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Expert Paper

Contributing to Peace and Justice

Finding a Balance Between DDR and Reparations

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1. Introduction

DDR programs have traditionally been designed and implemented in total isolation from transitional justice measures, of which reparations for victims is one kind. It is only recently that the approach that considers DDR as essentially a technical issue to be decided exclusively on the basis of military and security concerns with no regard for political or justice considerations has begun to be questioned. The incentives to try to bring the worlds of the peacemaker and of the justice and human rights promoter together, however, are manifold.

The general aim of this paper is to construct an argument about the advisability of drawing links between DDR and reparations programs, not just because this is better from the standpoint of justice, but because it may help DDR programs as well. From a justice perspective, I will continue to grant significance to the fact that while in circles where DDR is discussed there is strong support for the idea that each and every ex combatant should be a beneficiary of a DDR program, there is, neither in the national nor in the international domain, a similar commitment to the idea that each and every victim of conflict should be made a beneficiary of a reparations program; I will continue to grant significance to the observation that the international community provides much more support for peace and security issues than for justice issues; and I will consider significant that of the 22 countries with ongoing DDR programs in a recent global study, programs involving 1.25 million beneficiaries and the expenditure of more than 2 billion dollars, a few have discussed the possibility of establishing reparations programs, but not one of these countries has implemented one. Ultimately, however, one way of seeing the nature of this paper is by considering that whether it satisfies its own end will be determined not so much by whether it successfully deploys justice considerations in the interest of justice, but whether it does so in the interest of peace.

2. DDR and Reparations in Guatemala and Rwanda

Guatemala and Rwanda are two examples of post-conflict countries that have moved significantly farther regarding DDR than reparations, demonstrating the general points made above regarding commitments made to justice issues and those made to peace and security issues. Please see the full paper for a more detailed discussion.

3. The Main Challenges Faced by DDR and by Reparations Programs

Some Challenges Faced by Reparations Programs

How to define victims and beneficiaries: The ideal behind a reparations program is to make sure that at least every victim is a beneficiary. One of the fundamental challenges faced by reparations programs, then, is how to define 'victims' and 'beneficiaries,' and how to craft an effective package of benefits. The real challenge concerning the notion of victim is how to select the rights whose violation will trigger access to benefits. Most programs have provided reparations for a rather limited and traditional list of rights, concentrating on the more

fundamental civil and political rights. No program to date has worried about articulating the principles why it chooses to provide benefits for the violations of some rights and not others. One of the consequences of this is that violations that affect marginalized groups have rarely led to reparations benefits.

How to define the benefits to be distributed by the program: The measures typically distributed by reparations programs can be organized around two fundamental distinctions, between material and symbolic reparations, and between individual and collective distribution. Material reparations may assume the form of compensation or service packages. Symbolic reparations may include official apologies, renaming public spaces, or days of commemoration. A reparations program is more 'complex' if it distributes benefits of more distinct types and in more distinct ways. There are two fundamental reasons for crafting 'complex' reparations programs: first, programs that combine a variety of types of benefits may cover a larger portion of the universe of victims; second, a broader variety of benefits allows for a better response to the fact that a particular violation can generate harms of different types.

How to define the goals of the program: In isolated civil cases of reparations before courts, the fundamental aim is to provide compensation in proportion to the harm suffered, by satisfying the criterion of *restitutio in integrum*. There is no massive reparations program that has even approached the satisfaction of this criterion. Typically, victims receive a fraction of what any calculation of the harms endured would suggest they should receive. This generates two challenges: first, how to manage victims' expectations by reparations bodies that in all likelihood cannot meet this criterion; second, how to define the aim(s) of the program in the face of the impossibility of satisfying this criterion. The mediate aims of a reparations program are to provide recognition to victims and to foster a minimal sense of civic trust.

Some challenges Faced by DDR Programs

How to define the beneficiaries: All DDR programs face a challenge in defining beneficiaries (as well as in establishing verification procedures) in a way that avoids the exclusions that come about as the result of narrow definitions and demanding procedures, as well as the over inclusiveness (with the consequent increase of costs and the potential resentment and friction) that comes from loose definitions and lax procedures. Since two notoriously vulnerable groups, i.e., women and children, stand to lose more than others from mistakes, it is imperative to exercise utmost care in establishing these definitions and the attendant verification procedures.

How to define a sensible packet of benefits: Each DDR program is a complex set of initiatives, each one serving its own ends: for example, reinsertion measures have specific ends which are distinct from the ends of reintegration programs. This explains part of the difficulties that characterize the effort to put together a sensible packet of benefits. And since the ends of both reinsertion and reintegration can be conceived differently, this only increases the complications. Benefits drawn with the participation of recipients and on the basis of labor market analyses increase the likelihood that beneficiaries will not only be recipients but that they will actually benefit from the goods and services provided by the program.

How to define the goals of the program: All DDR programs face a challenge in defining the goals that they can legitimately pursue. A very narrow understanding of DDR may strengthen the tendency to think about it as an exclusively technical issue to be addressed solely in military or security related terms, ignoring the crucially important *political* dimensions of DDR and weakening the incentive for consultation and participation, which will undermine the sense of ownership over

the programs, making them more difficult to implement and less sustainable. On the other hand, conceptual profligacy in the definition of goals can generate expectations that are impossible to satisfy, weakening also the sustainability of the programs. It is through the definition of goals that an answer can begin to be articulated to the fundamental challenge that DDR programs face: the charge that they reward bad behavior.

4. Conceptualizing DDR and Reparations

Transitional Justice

Reparations are one element of a holistic conception of transitional justice that includes criminal prosecutions, truth-telling, and institutional reform. What is important for a holistic conception is that the close relationship among its different elements be articulated. I do so by means of two arguments. The first focuses on relations of complementarity. Reparations, for example, in the absence of other transitional justice measures are more likely to be seen by victims as 'compensatory' measures that lack the proper connections to justice. A society that responds to norm-breaking exclusively by compensating the victims for the costs that the norm breaching may have caused them is one which fails to understand that there are dimensions of corrective justice beyond the obligation to try to restore victims to their economic status quo ante. Similarly, and in the opposite direction, a society that responds to crime without redressing victims at all fails to understand that when violations occur it is not just norms that are broken but lives as well.

The second argument acknowledges that each of the measures that forms a part of a transitional justice policy has its own specific goals, but points out that they share two mediate goals: to provide recognition to victims and to foster civic trust. Transitional measures can be interpreted as efforts to institutionalize the recognition of individuals as rights bearers. Reparations, for example, are the material form of the recognition *owed* to fellow citizens whose fundamental rights have been violated, manifesting that the state has taken to heart the interests of those whose rights went previously unrecognized. The other aim that the different elements of transitional justice share is the promotion of trust among citizens and amongst them and their institutions. Reparations, again as the example, foster civic trust by signaling for victims the seriousness of the state and of their fellow citizens in their efforts to reestablish relations of equality and respect.

My interest, however, is not simply explanatory or conceptual, but practical. These arguments also provide a motivation to make sure that transitional justice measures are implemented in an 'externally coherent' manner, that is, in a way that reinforces the relationship between each of them and other initiatives that seek to provide recognition, and, for purposes of this paper, most relevantly, civic trust.

DDR

In a nutshell, this is the argument: it is significant that both DDR and transitional justice measures can be seen to be measures intended to promote trust. Even a narrow understanding of DDR programs attributes to them a confidence-building role. The aim of disarming and demobilizing is to demonstrate and cultivate confidence in the prospects of peace and a minimal sense of trust in one's partners in the process. It could be argued that the objects of trust at issue for DDR and for transitional justice measures are not the same: DDR can be thought

to foster trust initially in *partners* in a peace process, whereas transitional justice measures aspire to making a contribution to the trustworthiness of institutions, largely by reaffirming the importance of *norms and values*. It must be kept in mind, however, that a norm-based account of trust suggests that trusting individuals is a function of certain convictions of the norms and values on which these individuals act; in other words, partners in peace processes trust one another only to the extent that they have reliable convictions that the other parties will have as one of their reasons for acting certain norms and values.

How does finding this functional and conceptual overlap between DDR programs and transitional justice measures help, concretely? The general point is: if the primary goal of DDR programs is to enhance security by avoiding the marginalization of potential spoilers of the peace process, then the goal is better achieved by means of processes that contribute to the reintegration of the ex combatants—and justice enhancing measures may facilitate this process. To the extent that successful reintegration is not simply a matter of the ex combatants' disposition, but also of the attitudes and reactions of the receiving communities, DDR programs that are devoid of any justice component will have no effect on the reintegration process. By contrast, DDR programs that provide to receiving communities some certainty that those whom they are expected to readmit are not the worst offenders, or that make a contribution to the clarification of the abuses, or that include safeguards against 'recycling' human rights abusers by making them part of new or reformed security forces, may contribute to the reintegration of ex combatants.

How does this general argument play itself out with respect to reparations? One of the frequent charges that are brought against DDR programs is that while they distribute benefits to ex combatants, victims receive nothing. In virtually all countries where DDR programs have ever been established, the charge has come up. However, resistance on the part of receiving communities, particularly victims, may diminish if they are given reasons to think that they will also be attended to. DDR programs have taken this presumption on board, but this is not enough; victims call for measures that not only improve their security to the extent that everyone's security improves, or for measures that benefit them alongside everyone else. While it is true that under conflict or authoritarianism everyone suffers, the suffering of victims is special and calls for special recognition. Providing benefits to ex combatants without attending to the claims of victims not only leaves victims at a comparative disadvantage, but gives rise to new grievances, which may exacerbate their resistance against returning ex combatants.

How are those links to be drawn? The point is *not* that DDR and reparations programs should be folded into one, for while both programs overlap around the notion of trust, their immediate goals still differ. The urgent security needs that motivate DDR guide the design of such programs by considerations having to do, at least initially, with estimates of what is sufficient to avert the risks posed by potential spoilers. The considerations that should guide the design of reparations programs are, by contrast, related to an understanding of what justice requires. Although this is not an argument against making some of the benefits distributed through DDR programs available to victims and to the community at large, the element of recognition that is part and parcel of reparations will typically require targeting victims for special treatment. This is part of what it means to give them recognition, and part of the reason that transitional institutions can give them to motivate their trust. Rather than dissolving reparations programs into DDR programs, this is an argument for some type of coordination between them, for a particularly broad type of 'external coherence' between programs that have heretofore never been thought of in relation to one another. Because it is not just that these programs serve different constituencies and pursue different

immediate aims, but also because they typically move in accordance with different calendars, what needs to be coordinated is not so much the programs, but the commitments; although time after time victims have shown themselves reasonable enough to understand the importance of security and are willing to countenance the provision of benefits to those who may thwart a peace process, they need reasons to think that this does not amount to surrendering their claims to justice. Were they to be given assurances that this will not happen, these justice-based reasons may facilitate the achievement of security aims.

5. Recommendations

What recommendations follow from the preceding argument and from an analysis of the data collected about the distribution of aid between security and justice concerns? What should be made of the readiness of the international community to put resources and expertise behind DDR programs, which contrasts with its reluctance to commit itself similarly to reparations programs, and what are some sensible reactions to this tendency? Again, at a broad level of generality, these are jarring disparities. However, one should not rush to judgment; even from the standpoint of justice there are considerations that ought to be kept firmly in mind:

- While the argument of the paper moves in the direction of establishing the relevance for peace of justice considerations, we do well to remember the relevance of peace for justice. Justice measures stand a better chance of being implemented after the peace is secured. This assumes that in the process of attaining peace justice is not permanently compromised through, e.g., the granting of blanket amnesties. Hence the importance of DDR programmers improving their familiarity with the requirements of justice, so at the very least they can display a 'do no harm' attitude and maintain the possibility of justice measures being implemented down the line.
- Since reparations measures are not mere compensatory schemes, it therefore matters *who* covers their costs. This is one more reason not to take the disparity in aid to DDR versus aid to reparations as evidence that international aid is being distributed unfairly. However, it is not that the international community is flooding with resources other transitional justice measures less sensitive to considerations about who covers their costs than reparations. There is, indeed, a disparity in the level of commitment of the international community to security over justice-related programs. So, what can the international community do about this besides increasing its overall level of support for justice initiatives? Concerning reparations specifically, it can, without violating the constraints imposed by the notion that responsibility for human rights abuses entails the responsibility to pay for their reparation:
  - provide technical assistance in the design and implementation of reparations programs;
  - support local groups involved in reparations discussions;
  - given the involvement of some international actors in the area of justice, the international community can play an important role in pressuring governments not to leave behind the more victim-centered justice initiatives, thus making a contribution to the coherence of a comprehensive transitional justice policy;

- pressure multilateral institutions to foster conditions under which post-conflict economies can afford to pay due attention to the victims of conflict;
- and, rethink, at least in those cases in which international actors have played an important role in a conflict, its reluctance to provide direct material support to reparations efforts.