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Notes towards an Optimistic View of Restorative Justice in International and Intergroup Conflicts.

Comments on: ‘The Limits of Reconciliation and Forgiveness in International and Intergroup Conflicts’, Paper presented by G. M. Steinberg at Bar Ilan conference March 5, 2006

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As is evident from his title Steinberg is critical about the role of “reconciliation and forgiveness”. While recognizing that reconciliation and forgiveness may be important in RJ article I take a broader view of RJ as a background for my more optimistic view, and will draw attention to several features which are ignored in Steinberg’s paper. Specifically I want to draw attention to:

1. indigenous concepts and procedures: **Ubuntu**
2. fostering positive emotion; art and music, and don’t forget the role of women!
3. religious influence: independent or dependent variable?
5. compromise vs TRANSCEND type transformations

1.1 Indigenous concepts and procedures, Ubuntu, TRC

Steinberg is critical about whether much can be generalized from the Truth and Reconciliation Commission, TRC, in South Africa since “in this case the outcome was directly related to the common Christian cultural base” (p. 6) and thus what can be learned from this is “very limited. Much of the literature and activity based on this model appears to be driven more by theology and hope than by systematic and critical analysis of case studies” (p. 13)

This ignores an important inspiration derived from the African concept **ubuntu**. Bishop Tutu (1999) devotes some attention to the concept as a background for TRC. It is a many-faceted concept which is difficult to explicate by one word in English. My own favorite definition runs “I am because you are”. Tutu prefers the more academic language “my humanity is intrinsically related to that of other persons”. Supplementing this he presents an African ubuntu alternative to the Cartesian “I think, therefore I am” viz. “I am human because I belong”, “I participate, I share” (Belatedly there is a growing recognition in psychology that the “need to belong” is far more basic than hinted at in concepts as “attachment”, “love” etc., cf. e.g. Baumeister & Leary, 1995)

Tutu tells us that **ubuntu** can be used to describe a personal quality: A person with ubuntu is open and accessible for others, primed with a certainty deriving from the experience of belonging to a larger unity. This unity is degraded when others are humiliated, or otherwise treated as less worthy.

Restorative Justice may provisionally be defined as any procedure aimed at restoring – or fostering/ nurturing human dignity and mutual respect. RJ moves towards **ubuntu**, thus alleviating suffering, humiliation and pain.
From reading Tutu and my knowledge of African experiences I feel that ubuntu is no less important than Christianity for TRC. In my book few, if any, excel John Braithwaite as far as understanding and contributing to both theory and practice of RJ goes (see Braithwaite, 2002 for his currently most exhaustive presentation. This book also has some information on Bougainville, further discussed below.) Asking him about my hunch on the importance of ubuntu and some other questions treated below he answered (Braithwaite, personal communication 24.2.2006): “Yes, perhaps that is right. Val Braithwaite [his wife, my comment] once spoke to Mandela about ubuntu and he thinks this.”

1.2 Ubuntu and collective vulnerability

The concept collective vulnerability, was first presented by David Moore and John McDonald (2000, p. 50-52). This concept is a background for part of 2. below. It is elaborated and applied in Neimeyer & Tschudi (2003), and Tschudi and Reichelt (2004). The most salient illustrative example is a road fatality, a young lower class women, Jill, during drunk driven inadvertently fatally hitting a young girl, and Jack, the father, was consumed by sorrow and a wish for retaliation. He wanted to make Jill feel the pain his daughter had suffered. One critical moment in the long conference was when the father – to vindicate his position - passed around a picture illustrating the gruesome fate of his beloved daughter. The effect, however, was silence as the picture was passed around – interspersed with sobs and tears from everyone. As John McDonald put it in one of his letters in our conversation about this case: “here a link was cemented between all the participants,.. a joint reminder of the fragility of our existence on this planet.” The deep feeling of “being in the same boat” can also be taken as a strong feeling of ubuntu, or “jointness” in a more pedestrian language.

1.3 Wan Bel – a note from Bougainville

From my point of view it is an omission that Steinberg ignores inspiration from and usefulness of indigenous practices. Much of the recent Western upsurge of interest in RJ is inspired by Maori practices in New Zealand (The Family Act, 1989), and also Native American rituals. It may be instructive to take a look at Bougainville, an autonomous region of Papua New Guinea located close to the Solomon Islands.

With local strifes, scars from first Australian then Japanese occupation during WW2 the island has been saddled with civil wars. Responding to “my feeling that percentagewise the number of people killed in the civil wars will not be too different from the genocide in Rwanda”, Braithwaite wrote “yes, perhaps. but in one sense worse in that it was a slow war, so a whole generation have never seen the inside of a school”. From a population of about 200,000 an amazing 10,000 received some training in RJ – combining local traditions with Western influences. Siriosi (Provincial peace coordinator) wrote to Braithwaite 15 April, 1998:

your vision of Restorative Justice is consistent with our culture, our way of solving disputes, more commonly known in the Pacific as the Melanesian way or on Bougainville as “Wan bel” meaning reconciliation or consensus.
I was curious about the link between “Wan bel” – where the literal translation is “one belly” - and “reconciliation” and asked Braithwaite for a comment on my fantasy that “one belly” signifies an ubuntu type unity between everyone. His answer:

Yes, you are right about one belly. The men has ‘vomiting sessions’ where they spew out all their resentments (you did this to my relative, you did that to mine) before moving to reconciliation.

Some further personal comments are also of interest:

I don’t think they do that in Oslo or Israel! It is to purge that feeling of sickness that older men feel as a result of deep conflict.

Here is one of our great challenges: How can we find culturally relevant ways to “purge that feeling of sickness” in the conflicts threatening the existence for so many on this our troubled planet?

1.4 Examples of ubuntu in Jewish tradition

From my limited knowledge two examples are prominent:

First of all Martin Buber (1923) with his explication of I-Thou – vs. I-It is a great inspiration in nurturing and searching for blessed moments in our relations with our fellow beings.

After the killings in Jenin April 2003 there was a large interdenominational demonstration in New York. Also participating was a group of orthodox Jews who carried the banner: “We did not escape Auschwitz to be buried in Jenin”, thus showing ubuntu in their relation to their Palestinian sisters and brethren in Jenin.

1.5 Resources vs. violations of ubuntu: humiliation,

Steinberg (p. 9) seems to accentuate fight for resources as more important than “psychological models of political violence, which attribute conflict to misunderstandings and emotional factors, in political conflicts the stakes are much higher, involving core interests and in some cases survival”.

An alternative point of view is that “emotional factors” are the primary factors. Prolonged violation of dignity may destroy the soul, and pave the way for otherwise lethal and incomprehensible acts of terrorism. Memories of such violations may be dormant for decades but then surface, as e.g. in the Balkans. A by now classical work in this area is Scheff’s (1994) analysis of “Bloody revenge” pointing out that the shaming of Germany in the Versailles treaty was a key factor in paving the way for Hitler's ascent to power. Recently Evelin Lindner has been very active in showing the ubiquitous damaging consequences of humiliation, cf. www.humiliationstudies.org. Having worked for several years in the Middle East she tells as an example of the effects of humiliation, Lindner & Walsh (2006)

female Palestinian clients I worked with in Cairo told me that their suffering could only be remedied by giving birth to suicide bombers, not presidents or diplomats
2. Don’t forget women! Fostering positive emotions; art and music

Braithwaite goes on to write:

Indigenous womens tradition of peacemaking between the men were also very important. The women marched across the island in a long chain protected by peacekeepers gathering women from villages on different sides to join the peace chain

I look forward to a comprehensive presentation of the many faceted unique peace contributions by women. (Could inspiration for this be one of the outcomes of this conference?)

Braithwaite (2002) draws attention to a very important feature of how soldiers responsible for helping to preserve peace presented themselves. The guns were not visible, rather they came with all kinds of musical instruments, and engaged lots of enthusiasm and promoted good spirits for everyone both with music and also by arranging sports competitions. This is course congruent with Braithwaite’s central notion of a regulatory pyramid. In any conflict you start with the softest approach conceivable and only when this fails do you “move up the pyramid”.

In business cases, first dialogues, if this doesn’t work, you may turn to fines, if even this fails you may consider sending the worst culprits to jail, and if all else fails you “incapacitate”, e.g. withdraw a licence to operate.

Summing up the approach in a metaphor Braithwaite recommends: “talk softly, but carry a big stick”. There is currently “hard science” evidence that fostering positive emotions has far-reaching beneficial consequences, Fredericson, (2001).

I have been greatly encouraged by this way of thinking about fostering positive emotions when seeing how music can be important in “cementing links”, and navigating collective vulnerability in peace projects in the Caucasus region. e.g. in the context of the lethal conflicts between Chechens and Russians, see further Jordanger (2005) on “music journeys”, and the website www.buildingpeaces.org

3. Religious influence: independent or dependent variable.

Dominant and alternative narratives.

The way I read Steinberg religion is seen as an independent variable, functioning so to speak as deus ex machina. This bypasses the problem of how specific religious convictions come to be accepted by a given group. Religion is never something which can be “mechanically” imposed. From a Kellian constructional point of view it is a question of how congenial – what type of room there is – in the existing culture/ construct systems for a given religion. Reisen - who has headed an interdenominational group - has written about how religion perhaps may more fruitfully be seen as a dependent than an independent variable. The kind of religion adopted is seen as a function of the existing culture.

Here, however, a Piagetian approach may be preferable since it avoids an either/or thinking (religion as either dependent or independent) in favour of a “both-and” type thinking. Partly
there must be a congenial room for “fresh input” to be assimilated, but there will also be converse processes of accommodation of culture/construct system.

I continue to quote from Braithwaite’s recent message to me on the role of the church in Bougainville:

It is also true that the Christian church in very strong in Bougainville.

and Braithwaite points to beneficial work by Christians:

but I think not as important as the women’s NGOs and the indigenous traditions of reconciliation.

Before Christianity, head-hunting and cannibalism was part of warfare in this part of Melanesia. [culture accommodated to Christian injunctions against killing] These people were very skilled at making war and very skilled at making peace, they had plenty of practice at developing the latter traditions of reconciliation.

Their pre-Christian traditions people were very forgiving – that is a big thing that appealed to them about Christianity [cf. assimilation above]

Perhaps in all cultures one may find competing or perhaps rather alternative narratives. One type of narrative(s) may emphasize retribution, competition and war while there may be another type of narrative(s) on peace and reconciliation. As for criminal justice Western society has until recent years been heavily influenced by what I think of as hard narrative, emphasizing retribution, while RJ latches on to a soft narrative, emphasizing reconciliation.

Concerning the relation between dominant and alternative narratives in a given culture much may be learned by drawing on the extensive literature on various narratives in psychotherapy, e.g. White and Epston (1990).

In my opinion wherever a hard narrative is dominant in a culture it is vital to foster what may be a more subsidiary, soft narrative. And I hope we can come to heed Braithwaite’s injunction epitomized by his regulatory pyramid: Go as far as possible with the soft narrative, but be ready to invoke the hard one. The latter should be carefully graded, always starting with minimal hardness possible if a soft approach should completely fail.

4. Role of leadership, a note on Mep

A feature of basic importance for the mainly beneficial outcome of TRC in South Africa was the presence of remarkable leaders. Our convenor Beni Jakob has reminded us of Kelly’s dictum “No one needs to be a victim of circumstances.” Who in our time could be said to better epitomize this than Nelson Mandela who after 27 years of continuous humiliation on Robben Island invited one of his guards to be a guest of honour seated beside him at the inauguration ceremonies. Lindner & Walsh (2006) has a useful expression describing Mandela: mature differentiation. He was able to distance himself from everything he had suffered and instead of vindictiveness displaying true magnanimity.
In a protracted conflict it cannot be sufficient with one great leader. Tutu also gives ample credit to de Klerk, pointing out how fortunate South Africa was not to have a hardliner as the former Botha.

The importance of leaders is the starting point for a promising Norwegian based project, Mep – Middle East Project for Young Leaders - cf. mep.abildso.org. After a couple of years remarkable results have been obtained in that potential young leaders from Israel, Palestine, Jordan, and Norway have learned to get a deep seated mutual respect for each other and they now are able to creatively work on joint projects. One important feature is that there are no carrots dangling in front of them, but a commitment based on a almost continuously jeopardized belief that a peaceful Middle East is a possibility. The joint credo: combining, the three pillars: commitment, compassion and courage are creatively carried forth.

Of course there can be no guarantee that the project will bring forth new Mandela’s and de Klerk’s but to paraphrase a Chinese proverb: “It is better to praise whatever light there is than to condemn the darkness”, and perhaps a line from a poem which Dag Hammarskiøld, as Secretary General of UN, had pasted on the wall of his office might be appropriate:

Hope till hope creates from its wreck the very thing it contemplates

5. Compromise vs. TRANSCEND type transformations

Steinberg (p. 12) says “Progress towards peace can only come when all sides clearly recognize that their survival requires compromise and mutual acceptance through a two-state solution. Johan Galtung – the father of TRANSCEND (www.transcend.org) is very critical on “compromise”, pointing out that this is likely to lead to dissatisfaction for all parties to the conflict. Instead he points to the beauty of “bliss points” – transcending outcomes which lead all parties to better outcomes than they previously would have thought possible. (Johan dislikes US game-inspired terminology so he avoids the term others would use for “bliss points”, viz. “win win” outcomes.)

Asgeir Føyen, the leader of the Mep project, has worked for ten years in the Middle East, starting out with water projects before turning to the greater issues. When I first talked to him I thought that questions concerning water intrinsically represented “zero sum” situations; if one party stood to gain the other party would necessarily loose. It is now several years ago that he kindly told me how wrong I was. Concerning the water resources in the Jordan river and other rivers from the Golan heights there were large common interests in tracking and warning about sources of pollution or otherwise monitoring the health of the water supply. He told me that at one point there was a highly peaceful “competition” in divulging ever more of otherwise “classified” information to the other part. He could not tell me the status of such cooperation as of today (25.2.2006) but pointed out that generally people with a background in science was very much in favour of cooperation whereas there was a tendency for politicians to be more sceptical.

Concerning “two-state” solution both Asgeir and Johan would cast a wider net. Johan outlined in 2001 a way to a peaceful Middle East which would involve at least 5 states, strongly stating that just to think in terms of two states would never succeed. I have already pointed out that Mep also has participants from Jordan and one of the further plans is to extend Mep to include at least participants also from Syria and Libanon.
6. Concluding comments

I doubt whether any discussion about “who is right”, Steinberg or me, would be fruitful. This is in line with Steinberg’s (p. 13) open-ended attitude in the conclusion of his article:

Despite these limitations in the substance and empirical research, the potential role of forgiveness and reconciliation in political conflict should not be dismissed.

I have tried to argue that the “limitations” may not be that grave in the light of a more extended view of indigenous practice. Furthermore RJ should be taken to include fostering of positive emotions, role of women, importance of nurturing future leaders, and the probable existence of both hard and soft approaches in most (all?) cultures. A further point not covered here is that RJ has as much, if not more, to gain from study of regulatory practices in all walks of life, Braithwaite (2003).

Finally a wider net concerning “compromise”, and “two-state” should be fostered. It should be added that at the highest level we should foster a vision of global ubuntu, or as Lindner & Walsh (2006, p.3) puts it:

a global village with equal dignity for all, as opposed to hierarchies that translate into exploitation and feelings of humiliation.

All this being said I would think that there would be general agreement in this conference that our knowledge at the moment is rather meagre as far as systematic comparison of different approaches are concerned.

On this basis I hope to be able to live to see some of the outcomes of the projected research by John Braithwaite (2005) and his colleagues. This will be an in-depth study where “at least 60 UN peacekeeping operations (including all of the largest and most geopolitically significant ones and all after 1990) will be included”. At the moment there is an impressive list of more than 200 possible variables. Multivariate methods will be extensively used, but “fieldwork will be continued in at least 55 countries”, thus also featuring extensive use of qualitative methods. The overall aim is to develop further Braithwaite’s theory of “restorative justice and responsive regulation”. The project starts in 2006 and “by 2018, national peacebuilding case studies will be grouped in 6 books” [regional division], and Braithwaite will then be writing an integrative book.

Amira Schiff (e mail of May 6 in the aftermath of the conference) has interpreted Steinberg that the dominant message from research so far mainly points to failed and counterproductive ‘peace processes’

Systematic explorations in this important field may well lead to a more optimistic picture, and I hope that none of us will be “a victim of our constructions” as the convener of the conference, Beni Jakob, reminded us. Can we be open to re-constructions, thus epitomizing Kelly’s favorite model of humans: “The person as scientist”, cf. also Tschudi (1983).
References


