection and interdependence between individual and social processes of dealing with the negative inheritance of the violent past.

Therefore, based on my experience and in my opinion, it would be necessary to establish a *social consensus on the processes and instruments for establishing justice after the war—as one segment of a desirable future*. In Croatia, however, no participatory aligning of the future we want has taken place and no agreement has been reached on which development elements are important and acceptable for all social and political groups (we do not even have a strategic development plan, but we plan to become an EU member state)². Moreover, existing networks of organized crime and political corruption in Croatia (and in the region), and a completely torn up economy present an unfavorable context for any processes that deal with the past.

WHAT CAN BE DONE—COALITION FOR RECOM?

In addressing the aforementioned issues, civil society organizations from the region³ have initiated a

² The Centre for Peace has gained such experience at local communities' level. Peace teams have provided support to post-war peacebuilding in ten multi-ethnic local communities affected by the war in eastern Croatia and Bosnia. We used, as the first step, the active listening program of the local population, and participatory planning of a desirable future for their community. The review and evaluation of the results were published in "I Choose Life, Post-war Peacebuilding in Eastern Croatia, Building a Democratic Society based on the Culture of Nonviolence, 2000".

³ Initiators were 'DOCUMENTA' from Croatia, 'Humanitarian Law Fund' from Serbia and 'Documentation-Research Centre Sarajevo' from BiH.

wide-ranging consultation process in the countries established after the fall of Yugoslavia. Consultations were made concerning the need to establish an *additional mechanism* of dealing with the past that shall focus on the victims. Besides the continuation of judicial processes before national courts, our efforts go towards the establishment of a regional commission which shall be tasked with determining the facts on sufferings, war crimes and mass violations of human rights. More than 5,100 people have been involved in the consultation process. It has included persons of different walks of life (victims, veterans, civil society organizations, youth networks and organizations, journalists, artists, scientists, independent intellectuals, religious communities). The general public was informed about it through the media and by the broadcast of debates on TV shows. As the result of this three-year-long consultation process, a coalition comprising more than 900 organizations and individuals was established⁴ and a consensus on these two issues was reached. The transitional justice processes need to be approached regionally because of the regional character of the war conflicts. Also, states should assume responsibility to take a lead in such regional transitional justice processes.

Therefore, the coalition will seek participation from their own governments in establishing an independent regional commission. The mission of the commission would be to compile facts and to publish a report that would comprise a list of human losses in the region, including data on how they died and a list of missing persons (still more than 16,000 reported missing persons in the region), the facts about the most serious war crimes and violations of human rights on a massive scale. In addition, this commission would organize public hearings for the crime victims (truth telling mechanism). The states should commit themselves to cooperate with the Commission in the course of the investigative stage and in implementing the recommendations.

My personal wish is that this regional coalition of civil society organizations, or some other or new organizations (for instance a youth network) assume the role of an initiator of consultations and dialogues also on other issues that are important for sustainable peace in the region. These issues, to mention just a few, are a vision of the common future, natural resources preservation, sustainable development and the fight against corruption.

Katarina Kruhonja

⁴ Coalition for RECOM – Coalition for Establishing a Regional Commission for Establishing the Facts about War Crimes and Other Serious Past Human Rights Violation in former Yugoslavia (RECOM).

« Reparation and rehabilitation as a process, establishing a link between the past and the future »



**THEO VAN BOVEN,
LAUREATE 1985**

Former Director of the UN Division of Human Rights (1977 to 1982) and Expert Member of the UN Subcommission on Human Rights, and Special Rapporteur on the Right to Reparation to Victims of

Gross Violations of Human Rights.

Van Boven was the First Registrar of the International Criminal Tribunal for the former Yugoslavia. More recently, he has been the UN Special Rapporteur on Torture. As Director of the UN Division of Human Rights, van Boven argued consistently that concern for human rights should not be a marginal activity within the UN system, but should become the core element of development strategies on all levels.

He has contributed to the creation of fact-finding mechanisms in these areas, in order to bring pressure on defaulting authorities and to provide relief to victims. He has also been concerned to identify the root causes of human rights violations in connection with the development process, patterns of economic and political domination, militarization of societies and racial discrimination.

I would like to address three issues today: first, victims of war, second, the conditions for sustainable peacebuilding and reconciliation and, last but not least, I will concentrate somewhat more on the issue of reparation which again focuses on victims.

VICTIMS OF WAR

In legal terms, we are speaking about armed conflicts. There are international and non-international armed conflicts, but what is common in both these types of situations, of course, are the inherent massive violations of rights, rights to life and other rights. There are large numbers of victims in these types of situations of war and conflict. And this raises certain problems, as Katarina Kruhonja said yesterday, when we, Katarina, Susanne Kjaer and myself, participated in a workshop at the Gustav-Stresemann-Institute. We covered a number of situations like the ones in the former Yugoslavia, Palestine, Eritrea, Russia

and Chechnya. Also the Second World War came back into our minds. Situations in Latin America and the ones mentioned before are all different and sometimes need different approaches and solutions. But at the same time, in my opinion, there are very basic values. Values also pronounced by the United Nations that have to be respected. In Europe, we had two World Wars which caused huge numbers of victims. And that led, I think, also to a reorientation of international law and to the international movement for human rights.

CONDITIONS FOR SUSTAINABLE PEACEBUILDING AND FOR RECONCILIATION AND WAR REPARATIONS

After the First World War, Germany, having lost the war and as a sort of punishment, had to pay reparations. But you may wonder who benefited from this. It laid the basis, formed the roots for resentment and in fact it was one of the factors that might have led to the Second World War. The Second World War, which, even in terms of cruelties and bestialities was nearly unprecedented, led in fact to reparations not to a state, but eventually to people, to persons: reparations to the victims. Of course, many violations are nearly irreparable, lives lost or torture that is inflicted on persons is hardly irreparable. But nevertheless, Germany at that time made a big effort of *Wiedergutmachung*. *Wiedergutmachung* for the Jews who had suffered immensely and were exterminated in large numbers, *Wiedergutmachung* also—but in a more moderate way and later on—for the Roma and Sinti who are in the news again these days. In my opinion, these reparation efforts, the *Wiedergutmachung*, were—I am not referring to the German Democratic Republic, they did not participate in that, which was wrong, but that is another issue—essential for reconciliation. Reconciliation cannot be imposed, but you have to create conditions for reconciliation and for the reintegration of Germany in the community of the world and the European nations. In this sense, I believe these efforts of *Wiedergutmachung* to be extremely essential. *Wiedergutmachung* for the victims of Nazism.

At the same time, but this was not subject to discussion, there were also, we have to acknowledge that, victims on the German side. Victims of retaliation, of reprisals, of revenge. Only now, I understand, is it being acknowledged by the Eastern countries—I say this with great caution and prudence. The passing of time is important to acknowledge matters, and there were also Germans who were victims of

revenge, retaliation and also of war crimes. In most situations, and I am now leaving the World Wars, in most situations we see that patterns of denial prevail. Victims are ignored. They suffer in silence. They are mute, they have no voice, but there are now certain changes to re-acknowledge the fate of victims, and there are all kinds of instruments available to the United Nations. I contributed to this by providing definitions of victims.

I would now like to mention four conditions which are of primary importance for sustainable peacebuilding. They are the *right to know*, the *right to justice*, the *right to reparation*, and *guarantees of non-recurrences*. They are also listed in the United Nations documents. In this context, also governments have responsibility and perpetrators are liable. In the last twenty-odd years, many countries have established truth and reconciliation commissions. Again, truth is important, reconciliation should follow, but it cannot be imposed, it has to grow.

ISSUES OF REPARATION WITH THE FOCUS ON VICTIMS

We argued yesterday that it is extremely important, both for individual victims and for societies that facts be established. I think for peace to last, we should not just say: "Well let us forget about history." I believe that we have to realize and acknowledge what happened in the past to learn lessons and to do justice to those who have suffered. So when establishing the facts and seeking the truth, it is important to mention names. In certain repressive situations, such as concentration camps, people no more carry names but numbers. And, when you meet with relatives of disappeared persons, it is their names, their photographs, and their identity that remains very important. Now, this is all part of the *right to know*. The right to know is a collective right for society and individuals alike.

As to the *right to justice*, even though one could talk about it for long, we have observed over the years and centuries that impunity prevails. It is more the exception than the rule that the perpetrators are punished. After the Second World War, we did have Nuremberg. But there is the case of Pinochet who was never punished, but at least his life was made quite complicated at the end. There are the examples of Ceausescu and Saddam Hussein, both great criminals, but they did not have the benefit of fair justice in a fair trial.

I mention the names of Milosevic, Videla and Fujimori. I testified in Buenos Aires at the trial of Videla and others. I believe that it is better to have trials in the country itself— rather than far away in The Hague. The Yugoslavia Tribunal and the International Criminal Court are examples for this.

Guarantees for non-recurrence are laid down in the United Nations' Basic Principles and Guidelines. They are often of a more structural nature and are to ensure that, to mention one, there will be effective civilian control over the military and security forces. They also strengthen the independence of the judiciary, or protect persons in the legal, medical and health care professions, the media and also human right defenders. It is their aim to create conditions under which past events will not repeat themselves.

I would like to finish by mentioning several aspects of *reparation* and *rehabilitation*, namely as a right, as a symbol and as a process. Gradually, we see reparation as a right and the judicial means play a prominent role in this. Reparation is often assessed in terms of monetary compensation for individual claims and it is important also that this is inclusive. In granting reparations to people, we do not discriminate between people, but make sure that reparations are granted on a non-discriminatory basis and that the victims themselves participate in the design and in the making-up of the projects and programs for reparation.

Reparation and rehabilitation as a symbol is more a social and community matter to make sure that victims are recognized as citizens. But there are other various symbolic means of satisfaction. I have already mentioned truth seeking, memorials, apologies, restoration of dignity. And, as we said yesterday, acknowledgment is a very, very basic but important matter for the victims.

Finally, we can look at reparation and rehabilitation as a process, establishing a link between the past and the future, giving prominence to participation and the empowerment of victims. We also aim at reconciliation and a fair and equitable share in reconstruction efforts. All that is also focused on victims of war, and I believe that this is a line we have to follow. Developments are encouraging although we are still aware that the majority of victims often keep suffering in silence and that they are often marginalized groups, such as indigenous people, women, and children who are strongly victimized and who themselves do not often have the knowledge nor the capacity to claim their rights. And this is why we have to establish and develop assistance mechanisms.

Theo van Boven

« The prohibition of torture is absolute »



INGE GENEKKE / INTERNATIONAL REHABILITATION COUNCIL FOR TORTURE VICTIMS (IRCT), LAUREATE 1988

In 1982, the Rehabilitation and Research Centre for Torture Victims (RCT) was founded in Copenhagen, with Inge Genefke as Medical Director.

In 1986, the International Rehabilitation Council for Torture Victims (IRCT) was established by RCT as a private, humanitarian, non-political organization. The most important task of IRCT is to contribute to the establishment and operation of rehabilitation centers worldwide. Several times a year it hosts international training seminars for health professionals, both in Denmark and abroad.

Today, almost 100 centers and programs in 75 countries provide treatment for thousands of torture victims every year. RCT has assisted in supporting and setting up the majority of these centers, e.g. in Albania, Argentina, Bangladesh, Chile, Estonia, Equatorial Guinea, Greece, Latvia, Lithuania, Kenya, Kuwait, Nepal, Pakistan, the Philippines, Russia, South Africa, Sri Lanka, Turkey, Ukraine, Uganda and Uruguay. At the request of the European Union, IRCT has participated in the establishment of professional assistance to rape victims from the war in former Yugoslavia.



**REPRESENTED BY SUSANNE KJAER,
PROJECT MANAGER IRCT**

It is a great honor for me to be here today alongside such distinguished speakers. As you know, Inge Genefke should have been here in my place. She was awarded the Right Livelihood Award in 1988 for her long fight against torture and her struggle to secure help for the victims of torture. Due to severe illness in her close family, Inge Genefke unfortunately had to cancel her participation but she sends many greetings. Most of the words, that I will speak, are her words; so—if not in body—she is with us in spirit.

Inge Genefke was the founder of the International Rehabilitation Council for Torture Victims (IRCT) where I have been working for the past six years. The IRCT is an independent, health professional organization working toward the vision of a world without torture. We currently represent 143 members in 73 countries, which provide rehabilitation to individuals, families, and communities affected by torture. Last year alone, IRCT member centers provided assistance to more than 100,000 men, women, and children a large number of whom live in societies in transition.

In these contexts—to avoid resort to arms and violence and to help building democratic processes—it is vital that the truth be established; that victims have access to justice and that they receive full rehabilitation. And, this goes without saying, the practice of torture must be discontinued!

The definition of torture we use today is the definition from the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), of 10 December 1984, which entered into force in June 1987. According to Article 1 in the CAT, four conditions must be met before one can refer to torture in legally binding terms. Those conditions are: 1) "(...) severe pain or suffering, whether physical or mental", 2) "intentionally inflicted", 3) "for such purposes" and 4) "inflicted by (...) a public official."

Torture is an instrument of power of repressive regimes with the aim to extract information, break down individuals and create fear in communities. Contrary to popular notion, the victims of torture come from all levels of society. Anyone can be a victim of torture. Although often used to silence human rights defenders and outspoken dissidents, the group of torture victims is much wider and includes persons belonging to the most vulnerable groups: refugees and asylum seekers, IDPs, those living in poverty, street children and ethnic and religious communities.

Torture constitutes one of the worst forms of trauma because a) it causes unbearable physical and psychological pain, b) it is impossible to escape from, c) it can't be fought without the risk of death—and many do die, and d) torture is not inflicted by a wild animal or natural disaster but by a person in the shape of a human being.

The consequences of torture reach far beyond immediate pain. Often the worst consequences for the survivors are the mental sequelae. Many victims suffer from post-traumatic stress disorder (PTSD), which includes symptoms such as flashbacks (or intrusive thoughts), severe anxiety, insomnia, nightmares, depression and memory lapses. Torture victims often feel guilt and shame, triggered by the humiliation they have endured. Many feel that they have betrayed themselves or their friends and family. All such symptoms are normal human responses to abnormal and inhuman treatment.

Victims of torture do not suffer alone. Not least children of torture survivors can suffer greatly. Children are often left without the necessary explanations and the parents' silence creates fearful fantasies and guilt in the child. Torture is a trans-generational problem and the spill-over effect magnifies the devastating results of torture. And not only the close families and friends are affected. Not only is local society as a whole damaged through the trauma inflicted on its members but also through an instilled awareness that basic human rights are neither guaranteed nor respected. Freedom is not respected. People are not respected. The use of torture sends a strong warning to those within a political, social, or religious opposition, but also to normal citizens who cannot rightly claim to live in a free or safe society.

Torture is in this way a threat to reconciliation and democratic development. Therefore, the practice of torture must be acknowledged and addressed in a way which can heal the wounds in the souls of the victims and in the society as a whole.

Article 14 of the CAT guarantees the right of torture victims to reparation. Members of the UN Committee against Torture have regularly emphasized that the obligation of Article 14 involves not only the provision of material compensation and redress, but also physical, mental and social rehabilitation.

What we are talking about here is what Inge Genefke's husband, Bent Sorensen, former member of the CAT Committee and CPT, has named the three M's: 1) Moral rehabilitation—recognition that a wrong has been done, 2) Monetary rehabilitation—fair and adequate compensation and 3) Medical rehabilitation—both physical and psychological.

There is no doubt that justice heals. The pursuit of reparation can be empowering—with proper support and care by assisting parties—allowing torture survivors to transform feelings of pain, isolation or stigmatization through a public process that may result in a public acknowledgment that a wrong was committed and that those responsible will be punished.

The prohibition of torture is absolute. No exceptional circumstances or excuse whatsoever can be invoked as a justification of torture. Article 2 in the CAT is very clear on this point. Article 4–9 relate to the punishment of torturers—the ones who give the orders as well as the ones who execute the orders. Despite the clear obligation on states to initiate prompt and impartial investigations of allegations of torture and to punish perpetrators, still the majority of the perpetrators of torture around the world go unpunished and victims do not receive the support and compensation they are entitled to. The obstacles to fighting impunity are multiple; one is lack of sufficient evidence. Torture is a covert crime, often perpetrated in such a way as to maximize suffering and pain but minimize the detectable physical evidence. For a period of years, at the IRCT, we have worked to promote medical evidence of torture as a means to fight impunity. Unfortunately, time doesn't allow for elaboration on this.

But punishment is a necessity. First, if a policeman is not punished for torturing, then he will continue torturing! Impunity is perceived as legitimization of torture. Second, the victims feel that they have been mistreated, punished and destroyed—but the criminals walk about unchallenged. Again, it is important for victims to see and know that justice is done.

Any society in transition needs to face the past. Filing of individual cases is extremely difficult and can be coupled with truth and reconciliation processes, which may have many advantages. It is important that the legacy of the former regime be dealt with in a way, which helps the individual victims and the society as a whole. It is important not to create new conflicts but instead promote reconciliation. In this process, it is vital that the psychosocial needs of the population be taken into consideration, and that appropriate rehabilitation and support be available for those who have been victims of torture and other acts of violence. After years of repression, conflict and war, regular support networks and structures are often broken or destroyed. It is not enough in itself to rebuild legal or legislative systems, to construct schools or repair highways. In order to ensure democratic development, the 'human factor' is vitally important, and it is through rehabilitation that individuals and their families become able to participate fully in their societies. And, in a broader sense, that the society in which they live, becomes fully aware of what happened during the period of repression. Providing rehabilitation services that also reach out to the wider community can help reconstruct broken societal ties. In countries with a history of repression, the whole society must deal with the issue of torture in order to build a sustainable moral foundation for the future.

In the spirit of Inge Genefke, I would like to end with a poem. Those of you who know Inge know that she is an endless source of quotations from poems and thoughts of wise men and women. One of her favorites is the last poem of the Chilean musician and poet Victor Jara who died in prison in 1973. His last poem, memorized by his fellow prisoners and smuggled out of prison by word of mouth, ends like this:

(...)

How hard it is to sing

When I must sing of horror

Horror which I am living

Horror which I am dying

To see myself among so much horror

*and so many moments of infinity
in which silence and screams
are the end of my song
What I see, I have never seen
What I have felt and what I feel,
will give birth to the moment.*

The death of Victor Jara and the deaths of thousands of innocent people like him, *did* "give birth" to a struggle for justice and moral societies that continues to this day.

Inge Genefke

(Represented by Susanne Kjaer, Project Manager IRCT)

DISCUSSION

In the open discussion following the presentations of the panelists, three main topics were addressed: the question of the guilt of the perpetrators, the meaningfulness of post-war trials in the respective country and the current debate on torture.

The first issue raised was the question of *Wiedergutmachung*. What time frame should be allocated for such a process? How does it start, when does it end? Which of the forthcoming generations can be acquitted from guilt?

Theo van Boven stressed that *Wiedergutmachung* as a form of reparation is an exception, and constitutes only one of many post-war strategies. Furthermore, he stated that the perpetrators are always to be included in the process, at best by their own motivation, to redeem their actions. As to the question of a timeframe, it first and foremost is determined by the victims' needs to be compensated financially as well as psychologically and politically. Additionally, one must differentiate between individual cases, taking into account the nature of atrocities victims have endured, in order to determine the kind of compensation and reparation they are entitled to. Nevertheless, considering guilt and the nature of *Wiedergutmachung*, one cannot set a monetary price on such a process. Reconciliation must also occur by free will and cannot be imposed on actors. Only in this manner can trust be regained, victims adequately compensated and people reconciled. Additionally, van Boven pointed out that it is of utmost importance to give victims identity and personality,

ANDREA WARNECKE (moderator) is Senior Researcher at BICC. In her present work, she focuses on the repercussions of international migration on conflict management in Sub-Saharan African states and on the formation of transnational diaspora networks. She has also conducted research on the contribution of development actors to UN peacebuilding operations.



Warnecke studied history, English and communication sciences in Bochum and Newcastle. During her studies, she worked at the Institute for Diaspora and Genocide Research (IDG) at Bochum University, where she focused on the structural and societal causes of genocide and mass violence and helped to prepare a teaching module on comparative genocide research. She is also a member of the Working Group of Historical Peace Research.

more precisely: a name and face people can relate to. This way, the involvement of all parties is likely to be higher and more intense. Also, work with the victims should begin as early as possible, if procurable already during the conflict.

The end of guilt was addressed by one discussant who remarked that it was an often-raised question, especially by young people. Van Boven conceded that it should be kept in mind that the young generation is not responsible for the evil acts of previous generations. Nevertheless, they are liable for dealing with the responsibility and the existing guilt and to doing as much as they can to provide a future environment of true togetherness, peace and common perspective.

On the matter of post-war trials, the link to the concrete example of former Yugoslavia was established. The question was raised whether trials should be held in the country where the conflict took place or whether the courts should be placed away from the former conflict zone, i.e. in the form of allocating the trial to the International Criminal Court (ICC) in The Hague. Linked to this question was the reference to the case of the former Argentinean Dictator, Jorge Rafael Videla in the mid-1980, which is considered a prime example for illustrating the difficulties that arise when trials aiming to redeem human rights violations are conducted in the country of conflict.

Katarina Kruhonja clearly stated that a fair trial must be guaranteed to withstand all negative influences, i.e. lust for revenge, etc. It seems that this is more likely to happen on neutral soil. The former Yugoslavia stands for a valid example of poor chances for a fair trial since the political and social discourse there has been and is still too ethnically biased. Much more independence and professionalism can rightly be expected from the International Criminal Tribunal for the former Yugoslavia (ICTY). She remarked that the victims themselves often ask for a third neutral party to join the process. There appears to be a need and a want for third party intervention that provides professionalism, neutrality, know-how and general support, not only for the victims, but also for the perpetrators and their opportunity for a fair trial. Nevertheless, all parties to the post-war reconciliation process do not expect 'final solutions' from third parties but rather consultation efforts in order to empower, to listen to and to assess the problems and solutions brought up.

The third and final topic of discussion raised by the participants focused on the current discourse on torture. First, it was asked why some countries, such as Iran and Israel, are not on the list of cooperating countries with the International Rehabilitation

Council for Torture Victims (IRCT). Second, the matter of torture which recently has been used by 'supposedly' democratic countries like the United States was mentioned. In relation to this, the question was raised whether the prohibition of torture can still be considered as absolute.

As to why Iran and Israel are not cooperating, **Susanne Kjaer** noted that there are no local initiatives in the respective countries. Without any kind of local cooperation, there is little opportunity for the International Rehabilitation Council for Torture Victims (IRCT) to provide the assistance it is capable of. Furthermore, the kind of field work IRCT provides is deemed a provocation by a small group of political perpetrators in the country, and is thus not even wished by the victims who do not want to worsen the chances of reconciliation.

One participant pointed out that especially since the attacks of 9/11 there have been attempts to bend the prohibition of torture, even among the free countries of the world. It can be observed that under the built up scenario of the "ticking time bomb" there is a trend to redefine torture. The panel unanimously considered this trend to be illegitimate. In the case of the United States, torture has taken place outside of US soil, i.e. Guantanamo Bay or Iraq. There has been the need to redefine the status of torture victims to 'illegal combatants', who by definition are not treated in accordance with, as well as granted the protection, of international law. Kjaer referred to the position of the United Nations and the European Union strongly advocating against that trend. International law is actually very clear on the concept of absolute prohibition of torture.

The discussion was summarized by Andrea Warnecke who highlighted the main recommendations of the discussion: First, take all parties into the process of post-war reconciliation but give the victims clear identity and recognition value to empower them and their issues. Second, fight against impunity and denial in the processes of transitional and retributive justice. And finally, provide victims with moral, monetary and medical compensation so that they can resume their life on a decent basis.

Daniele Dickmann

PANEL 4: RESOURCE MANAGEMENT IN A FAIRER WORLD

« The African continent is without doubt richly endowed with natural resources, but is seemingly unable to escape the resource curse »



**RENE NGONGO,
LAUREATE 2009**

Founder and national coordinator of the Organisation Concertee des Ecologistes et Amis de la Nature (OCEAN).

The first focus of Ngongo's work was to promote sustainable land use models that would allow the local population to satisfy their need for food and fuelwood, and to receive a better income, without destroying the forest.

Throughout the wartime years of 1996 to 2002, he was actively monitoring the exploitation of natural resources by the different warring parties. Many international organizations and research institutes recognized OCEAN as a key source of information on illegal mining operations and irresponsible logging practices. Much of Ngongo's work is dedicated to capacity-building, strengthening the knowledge and capabilities of NGOs, politicians and local authorities in the Democratic Republic of the Congo to effectively protect the forest.

In numerous countries, which are rich in petroleum, gas, diamonds, gold, forests and other resources in demand, their exploitation has ironically led to higher poverty and inequality levels, weakened public services and democracy itself, encouraged corruption and slowed economic growth. This phenomenon is known as the 'resource curse' or 'paradox of plenty'. Not only does this manna not benefit the population, the exploitation of natural resources also brings about a plethora of direct and indirect negative effects (example: the six-day war at Kisangani between Rwandans and Ugandans over the control of diamonds in the Orientale Province

in the Democratic Republic of the Congo—DRC, the link between the repeated wars in DRC and the pillage of natural resources there has been proven beyond doubt). The exploitation of minerals, forests and hydrocarbons can be a burden for and have a negative impact on the economy of a country, too, as it generates a massive influx of foreign capital to the detriment of the agricultural and industrial sectors in which the majority of the population works. In the same ironic way, exploiting the resource richness is often accompanied by misery for the local population, bad governance and environmental degradation. Some exceptions to the rule, however, allow for some hope that this curse can be averted when a number of preconditions prevail.

A recent literature review on the 'resource curse' shows the negative impact of natural resources in developing countries on three levels: first, economic performance, second, risk of civil war, and third, functioning of institutions and governance.

Fifty years after independence, many African voices ask what there is to celebrate in view of the low level of human development reached in many of the countries since their independence. The recurring complaint is that the African continent is without doubt richly endowed with natural resources, but is seemingly unable to escape the resource curse. And many think that foreign interests are largely responsible for this curse. Billions of dollars emanating from the revenues from petroleum, gas, mining and forest activities are missing, leaving the population in misery and dependent on international aid.

"In Africa, wherever one finds natural resources in large commercial quantities, the inhabitants suffer and the country is locked in underdevelopment," West Africa Resource Watch underlined in a recent article. "The vast natural resources of Africa have devastated the continent, fueled conflicts, corruption and bad governance."

The way in which international interests are involved in the exploitation of these resources and the lack of transparency in contracts hinders the development of Africa. Needless to say that resources, such as diamonds, are not particularly useful for their countries of origin, which have neither the mastery of polishing nor the sales markets for these precious stones. In the dock are both the big companies from industrial states which extract the resource and enhance its value and the international institutions who don't take action to denounce this vicious circle and the hostage-taking of the producing countries. But more indirectly, the consumers in the North, too, who—mostly without knowing—are the end users of these dirty, sometimes even blood-stained resources. Multinationals and states, under the accommodating eyes of international institutions, have signed contracts containing abusive conditions which favor their own interests and not those of the local populations. The considerable sums combined with a lack of transparency favor corruption and nepotism, hindering long-term development policies.

Since the late 1990s, some NGOs have denounced the pillaging of natural resources by predatory regimes with the complicity of the extractive industries and the financial sector. The United Nations Security Council mandated several expert groups to report on the illegal exploitation of natural resources as well as on the violation of embargos issued for countries torn apart by civil wars. The question of the financing of civil wars has been the focus of attention since the mid-1990s. With the stimulus from diverse NGOs, diamond importing and exporting countries created a certification system within the Kimberley Process. Several NGOs also contributed to the start of the "Publish What You Pay" campaign in June 2002—a campaign which demands that all multinational companies and all state companies individually publish their annual net payments to governments.

The 17 June 2003 saw the kick-off of the Extractive Industries Transparency Initiative (EITI) by the British government at a conference which brought together the extractive industry, NGOs, governments from producing and consuming countries, international organizations and the financial sector. The participants adopted common principles on the transparency of revenues generated by extractive activities.

Beyond the 'traditional' conflicts over resources, new conflicts over another resource are becoming more and more prominent: the fight over the control of the carbon saved in the equatorial rainforests. Obviously, the protection of the Congo basin, second lung of the planet, constitutes a great challenge and requires a global solution in the necessary fight against climate change. Within the framework of international negotiations for 'post Kyoto' deals, a

framework called REDD (reducing emissions from deforestation and forest degradation) is being prepared. The basic principle is relatively easy: pay poor countries (but rich in forests which are carbon reservoirs) in order to prevent them from destroying their forest. Unfortunately, reality risks being far more complex: without well-established land rights (thus including land in the forests where the carbon is stocked) and without governments that are capable of managing considerable sums (billions of US dollars) which may be generated by this new mechanism, the 'fight for carbon control' is a real threat of new conflicts between communities on the one side and the government on the other.

Several economists, from Milton Friedman to Mancur Olson, have underlined repeatedly that the difference between rich and poor countries is not a question of resources but of institutions. Governments of resource-rich countries, the private sector and civil society with support from the international community should work together in order to:

- put in place judicial and financial frameworks for the extractive industries' sector;
- renegotiate abusive contracts and those detrimental to the local population;
- establish or reinforce financial management systems so that revenues from the extractive sector are converted into social expenditure (education, health);
- strengthen the capacities of civil society so that they can improve their monitoring of the exploitation process and support the local populations;
- support the establishment of certification mechanisms which identify the origin of the exploited resource;
- adopt a binding directive on corporate social responsibility, foreseeing the establishment of extraterritorial competence of judges;
- encourage the adoption of compulsory and coherent initiatives to these ends within international and regional institutions;
- minimize social and environmental impacts of extractive projects.

These measures need:

- transparency all along the production chain of extractive industries;
- good governance and the principle of free, prior and informed consent in all the policies and legal agreements;
- promotion of a national debate on revenue-sharing;
- efficient public institutions as well as mechanisms to control, evaluate and sanction, if necessary.

Rene Ngongo

« The issue at stake is how we exploit our resources and what we want to exploit them for »

The concept of defending life not only embraces the silencing of cannons and guns, but all actions that stunt it. Therefore, to us, the defense of strategic ecosystems in the Carare region is a multi-faceted challenge, because our ecosystems have sustained us and a good management of them will allow us to live in harmony and to leave a future for our next generations.

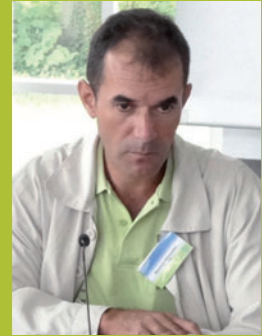
To us, our resources do not signify a curse; on the contrary they are part of the creation and have given us benefits that make our way of life easier. The issue at stake is how we exploit our resources and what we want to exploit them for; is it for the good of humanity and all who inhabit the planet? Is it only to strengthen economic power and control in order to subjugate others?

There are different conceptions of 'existence' and different answers; depending on which answer is given, our resources are a curse, a blessing or they simply signify something natural. The ATCC sees the earth as the mother who gives us different ways of life and our existence depends on how well we manage our resources.

The solution is not to stop exploiting our resources but to do it in a sustainable and participative manner, taking actions of compensation for inflicted damages, with policies of high percentages of restitution, policies that increase comprehensive benefits, etc.

We do not agree on how resources are exploited today, where the feelings of and impact on the communities are not taken into account and much less the importance of the natural ecosystems. Irreversible damage is being done in the name of increasing the capitals and the interests of multinationals and governments, leaving debris and desolation that only add to the natural changes that are taking place. But there are other ways of exploitation, the ones boosted by the interests of drug traffickers that increase the production of narcotics and originate the disrespect for the flora and fauna and contribute to the extinction of hydro basins and the pollution of the soil and air. These actions contribute to increased violence, prostitution and drug addiction.

ASOCIACION DE TRABAJADORES CAMPESINOS DEL CARARE (ATCC), LAUREATE 1990



**MAURICIO HERNANDEZ,
VICE-PRESIDENT ATCC**

The Asociacion de Trabajadores Campesinos del Carare (ATCC) was founded in 1987 as a reply to dreadful violence inflicted on peasants in the Carare region of Colombia by guerrilla, military and paramilitary forces. Its tactics were simple: constant dialogue with all parties (military, paramilitary, guerrillas) and an unshakeable commitment to non-violence.

In 1988, the Association presented its Development Plan to the government, emphasising education, communications systems including roads, peasant and communal organization and the maintenance of natural resources. This soon began to attract investment from the government's National Plan for Rehabilitation. Signs of a resurgence of guerrilla activity in 1989 led the ATCC to focus its efforts once again on peace-making.

WHAT TO DO?

Taking the above into account, I think we have to see ourselves in the mirror of life, which is our consciousness and the truth, to remember and find out whether what has been done, what we have done and what we want to do is correct or not. One can show only little consciousness, but to live we need complete consciousness.

We have to generate consciousness to live in justice and peace. This consciousness helps to comprehend what to do, what not to do and what to transform. It helps us to understand our fears, to face difficulties, and to acknowledge what is good. We have to think whether we are going in the right direction; what is the future and who will be affected. As humans, we will look for ways to adapt and maybe we will choose new ways of life, but many other species won't be able to.

We, ourselves, can propose a change of course by generating such consciousness ourselves, multiplying it among our close family and friends and producing enough energy to increase that consciousness for it to have incidence on different governmental levels, environmental authorities, educative organizations, producers, consumers, enterprises and multinationals.

How to do it?

By creating spaces of conversation, agreement and dialogue to generate policies of change, by boosting actions at different levels, knowing that dialogue is a law that goes beyond the legal aspect. Dialogue transforms and generates peace, it prepares us for the truth and finally allows us to find peace and the principles of life, which are:

- Do not inflict damage on yourself.
- Do not inflict damage on others.
- Do not allow others to inflict damage on you.

If we intervened in these issues and generated changes, then we could contribute to the conservation and even recovery of natural ecosystems in the region where the ATCC has influence, and in various other areas of the country and the world for the good of our own existence.

Mauricio Hernandez

Vice-President Association of Farmer Workers of Carare, ATCC

DISCUSSION

What does 'resource curse' mean on a local level? What is the responsibility of various actors—governments, producers, international private companies, and consumers? How can we achieve a fairer governance regime for resource management? These questions were discussed after the presentations with Laureates Rene Ngongo and Mauricio Hernandez. The discussion gave a vivid picture of what the 'resource curse' means on a local level. On the ground, in regions where resources are being exploited, it is not abstract economic data such as low GDP and slow economic growth of productive sectors, as predicted by the theory of the 'Dutch Disease', but more concrete consequences that the riverine population is confronted with. The extraction of minerals or the felling of trees brings about changes in the local landscape, can perpetuate poverty, pollute water resources, and harm plants and animals. In regions where minerals have been exploited for decades, local people still live in poverty. **Rene Ngongo** described that there were villages where power cables pass over people's heads without them having access to electricity, even though they are the guardians of the forests. While these are familiar stories, the nature of conflicts in resource-rich countries such as Columbia remained an open question. At times, they are referred to as ethnic conflicts, at other times as conflicts around natural resources. The answer is that there are both kinds of conflicts, and often both at the same time. Indigenous movements fight for the restitution of their entitlements, which may give these conflicts an ethnic appearance. At the same

PETER J. CROLL (moderator) is Director of BICC (since 2001). He graduated (MA) in Economics and Applied Linguistics in Germany. After working in several international companies in Germany and The Netherlands, he was engaged as an associated expert in the Economic Commission for Latin America (ECLA). From the early 1980s until 2001, he worked for the German Technical Cooperation (GTZ) in several positions in Germany and abroad, i.e. Country Director in Zimbabwe and Kenya.



Peter Croll is internationally recognized for his expertise in development policy, conflict prevention, crisis management, program- and project planning, human resource development, and policy advocacy.

time, the demands of the indigenous people refer to entitlements to natural resources, such as land that was taken by the Spanish conquerors or land that is now bought by multinational companies **Mauricio Hernandez** underlined. The decision of whether to sell community land or not can create division and violence between and among communities.

Conflicts are then aggravated by political ideologies and armed groups who develop their own interests.

The open discussion on who is responsible for the resource curse showed that there is still not much agreement on how to address this situation. While some stressed the responsibility of corrupt elites in producing countries, others highlighted the detrimental influence of global companies buying forests in developing countries, opening them up and logging them in an uncontrolled fashion, the resulting deforestation causing 20 percent of carbon dioxide emissions. But Western governments should also be wary of channeling large sums for forest protection through governments. One participant expressed the fear that, for example, the money provided through the UN Reducing Emissions from Deforestation and Forest Degradation (REDD) Programme will again go to the government and will not trickle down to the communities. Therefore, local activists like Mauricio Hernandez believe that it is important to transform oneself first; that change cannot start with the others.

To achieve a fairer governance regime for resources from this perspective, it is important to generate alliances between like-minded people who care about the livelihoods of people in producing regions. At this point, it was stressed that awareness-raising is not enough if mobilization which makes people act upon what they have learned is missing. Nevertheless, many discussants underlined the importance of raising the awareness of the local population to preserve the forests and to support existing initiatives in this direction.

In addition to the local population, great hope was expressed during the discussion in view of the Northern consumers who were encouraged to solve the problems at hand. **Ngongo** cited the trade in Coltan from the Democratic Republic of the Congo between 2000 and 2004 used for the production of mobile phones as an example for the weight consumers can have, as demand had subsided temporarily. But then, in the coltan market, consumers have no option for open boycott and thus little direct impact. Transparency in payments and contract provisions, alongside the certification of legal and/or ethical natural resources were other policy options brought forward in the debate. Participants in the discussion were not sure how the willpower needed to implement such policies could be generated. Again, Western governments were cited as important players, while some local activists believed that again change must come from within their own ranks, through mobilization and alliances with other like-minded people.

Another often-discussed solution is the provision of microcredits which, it was argued, would be able to fight the resource curse. In Columbia and the DRC, however, it did not seem to have worked that well. In the DRC, the microcredit system they tried to install after the war created a private middle class that was independent from the state instead of making poorer people less dependent from international aid. Similarly, in Columbia there is no culture of microcredit, thus communities do not know how to use it and therefore it is mainly used by the middle classes. It was even argued that microcredit does not lie at the heart of the problem, but rather the lack of knowledge on how to add value to products.

Summing the discussion up, moderator **Peter J. Croll** stated that responsibility is and must be shared among the various different actors. While each actor has to do his/her part, the responsibility is weighted differently, because they have different room for maneuver. The greater the space of maneuver, the more important it is that they take their responsibility seriously. It is therefore up to governments both of producing and importing countries to hold the companies to account and to support people who are willing to change the use of the country's resources to the better. To be effective, international initiatives—like the Extractive Industry Transparency Initiative that seeks payments transparency, or the Kimberley Process that seeks to prevent trade in conflict diamonds—should build on the experience and the determination of creative people like the Laureates.

Marie Müller

ABOUT BICC

FACILITATING PEACE AND DEVELOPMENT THROUGH RESEARCH, ADVISORY SERVICES, TRAINING

As an independent, non-profit organization BICC is dedicated to promoting and facilitating peace and development.

OUR TASK

BICC seeks to assist in preventing violent conflict and hence contribute to their constructive transformation. While disarmament frees resources, which can be employed in the fight against poverty, conversion allows for a targeted, best possible reuse of these resources.

OUR WORK

- **Peace and development:** BICC offers advisory services on disarmament, demobilization and reintegration (DD&R). It evaluates DD&R-related processes as well as peacebuilding tools, studies the role of the security sector, researches on the nexus between development and peace as well as early warning systems for crises.
- **Arms—global trends, exports and control:** BICC analyzes global trends in defense expenditures, armed forces personnel and militarization. It makes connections between arms exports, development aid and human rights and lobbies for global arms control.
- **Small Arms and Light Weapons (SALW):** BICC offers advice and trainings worldwide on small arms control. It also consults on the marking and tracing as well as the safe stockpiling of SALW and ammunition. It collects data on SALW proliferation and evaluates small arms control activities.
- **Resources and conflict:** BICC studies the nexus between natural resources and conflict while lobbying and training on this topic.
- **Migration and security:** BICC carries out research on the nexus between migration in Africa and security. It discusses challenges of migration and displacement in Sub-Saharan Africa and studies the African diaspora in North Rhine-Westphalia (NRW), in Germany and in the European Union.
- **Base Conversion:** BICC has carried out research on base conversion for 15 years—not only in Germany but worldwide.

OUR SERVICES

- Applied research (research papers, background and evaluation studies, impact analysis, indicator development, data collection and analysis as well as project assistance and implementation).
- Consultancy (Background analyses, policy recommendations, expert workshops).
- Capacity-building through the elaboration of concepts and modules for education and training.
- Public relations (publications, conferences, events, and exhibitions).

OUR DONORS AND PARTNERS

- International and UN-organizations
- Governments
- International and national foundations
- International and national research institutions
- International and national NGOs
- German Federal States (*Land*) and federal ministries.

OUR ORGANIZATION

On the basis of applied research, BICC offers consultancy, policy advice and training. Its international staff carries out self- and third-party financed projects.

BICC collects and publishes information, carries out evaluations and prepares publications and makes these materials available to NGOs, governments and private organizations. It is co-publisher of an international scientific book series (Sustainable Peace and Global Security Governance) and the annual State of Peace Report (*Friedensgutachten*).

The Center organizes exhibitions, conferences, expert workshops and talks on a regular basis. These events help make the public even more aware of the issues that are important to BICC.

BICC was founded in 1994 with the support of the Land North Rhine-Westphalia (NRW) as a non-profit limited liability company (GmbH). Shareholders are the Lander of NRW and Brandenburg. BICC bodies are its Supervisory Board, its Board of Trustees, and the International Board.

ABOUT SEF

PROFILE

Building on the report "Our Global Neighbourhood" by the Commission on Global Governance, the Development and Peace Foundation (SEF) aims to shape policy responses to globalisation through an interdisciplinary and international approach.

SEF events and publications represent a contribution to the promotion of worldwide peace and sustainable development. As essential prerequisites for peace and development the Foundation identifies social justice, human dignity, the respectful coexistence with nature and its resources as well as multilateralism.

THE DEVELOPMENT AND PEACE FOUNDATION (SEF)

- Provides an international forum for a high-level exchange about urgent issues regarding peace and development
- Advances political agenda-setting on the challenges of globalisation
- Builds bridges between political decision-makers and practitioners, academic experts, key figures from the business community and civil society actors
- Presents tangible policy recommendations for political and civil society actors
- Addresses political strategies of international, national, regional and local actors
- Integrates the views of the Global South into policy debates
- Offers access to a large network of international experts
- Strengthens the international profile of Bonn as a UN City

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Published by:

© BICC, November 2010

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Editor: Susanne Heinke

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Layout: Katharina Moraht

Photos: Right Livelihood Award / City of Bonn / Heinke (BICC)