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Engaging with Victims and Perpetrators in Transitional Justice and Peace Building Processes

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WORKSHOP REPORT

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1. Preface

Engaging with victims and perpetrators is probably one of the most sensitive and complex issues for external actors working on development and peace building. It starts with defining certain groups as victims or perpetrators in highly complex and politicised contexts, involves legal questions and moral dilemmas, and may touch on the vision an organisation is striving to realise.

Transitional Justice and peace building processes provide a range of mechanisms to deal with past atrocities and pave the way for building a society based on peace and justice. However, projects often tend to simplify categories of victims and perpetrators. Moreover, they overlook the necessity that peace building processes also have to transform these categorisations and build a basis for new identities beyond that of the past.

In our international workshop, jointly organised by the Working Group for Development and Peace (FriEnt) and the Center for Peacebuilding (KOFF) at swisspeace, we discussed some of these challenges and identified ways of dealing with them. Questions included: How may transitional justice mechanisms take into consideration victims and perpetrators as two – sometimes heavily intertwined – social groups in post-conflict societies? How can the design of such mechanisms contribute to transform the identities of victims and perpetrators? How are these considerations relevant to decisions development and peace organisations have to take?

Participants from development and peace building organisations as well as research institutions shared their respective experiences. Selected projects and approaches from different organisations and contexts provided the basis for a discussion on challenges and practice oriented options.

This document presents the main results of the presentations and debates. Furthermore, it tries to pinpoint a number of points to keep in mind for decision-making in development and peace building organisations.

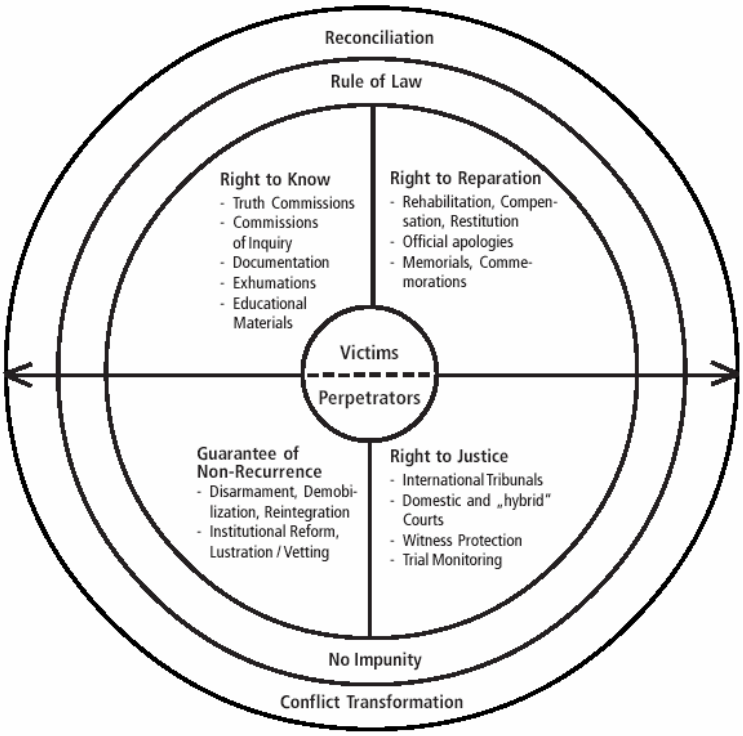
2. Victims and perpetrators – a challenge for transitional justice and development

The introductory session developed the subject from two perspectives: One introduced transitional justice as a concept that looks at a range of mechanisms which each deal with victims and perpetrators in specific ways. The second presented psychosocial foundations of victim and perpetrator categories and their transformation.

The objectives of this first session was to lay the ground for a more differentiated understanding of both terms "victims" and "perpetrators" and to develop a sense for the necessity of transforming these categories as an important goal of peace building and development work.

2.1. A conceptual framework for engaging with victims and perpetrators

Jonathan Sisson (KOFF - swisspeace) presented a conceptual framework of transitional justice which places victims and perpetrators at its centre. The mechanisms of transitional justice each put a different stress on the two categories: Whereas mechanisms falling under the "right to know" (such as truth commissions) and those that deal with the "right to reparation" focus on victims, the "right to justice" (e.g. courts and tribunals) and the "guarantee of non-recurrence" (e.g. DDR activities and institutional reform) concentrate on perpetrators:



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Of course, each field of activity makes an implicit reference to the other category. Thus the *right to justice* implies that any *victim* can assert his or her rights to receive a fair and effective judicial remedy including the expectation that reparations will be forthcoming. At the same time, the *right to reparations* may imply an important role for perpetrators as the author (collectively) or authors (individually) of an official apology, for example, which could be an important step if reparations are also to contribute to the reconstruction of social relations.

Complex relationships between victims and perpetrators

At the same time, individual mechanisms of transitional justice link victims and perpetrators differently depending on their underlying assumptions regarding the modality of conflict resolution as well as their respective goals and objectives:

A *tribunal* may start from a relationship between victim and perpetrator as one characterised by violence and violation. The objective with respect to the perpetrator in relation to the victim is non-repetition; with respect to the victim the goal is satisfaction, in order to prevent revenge on his or her part. A *truth commission*, by contrast, may introduce the elements of restitution, apology, and forgiveness to redefine the relationship between perpetrator and victim.

Moreover, in many conflict situations it may be difficult to differentiate between victims and perpetrators. A case in point concerns child soldiers, who, having been abducted as children and forced to become combatants, may later participate in massacres and other human rights abuses against the civilian population. Another example refers to members of a dominant ethnic group (Serbs in Kosovo before June 1999) which may subsequently become the target of repressive or discriminatory measures when the power struggle has been resolved to their detriment.

Very often this leads us to situations where we are confronted with rival victim narratives of different communities (e.g. Serbian and Albanian communities in Kosovo), coupled with a denial of responsibility for violations committed by their own group. In such cases, the victim identity can be misused to legitimise new abuses of power.

What does this mean in practice?

- Transitional justice mechanisms offer a range of options in addressing the complexity of victim-perpetrator identities and relationships. A broad approach involving a combination of mechanisms is necessary to restore the dignity of victims and to ensure the accountability of perpetrators
- In designing a transitional justice strategy, attention should include an analysis of victim – perpetrator relationships in order to identify the combination and sequencing of measures that would best serve the long-term goals of conflict transformation and reconciliation. Different mechanisms will have to come into play at different points in time and in various combinations.
- The complexities of victim and perpetrator identity have to be taken into account from historical, sociological, and anthropological perspectives. If the issue of victimhood on an individual and collective level is not addressed, the process of conflict transformation may be jeopardised. The same reasoning applies to the question of perpetrator identity.
- The complexity of victim and perpetrator identity and relations underline the importance of reframing identities along lines different from victim/ perpetrator ascriptions as part of a conflict transformation process. These

may be lines of gender, generation, and occupation as a basis for reconstructing social relationships between groups.

2.2. Identities ascribed, identities transformed: Psychosocial foundations of victim and perpetrator categories and their transformation

A simple definition in view of complexity

The observation of complexity and complementarities of victim and perpetrator categories was reinforced by a social-psychological view of victims and perpetrators. Social psychological research and practice have given evidence that the two categories are complementary and have realised that there is a strong correlation between perpetratorhood and prior victimisation. This is true on an individual level, but also on group level: Groups that have suffered severe persecution and violence are more likely to become perpetrators under certain conditions.

For greater clarity Simone Lindorfer, a psychologist with a wide experience in post-conflict trauma, proposed the following simple working definition:

- "A *victim* is somebody who, at a particular point in time, is subjected to intended harm by somebody else".
- "A "*perpetrator*" is somebody who, at a particular point in time, intentionally inflicts harm on somebody else."

On becoming victims and perpetrators

Many theories have been brought forward to explain how people may become involved in large-scale violence and inflict harm and atrocities on others. Persistent difficult life conditions seem to be a basis that lends itself as a starting point for scapegoating particular groups for being responsible for one's own bad situation. In complex social and political processes this may go as far as developing complete de-valuation and de-humanisation of the scapegoated group. Its members are finally placed outside the moral frame of one's society. This makes it good behaviour and even a matter of self-defence to pursue and kill them. This permits the group, psychologically speaking, to retain – or even to develop - self-esteem and to reinforce one's own social, economic and political position.

On the contrary, the experience of traumatic events like atrocities and large scale violence call into question, on the side of the victim, basic human relationships like family, friendship, love and community. They deeply shatter the construction of the self and the world around that is formed and sustained in relation to others. This leaves victims with a profound sense of powerlessness that is overwhelming to his or her sense of control, connection, and meaning.

Both, however, victims and perpetrators, may suffer from the consequences of violence that they inflicted or suffered respectively. Traumatisation is not a "privilege" of the victim nor can we derive a moral judgement from the absence or presence of psychological trauma symptoms. In other words, perpetrators may show post-traumatic stress symptoms in ways very similar to those of victims of violence, e.g. suffering from depression, addiction, nightmares or sudden flashbacks. The symptoms may persist over time and may make it difficult for people to participate in everyday life, in the usual routines of work and family life.

Transforming victim and perpetrator identities

An important and fundamental meaning and objective of victim and perpetrator transformation is to be able to live a productive life without, on the part of the victims, taking revenge against perpetrators and, on the part of perpetrators, without continuing to commit atrocities.

An element for achieving this is a need for re-humanising the self as well as the world around. For victims, again, this means the rebuilding of the shattered assumptions that their life is still meaningful and that (some) people can be trusted. The final aim would have to be empowering victims to participate again as full members of their society, in order to overcome the feeling of powerlessness and loss of control. For perpetrators, it means learning to acknowledge the atrocities committed as such and grieving about having lost one's sense of humanity without denial or minimisation of the pain they caused

For both, remembrance and mourning are important, with the possibility to conclude these processes. On the side of the perpetrator, this means having to assume and accept responsibility for crimes and atrocities committed. On the victim's side, it includes the possibility to know what happened to loved ones.

Emotional and political dilemmas in dealing with perpetrators

The challenge of dealing with perpetrators lies in a conflation of psycho-medical diagnosis and treatment with legal responsibility and with the (moral) assumption that if their suffering is acknowledged they may not be held responsible for their deeds. On the contrary, we would feel "compelled" to excuse or forgive or else to acknowledge that "they" are no longer "irreconcilably different" from "us". Moreover, the wish to understand perpetrators might cause a feeling of betrayal and abandonment of victims.

Another aspect that comes into play is that the definition of victims and perpetrators very quickly takes on a political connotation: The question of who is socially and politically considered a victim or a perpetrator very often becomes a matter of political ascriptions rather than of truth finding or legal procedures.

What does this mean in practice?

- We have to engage with victims *and* perpetrators because
  - victims and perpetrators are complementary categories and it is necessary to break the various rounds of the "victims-become-perpetrators" set that often perpetuate violence as a historical dynamic;
  - we have to avoid the fallacy of conflating discourses of psycho-medical treatment, legal and social responsibility.
- Trauma work as well as transitional justice mechanisms have to take victims as well as perpetrators into consideration, but with different direct aims: for perpetrators it is to take on responsibility and acknowledge accountability that facilitates transformation, for victims it is to trust themselves and others again and be empowered to participate in society.
- A very important presupposition on both sides is in fact safety and security in every sense, physical as well as institutional. These activities cannot, of course, be undertaken under ongoing violence and atrocities that pre-suppose perpetrators and victims, but not their transformation.

- Transformation is not a mass phenomenon. Work in small groups and over time in small steps is vital in order to overcome deep feelings of prejudice and fear of "the other" side.

3. Transitional Justice Mechanisms: Victim orientation – perpetrator orientation?

Having laid the ground for a more complex understanding of victims and perpetrators in the first section we then turned to each field of transitional justice separately in order to explore in more depth how each deals with victims and perpetrators respectively. A second part concentrated on to what extent these mechanisms may contribute to transforming or overcoming identities as victims and perpetrators.

3.1. The Right to Justice: Victims' needs and perpetrators' accountability

Dr. Jan Christoph Nemitz, Legal Officer with the International Criminal Tribunal for the Former Yugoslavia (ICTY) Appeals Chamber started by pointing out that a legal procedure / law process works with a strictly legal - and limited - understanding of perpetrators and victims respectively. A victim is somebody who suffered at the hands of a perpetrator. For sentencing someone as perpetrator the crucial question is: Did he or she do it or not? It does not ask to what extent a perpetrator has him- or herself been a victim before.

While we saw in the first section that courts and tribunals are generally perpetrator-oriented and have the primary task of establishing individual responsibility for crimes committed, international courts and tribunals like the ICTY and the International Criminal Court (ICC) have evolved on this point and have developed to integrate victims on particular aspects.

The ICTY: Victims as witnesses

At the ICTY, victims come in as witnesses to give evidence ("victim-witnesses"). Their appearance, however, has to be requested by Prosecution or Defence and they have to appear in person before the tribunal.

Even where victims do want to give testimony there are certain risks and challenges linked to this: There may be fear on the part of the victims simply to face the accused during trial; the feeling of powerlessness may be revived by cross-examination or the experience of passivity by only answering questions and not being able to "tell their story"; and there may be fear of consequences: the accused are often still powerful in the witnesses' home states or regions and may have arranged to take revenge against the witnesses for having testified.

In order to ascertain the needs and interests of the victims during court proceedings the Victims and Witnesses Section (VWS) at the ICTY provide logistical support, protection services and counselling to witnesses, in particular during their stay in The Hague. The section is staffed with law enforcement personnel, psychologists and social workers. At the same time there is an outreach programme which explains the functioning of the court in the country itself, more particularly the proceedings, but also the judgment in order to avoid

misunderstandings and high hopes of outcomes that would not even be within the scope of tribunal procedure.

However, there is no "follow-up procedure" with a more intensive interaction between prosecution lawyers, VWS and the witnesses after their testimony. Often victims need counselling after having giving their testimony, but this is not necessarily provided. Also, while particularly victim-oriented mechanisms like property restitution are foreseen in the Statute of the ICTY, they have not been applied until today.

The ICC: A victims' court

At the ICC victims play a more important role. They have the right to participate in the proceedings and could make presentations to the court if their personal interests are affected (see Art. 68.3 ICC Statute). Victims, or victims' groups, are granted the right to a legal representative. Moreover reparations can be granted to victims, to be paid from the ICC Trust Fund. There are, however, problems with this approach in that it generates high expectations about a better future and monetary incentives on the side of the victims that cannot be fulfilled. At the same time, the determination of victims can be very time-consuming.

What does this mean in practice?

- Even when taking victims and their needs and interests into consideration courts stay profoundly "perpetrator"-oriented in that a due process of law for the accused is at the centre of concern. However, if a court succeeds in properly establishing the facts about "who did it" this in itself contributes to fulfilling part of the victims' needs.
- Other mechanisms of transitional justice may then be able to take into consideration victims' further needs, like the need to "tell the story" or to receive reparations. To take these over by courts would mean overloading this particular mechanism.
- However, efforts to consider victims as such in court could still be considered in the procedures of the courts and should be further developed where possible. The tribunals' efforts to this effect are appreciated by victims, according to a survey done on ICTY.

3.2. The Right to Know: Victims, perpetrators and hierachies of pain and responsibility in Northern Ireland

As we have seen in the first section the right to know focuses on victims: they have to know what happened to their loved ones, but also who the perpetrators were and – last but not least - who may be considered a victim, after all.

Marie Breen Smyth, Director of the Centre for the Study of Radicalisation and Contemporary Political Violence (CSRV) at Aberystwyth University, Wales, presented results of the "Cost of the Troubles Study" (COTT), a very particular initiative of truth finding in Northern Ireland that also brings into relief the much discussed political connotations of victim/perpetrator definitions.

It is a study on the effects of the Troubles on the population in Northern Ireland, conducted in the years 1996-2001 and is based on principles of participatory action research. It brought together victims from all groups and compiled data on all those killed from 1969 to date. The aim of the study was to put victims on the

political agenda during the peace process and raise public awareness of the issue of victim and perpetrator definitions.

Political definition of victims and their hierarchy

It turned out – not surprisingly - that the ascription of victim identity in Northern Ireland is also part of the conflict and, in fact, a matter of political contest along the lines of division. The contests over the definition of victimhood can almost be seen as a 'war by other means'. Thus some victims become icons of grievance for their entire community and by association with these victims politicians bring unassailable moral authority to their own cause. In the same vein, differentiations have been proposed between "innocent victims" versus "terrorist victims".

Northern Ireland's system of compensation and reparation, moreover, leads to a hierarchy of victims. The financial compensation scheme excludes anyone with any kind of previous conviction, including driving offences. At the same time, it awards higher compensation to police officers and their families than to anyone else and more compensation to army personnel and their families than to civilians.

Truth recovery

The contests between different groups of victims preclude the possibility of any coherent truth recovery process that is exclusively victim-*led*. Rather, the study suggests, it should be the responsibility of the wider society to set the parameters of truth recovery which should then be victim-*centred*, i.e. victims' concerns and participation should be central to any truth recovery process. Eventually, truth recovery processes in themselves are less in particular for victims but rather for society. The international community could also play an important role in witnessing and adjudicating such processes.

On the other hand, in the current system, the onus for seeking truth and justice largely falls on victims and the human rights organisations that represent their interests. The extreme challenges linked to truth finding and justice seeking processes impact on the well-being of victims, and those who undertake the mammoth task of campaigning for justice and acknowledgement often pay a heavy price emotionally, socially, healthwise and economically.

The study also concludes that in a process of truth seeking which comprises different groups of victims as in Northern Ireland, there is a fine line between exclusionist approaches to the definition of victims and setting up a moral equivalence between victims and perpetrators. It further realised that one of the challenges for a sincere truth recovery process that eventually contributes to overcoming lines of conflict and consolidation of a new social solidarity is the culture of blame. It denies all responsibility for the wrongs of the past and allocates it to the 'other'. Similarly, the competition between the various protagonists to claim the largest amount of victimisation and to deny the victimisation of the other prevents a more restorative approach. Unfortunately, some individual victims and some victims' groups in Northern Ireland are vociferous in their participation in the culture of blame and denial of the suffering of others.

What does it mean in practice?

- Truth recovery processes have to be attentive to the fact that there may be different groups of victims which may engage in political contest over acknowledgement of claims.
- For this reason such processes should be victim-*centred* rather than victim-*led* with due respect to victims' needs and support of victims' full participation in such processes. This includes not only psychological support, but legal representation and financial assistance where required.
- A truth recovery process has to be organised in such a way as to overcome old patterns of division in order to reduce the risk of future victimisation and consolidate a basis for new social solidarity. This also includes relinquishing the culture of blame on the part of victims and recognising and empathising with the suffering of the 'other' side.
- Truth recovery is never really done for victims but for society. We should not make victims believe that this is good for them. This is why we may also need compensation of victims' participation in truth seeking processes.

3.3. The Right to Reparation: A basis for transforming victim and perpetrator identities?

Reparation appeared in our framework on the side of the victim-oriented transitional justice mechanisms, entailing individual measures for victims, relatives and dependents. There may also be collective forms of reparation that usually involve symbolic acts and, less often, collective measures to improve victims' lives. Reparations may mark a period of mourning, enable victims to move beyond bare survival and support individual journeys of finding meaning and healing.

Dr. Undine Whande, a social anthropologist with many years of conflict transformation practice in South Africa, discussed in her presentation what effects reparations, or rather the limited nature thereof, have had in South Africa.

Victim and perpetrator definitions and identity shifts

In the South African negotiation process the question of amnesty featured more prominently than reparations. Significantly, both sides - the liberation movements and the Apartheid government - saw each other as 'perpetrators'. A shift in official state discourse - and along with it a re-definition of "victims" and "perpetrators" - took place in the early days of transition. Members of the liberation movements, previously described in the media as "terrorists", were now revered as "freedom fighters" and "heroes" in official public discourse. By contrast, National Party members, in particular members of the security forces went from 'proud soldiers/policemen' to "apartheid perpetrators" and "gross human rights violators" in need of amnesty.

The South African Truth and Reconciliation Commission (TRC) adopted a fairly narrow definition of "victims" entitled to reparations: those subjected to killing, abduction, torture, and severe ill treatment and their families. The TRC did not include the broadscale experience of structural and cultural violence that affected everyone of colour or take into account the depth of the emotional scars left by 'petty' apartheid.

At the same time the TRC was seen by critics as an attempt to de-politicise victims whose anger was not deemed desirable. Victims were seen in need of counselling, vengeful emotions needed to be 'healed', and 'forgiving' victims were praised and widely mediatised.

Access to reparations

As the TRC took shape, reparations were to be the 'sweetener' for the 'bitter pill' of amnesty. In the process both sides had to apply for amnesty which generated much debate and resentment among former freedom fighters. During the amnesty hearings the claims of perpetrators (to not have known, to simply have followed orders, to suffer from PTSD and memory loss) revealed the challenges of truth-seeking for victims. Meanwhile the reparations process was slow, despite the fact that many victims were destitute.

Only those named as 'victims' by the TRC could access state reparations. As a one-off payment, given without accompaniment or support, the total impact of reparations eventually paid out remained minimal. The main issue stayed unaltered: many victims continue to live in poverty, while those who got amnesty went back to their luxury homes.

Alternative forms and definitions of reparations

Survivor groups argue that part of repair – and in that sense of reparation - is breaking out of social isolation: to allow survivors to become *actors* in society again.

Starting with processes of group storytelling (rejecting individual psychological intervention mainly offered by white middle class professionals), there emerged a call to political action around reparations. Survivor support groups demanded a political voice and participation. Various grassroots projects and organisations evolved that combined personal story telling, public memory work and economic betterment. In this context the Khulumani Survivor Support Group took the issue of reparations further, lodging a court case against businesses that benefited from Apartheid in New York. Meanwhile the South African government is not prepared to pursue prosecutions.

The question of transformation

The moral universe of apartheid was highly complex and nuanced with grey zones: People made choices every day to survive, to protect and feed their families. They resisted Apartheid in a multitude of ways, and to take risk or not was a very personal decision with dire consequences that cannot be judged with the benefit of hindsight.

The transformation of identities depends on nurturing imagination and opening ongoing spaces to grapple with the past. There is no easy reconciliation or repair; transforming ways of relating and enabling mourning and healing remains the labour of generations. Reparations may generate public debate about what is needed for recovery. In South Africa the challenge remains to negotiate spaces for *everyday* repair in absence of both further reparations and significant economic redistribution.

What does this mean for practice?

- Reparations can give a sense that the new state 'cares' and provide immediate relief and means for survival
- Reparations pose a possibility for civil society to lobby, advise and innovate - for instance to assist to strengthen and sustain the impact of pay-outs
- Reparations need to support longer-term processes of reform and repair, for instance transformation of structural injustice over time (even if this aspect is often not realised early-on as political accommodation dominates).
- Reparations can assist to develop pluralistic memory spaces and allow for confrontation and complexity in engaging the past. Artists have an important role to play here.
- The process of transforming identities carries throughout the generations and may require cycles of reparations (as in Germany).

4. Transformation of identities? The guarantee of non-recurrence

The guarantee of non-recurrence focuses on the need to disband paramilitary groups, to repeal emergency laws, and to remove officials from office who are implicated in serious human rights violations. In this sense the mechanisms focus on perpetrators, as we saw in our framework at the beginning of the workshop. But they are at the same time geared towards victims in the sense that they should provide security and guarantee non-repetition of victimisation.

Three examples from work with ex-combatants, ex-prisoners, but also survivors in Colombia, Mozambique and Rwanda illustrate some of the challenges - but also some potential of various approaches in this field of transitional justice.

4.1. Returning to the community: Re-integrating ex-combatants in Colombia

Stefan Ofteringer, consultant to Misereor on human rights in Colombia, argued in his presentation that in fact, the role of victims in the implementation of Disarmament, Demobilisation and Reintegration programmes (DDR) has to be strengthened.

Challenges of demobilisation in Colombia

A particular challenge in long drawn out conflicts like Colombia's with its changing actors and characteristics over time and – above all - its proliferation of armed groups is to establish with whom to negotiate, whom and when to demobilise and under what conditions. In Colombia's 40+ years of war several initiatives to demobilise have been brought forward. The largest initiative has concerned the paramilitaries. One of the main problems of this process has been that the paramilitaries have in fact been an instrument of the state itself. Meanwhile the conflict was on-going. No strategy for peace with the guerrillas was developed that would have been able to lead to a demobilisation strategy on their side.

Since 2003 34,000 paramilitaries have been demobilised. However, most of these have in fact been recruited just for the sake of imminent demobilisation. Also, they have not been systematically checked for their criminal records – not surprisingly as the special unit of the prosecutor's office lacks staff and resources. Furthermore, demobilisation has taken place in exchange for guarantees of concessions in punishment of their crimes.

Since June 2005 the Justice and Peace Law / Law 975 has provided a legal framework for demobilisation. Only 7% of the fighters have been demobilised under this law, all others taking place under minor presidential decrees with, again, no guarantees and extremely poor levels of documentation of the fighters and their arms.

However, there has been a substantial reduction in violence (e.g. assassinations by 50%) in some regions. But the paramilitary structures remain intact: There are records of continuous armed presence in 24 of 32 provinces. Economically, no pressure is put on paramilitaries to hand in for reparation the goods they have acquired through their illegal activities - the main reparation fund still being empty and more than six million hectares of land formerly owned by now landless peasants are remaining in their hands. Socially, most groups are present in the villages and towns and are recognised as the key actors in the economically most rewarding activities, legal as well as illegal ones (e.g. they are in control of de-centralised health system on the Atlantic coastal region and of large proportions of drug production and trafficking). In general, power relations have not changed. Paramilitaries who have risen to become the most important human rights violators remain in a strong armed and civil position.

The victims' position/ role

None of these initiatives have accorded victims or their representatives a major role. Over 30,000 persons claimed their rights against the PPMM with the National *Commission for Reconciliation and Reparation* and the special *Justice and Peace Prosecutor's Department.* But there has never been a clear recognition of the victims of the paramilitaries by the government. On the contrary, press and public generally identify victims with guerrillas. A number of victims have in fact been assassinated shortly after claiming their rights in public hearings. Economic support is spent on demobilised ex-combatants, and victims have no access to significant funds: demobilised persons get 10-15 times the resources of an IDP.

The semi-public hearings do not sufficiently guarantee access to victims and human rights organisations, and prosecutors do not in general question the position of the paramilitaries, and supporters of paramilitaries blockade buildings where hearings take place. As in South Africa or in Northern Ireland, paramilitaries in Colombia consider themselves the "defenders of the country" who are fighting for a just cause and do not admit to having committed gross human rights violations.

In this sense, it is clear that space for transformation is very limited if not non-existent and the guarantee of non-recurrence is more than limited. Everything takes place within the structural framework which caused the conflict in the first place.

Strategies and recommendations/ What does this mean for practice

- DDR processes have to take the various armed groups of a conflict into consideration and have to take structural and politico-administrative aspects into account.
- Victims have to be included in the design of those measures and have to be protected accordingly and sufficiently. Their position could be strengthened by legal and public acknowledgement and support and by psycho-social help.
- National and international agencies and organisations should support these efforts nationally and internationally with strong lobbying for the victims' rights.

4.2. Economic and social reintegration of vulnerable groups – genocide survivors, ex-prisoners and ex-combatants

In post conflict situations where massive violence and atrocities have taken place people are deeply traumatised, their social relations are shattered and their economic basis is destroyed. These issues have to be addressed as part of transitional justice processes. Otherwise, non-recurrence of violence will be difficult to guarantee. Agnès Mujawayezu, Executive Secretary of an umbrella association of fifty Rwandan organisations that promote women's rights, peace and development presented first experiences and challenges of an initiative of a network of four Rwandan and international organisations that work on some of these issues together.

Comparable living conditions of genocide survivors, ex-combatants and ex-prisoners

Almost fifteen years after the genocide in Rwanda victim – perpetrator ascription still tends to follow the lines of conflict and equate Hutu with perpetrators and Tutsi with victims. However, socially and economically speaking there are three vulnerable groups that belong to both, Tutsi and Hutu: genocide survivors, ex-prisoners, and ex-combatants. The social and economic situation of many of them is similarly precarious, though for very different reasons.

Project: "Support to reconciliation and socio-economic rehabilitation of genocide survivors, ex-combatants and ex-prisoners"

The goal of the project is to contribute to the process of national reconciliation in Rwanda by rehabilitating and reintegrating the three vulnerable groups. The project follows three main lines of activities that are followed up with community leaders who in turn work with members of their respective communities:

- Creation of space for exchange and dialogue between the group members in order to enable social cohesion and to reduce the risk of conflict at family and community level. Community leaders are trained in prevention and transformation of conflicts, on topics such as tolerance, unity and reconciliation.
- Strengthening the economic opportunities of the vulnerable groups. Here training workshops on entrepreneurship and micro credits are being provided; and members are encouraged to get together around credits and loans and are accompanied through the cycle of loan, investments

and reimbursements. Members of the different vulnerable groups are trained together and – surprisingly – they have also started taking credits together.

- Enabling the groups to understand their trauma and, through community level sensitisation and interactions, improve their mental well being. Here community leaders are trained in active listening, group counselling, clinical supervision, information campaigns on trauma symptoms.

First lessons for practice

- People from the different groups accepted training as an opportunity to meet and exchange on their common problems;
- The meetings also become an opportunity to demystify ethnicity and speak about it without shame or complex;
- Community leaders quickly developed capacities in terms of management of trauma and transformation of conflicts which help groups to reconsider their relations to each other;
- Economic needs and opportunities of the vulnerable independently of their background are shared and accompanied with a better knowledge and awareness of the importance of entrepreneurship and financial institutions that might help to evolve economically.

4.3. Struggling in peacetime: Ex-combatants as peace builders

Due to their involvement in war and violence the re-integration part of DDR programmes very often starts out from the assumption that ex-combatants or war veterans are prone to violence with criminal inclinations and are a menace to society.

In his presentation, Salomão Mungoi, Program Officer at Propaz-Institute for Peace Promotion (Mozambique), presented other views and practices from his experience in Mozambique.

How do ex-combatants determine and view their identity?

The views that ex-combatants hold of themselves is the result of their process of continuous integration into the military. In almost every conflict situation, each warring group develops some kind of ideology around the cause for fighting like the fight for democracy or a liberation struggle. Each of these groups feels they have fulfilled their role given by the need of community and feel proud. In that sense they do not see themselves as perpetrators and do not see any need to "transform" their identity as combatant. Rather, they need to change their roles in peace time.

Transformation: Identities or roles? The example of Propaz

This is the starting point for the work of ProPAz-Institute for peace promotion that works with ex-combatants in Mozambique. It brings together ex-combatants from both sides, Renamo and Government, that are interested in making their skills available to transitional justice and peace time activities, e.g., mine clearing, location of arms caches.

They are trained in non-violent conflict resolution and transformation skills in order to lobby for their own rights during peace time and to provide services to their respective communities. Thus members of the ex-combatant association were involved in resolving violent incidents during the UNMOZ mandate or in carrying out sensitisation campaigns against violence and small arms circulation. The message the community receives that way from the ex-combatants is: we care to preserve lives and to contribute in non-violent ways.

As a result, levels of violence in most conflict areas in Mozambique have decreased and the involvement of ex-combatants as peace promoters has strengthened their form of organising (regional fora with a focus on peace building).

Recommendations for practice

- Continuous ascription of ex-combatants as perpetrators can lead to the exclusion of this group and the eruption of new violence. It is important to consider that issues of "dealing with the past" not only arise between victims and perpetrators but also between society and bystanders who let it happen.
- Consider small initiatives that are genuine and would like to overcome concrete difficulties ex-combatants have to cope with in everyday life like reintegration or poverty. They may be a good starting point to involve ex-combatants in peace initiatives.
- The work on identity transformation should be in accordance with local culture and practices. "Cleansing rituals" might be important in this context.
- Ex-combatants should think about what they have done to civilian victims and how they could deal with them in peace times. Where necessary because crimes are involved, they have to be brought to court and investigated.
- It is important to identify the values behind the violence and atrocities and work on a reformulation of values in a joint social process. This could be started in small groups of trust and later on in the wider community.

5. Strategic Options for Development and Peace Building Practitioners

After the wealth of examples and experiences presented on the first day, the last part of the workshop was dedicated to working groups where participants could explore more in depth some of the issues presented with a view to consider strategic options for their work. From the presentations, discussions and the results of the working groups, a number of issues can be identified that may be important to consider when strategic options in development and peace building work are developed.

5.1. Matters of context

Safety is priority

In many situations which we have to deal with as development and peace building organisations, we intervene in the midst of an ongoing conflict. However, the most important precondition for the process of recovery and healing is safety. At the beginning it is vital to create protected space and to provide a safe and inclusive environment.

Safety, however, may also have symbolic rather than physical connotations: To develop and assure social space to tolerate different narratives of victimisation and responsibility.

Political definitions of victims and perpetrators

Even where violence has been stopped those responsible might still be in power or may have come to power. Thus the definitions of who are perpetrators and who are victims may be strongly influenced by political connotations. These may stand in the way of a serious peace and justice process.

Complexity

Rare are cases where victim/perpetrator lines are clear-cut categories. In most cases we have to deal with grey zones of victims – perpetrators – victors in changing combinations and sequences. Other roles have to be considered like bystanders and onlookers.

5.2. Elements for consideration

Victim orientation implies perpetrator orientation

Independently of a victim or perpetrator focus, transitional justice mechanisms should always take into consideration the other category.

Identities/ Transformation

Transformation from the perspective of victims means being able to live a productive life without the fear of re-victimisation and the need to take revenge against perpetrators; from the perspective of perpetrators, it means being able to live a productive life without the burden of guilt and the danger of becoming a perpetrator again.

However, transformation might not be the aim in any case. Sometimes it is, rather, the adoption of new roles (e.g. ex-combatants who become involved in non-violent conflict resolution). Also, sometimes it is hard to find options to address in cases where a strong polarisation between victims and perpetrators exists.

Value orientation

Identity shifts may have been brought about by the conflict itself (from defender of a just cause to a human rights violator; from guerrilla to liberator…).

This implies that very often violence is used on the basis of value orientations. These have to be reconsidered and newly developed.

Closure of grief, establishment of truth

Another basis for transformation and inclusiveness is, however, that some measure of truth about human rights violations has been established, responsibility taken, and that the process of mourning can be engaged in and concluded.

Victim and perpetrator participation in decision-making

The focus should not only be to defend victims. For healing and transformation, active participation of victims and perpetrators, each in their respective fields of responsibility, has to be developed.

Social and economic development

Elements of social and economic development may help to build a common basis of living together again by starting from some common needs.

Time dynamics and sequencing

Transformation is a dynamic process that takes time. The process starts by finding entry points and by asking 'what could be done right now?' The examples have shown that options depend on contexts and that each has their own timing and sequencing.

The role of different actors

Are state organs in a position to ensure the mechanisms? What happens when it is the state that is the perpetrator, as in so many cases? Which other actors, national and/ or international, are in a position to intervene and on the basis of what role/s during the conflict?

6. Appendix

Appendix I: Programme

Tuesday, 12th February

10.30 – 11.00	Welcome - Presentation of participants, introduction to programme (Sylvia Servaes, FriEnt)
11.00 – 11.45	Victims and perpetrators – a challenge for Transitional Justice and Development (Jonathon Sisson, KOFF)
11.45 - 12.30	Identities ascribed, identities transformed: Psychosocial foundations of victim and perpetrator categories and their transformation (Dr. Simone Lindorfer)
12.30 – 14.00	Lunch
14.00 – 18.00	**Perspectives on working with victims and perpetrators in the context of Transitional Justice**
14.00 – 15.45	Transitional Justice Mechanisms: Victim orientation - perpetrator orientation? (Facilitation: Sylvia Servaes) • The right to justice: Victims' needs and perpetrators' accountability (Dr. Jan Christoph Nemitz, Legal Officer, ICTY) • The right to know: Victims, perpetrators and hierarchies of pain and responsibility (Northern Ireland) (Dr Marie Breen Smyth, Centre for the Study of Radicalisation and Contemporary Political Violence, Aberystwyth University) • The right to reparation: A basis for transforming victims' and perpetrators' identities? (Dr. Undine Whande)
15.45 – 16.15	Coffee break
16.15 – 18.00	Transformation of identities? The guarantee of non-recurrence (Facilitation: Sylvia Servaes) • Returning to the community: Reintegrating ex-combatants in Columbia (Stefan Ofteringer, Misereor / AGEH) • Economic and social reintegration of vulnerable groups - genocide survivors, ex-prisoners and ex-combatants (Agnes Mujawayezu, National Executive Secretary, Pro-Femmes Twese Hamwe, representing a joint project with International Alert Rwanda) • Struggling in peacetime: Ex-combatants as peace builders (Salomao Mungoi, Program Officer ProPaz, Mozambique)
18.15	Dinner

Wednesday, 13th February

9.00 – 9.30	**Where do we stand? Where do we go from here? Strategic options for development and peace building practitioners** Introduction (Jonathan Sisson & Sylvia Servaes)
9.30 – 11.30	Working Groups (Facilitation: Sylvia Servaes) What do complexity of victim / perpetrator categories and the necessity for their transformation mean for the design, timing, sequencing of programmes, and the choice of cooperation partners: • Justice and truth (Facilitation: Natascha Zupan) • DDR and reparation (Facilitation: Jonathan Sisson) • Social and economic development in post conflict societies (Facilitation: Sylvia Servaes)
11.30 – 11.45	Coffee break
11.45 – 13.00	Presentation and discussion of the working groups' results **Concluding Discussion**: Is there scope for differentiated victim / perpetrator approaches in development and peace building? What is needed? (Facilitation: Sylvia Servaes)
13.15	Lunch

Appendix II: Biographies of presenters

Dr. Simone Lindorfer

Simone Lindorfer is a free-lance consultant for psycho-social trauma work. She has worked with various organisations like Misereor, Caritas, and medica mondiale. Among the countries she focusses on are Uganda, Rwanda, Burundi, Kenya and Liberia. She is a Psychologist and Theologian and wrote her Dissertation on Liberation Psychology and gender-related violence in Eastern Africa "*Sharing the Pain of the Bitter Hearts*". Simone Lindorfer is a trauma and systemic family therapist. She has special working experience with survivors of torture and political violence which she particularly gained with a non-profit organisation in Stuttgart.

Agnes Mujawayezu

Agnes Mujawayezu is the National Executive Secretary of Pro-Femmes/Twese Hamwe, in Rwanda - an umbrella association of 50 organizations that promotes women's rights, peace and development. She holds a Master's degree in sociology, a Bachelor's degree in Education and a Diploma in Psychology. Agnes Mujawayezu has been in the field of education, reproductive health, gender, community development and conflict management for the last 25 years. She worked as a programme/project coordinator and as a private consultant with different institutions and organizations, e.g. the Burundese Ministry of education, as well as the Ministries of gender and family promotion, of social affairs, and of health, the Parliament, and UN agencies (UNFPA and UNIFEM), bilateral cooperations (CIDA, DFID and USAID), international NGOs (ACORD, Christian Aid, CECI, CARE International, International Alert, CHF International) and many local NGOs.

Salomão Tirço Mungoi

Salomão Mungoi is a Program Officer at Propaz-Institute for Peace Promotion, Mozambique. He did his secondary studies and a medium level technical course in Statistics in Cuba in the 1980s. On his return to Mozambique he joined the army where he served between 1988 and 1994 and where he reached the rank of a Lieutenant. He worked in the Air force, the Military Hospital and with the planning department attached to the Army Commander. He was a field member of the commission set up during the peace agreement responsible for the establishment of the new army. When he left the army in November 1994 he joined the Ex-combatants Association. After a series of exchanges with ex-combatants in other parts of the world Salomão Mungoi became a co-founder of Propaz. He holds a bachelor degree in English language teaching by the Pedagogical University in Maputo and went through a DDR specialization course. He is trainer and material designer in conflict and conflict transformation. He also co-authored two books about the experience of ex-combatants as peace promoters in Mozambique.
His experience is summarized in: "Struggles in Peacetime: Working with ex-combatants in Mozambique. Their work, their frustration and success" (2005).
www.propaz.org.mz/media/english.pdf

Dr. Jan Christoph Nemitz

Jan Christoph Nemitz works as a Legal Officer with the ICTY Appeals Chambers. He completed his studies in law at Freiburg University (Germany) and he received a Master in International Law from Stockholm University in 1996. An internship and his assignments during his legal articles (*Referendariat*) took him to the Office of the Prosecutor at the ICTY, the District Court in Konstanz (Germany), the Regional Office of the UNHCR in Brussels (Belgium), and the German embassy in Mexico City (Mexico). From 1999 to 2002, Mr. Nemitz worked as a research assistant in the sections for US law and the laws of the Nordic Countries with the Max Planck Institute for Foreign and International Criminal Law in Freiburg i.Br. (Germany). During this time he also wrote his dissertation on the law of sentencing in international criminal law. In 2002, Mr. Nemitz joined Trial Chamber II of the ICTY as an Associate Legal Officer assigned to Judge Per-Johan Lindholm. In 2003, Mr. Nemitz joined the Appeals Chamber of the ICTY as the Associate Legal Officer assigned to Judge Wolfgang Schomburg. Since autumn 2005, Mr. Nemitz works as a Legal Officer in the ICTY Appeals Chamber. He has published in legal journals and books, primarily on the topic of sentencing in international criminal law, and he has lectured on various occasions on topics of international criminal law.

Stefan Ofteringer

Stefan Ofteringer works for Misereor as Consultant for Human Rights in Colombia. He is responsible for building closer links between the activities of Misereor's Colombian counterparts and the advocacy-work of Misereor in Europe and Germany. Stefan Ofteringer completed his Latin American Studies at the University of Cologne. For the past 15 years he has been working on the human rights situation in Colombia including issues of economic, social and cultural rights. He has also served as a co-ordinator with FoodFirst Information and Action Network, German Section (FIAN Germany) and as a desk officer for Colombia with Misereor.

Jonathan Paige Sisson

Jonathan Sisson is a senior program officer at the Center for Peacebuilding (KOFF) at swisspeace in Bern. His main thematic focus is on dealing with the past and reconciliation. He is the past president of the International Fellowship of Reconciliation (IFOR) and currently represents that organization at the UN Human Rights Council in Geneva. Over the years he has been engaged in activities as a peace and human rights advocate at the community level in Switzerland and abroad with a focus on alternatives to violence and migration issues. He is the author of training manuals on active non-violence and peace education.

Dr. Marie Breen Smyth

Marie Breen Smyth is Director of the Centre for the Study of Radicalisation and Contemporary Political Violence (CSRV) at Aberystwyth University in Wales, and Treasurer of Healing through Remembering, a cross-sectoral initiative on truth recovery in Northern Ireland. She is an editor of Critical Studies on Terrorism. Previously, she was Head of Research and Communication with Criminal Justice Inspection Northern Ireland and she chaired the first Research Ethics Committee for Northern Ireland until July 2005. She was 2002-2003 Jennings Randolph Senior Fellow at the United States Institute of Peace, where she advised on Northern Ireland, and conducted an international comparative study on adolescent militarization in South Africa, Israel/ Palestine and Northern Ireland.

She was seconded from the University of Ulster in 1994 to act as the CEO of the Institute for Conflict Research in Belfast which she founded and where she initiated The Cost of the Troubles Study, which documented the impact of Northern Ireland's Troubles on the population (including children) of Northern Ireland. She has worked with the Special Representative of the Secretary General of United Nations on the protection of children in situations of armed conflict. She has published widely on Northern Ireland, victim politics, truth recovery and children and armed conflict. Her latest book, *Truth and justice after violent conflict: managing violent pasts* is published by Routledge (2007).

Dr. Undine Whande

Undine Whande is a Social Anthropologist and conflict transformation practitioner who originally hails from Germany. After having conducted research into the German experience of the Third Reich and the Holocaust in the early 90s, which kindled her interest in transitional justice issues, she became closely engaged with the South African process of dealing with the apartheid past. She lived in South Africa between 1996 and 2006 and accompanied the Truth and Reconciliation Commission and worked in various local community transformation processes as a facilitator, mediator, trainer and action researcher for the Centre for Conflict Resolution, the Centre for the Study of Violence and Reconciliation, and others, eventually writing her doctoral thesis on the grassroots process of the Healing of Memories. Memory work, storytelling and facilitating dialogue to enable restoration, repair, imagination and new meaning out of a history of atrocity and injustice remain key areas of interest to her. She also continues to research the role of injurious memory and biography in past and present conflicts. Seconded by the Weltfriedensdienst (Community Services), Undine Whande worked as an advisor to U Managing Conflict (UMAC) under the Civil Peace Service Programme (CPS) of the German government between 2002-2005, on issues of community safety, gender and institutional transformation. She has also worked as a journalist, documentary filmmaker and materials developer. She currently lectures at the University of Cologne and works as an independent consultant and coach.

Appendix III: List of participants

Name	Organisation
Clauß, Stephan	Academy for Conflict Transformation
Baumgärtner, Ulf	Association for Development Cooperation (AGEH)
Unger, Barbara	Berghof Foundation for Peace Support
Franovic, Ivana	Centre for Nonviolent Action (CNA)
Smyth, Marie Breen	Centre for the Study of Radicalisation and
Hoensbroech, Anja	Deutsche Gesellschaft für Technische
Wucherpfennig, Monika	Diakonisches Werk
Müller, Karin	Ecumenical Network Central Africa
Rutsch, Julia	Eirene - International Christian Service for Peace
Chammas, Annette	Federal Ministry for Economic Cooperation and
Plate, Henning	Federal Ministry for Economic Cooperation and
Reuter, Sven	German Development Service (DED)
Lindorfer, Simone	Independent Consultant
Whande, Undine	Independent Consultant
Herrero, Sonia	International Center for Transitional Justice (ICTJ)
Nemitz, Jan Christoph	International Criminal Tribunal for the former
Laurent, Anne-Marie	International Women's Center Bonn
Sisson, Jonathan	KOFF Center for Peacebuilding
Schwarz, Christiane	kolko e.V.
Ofteringer, Stefan	Misereor/ AGEH
Felleisen, Birgit	Misereor/ Catholic Central Agency for Development
Mujawayezu, Agnes	Pro-femmes Twese Hamwe (Rwanda)
Mungoi, Salomao	ProPaz, Mozambique
Heinrich, Wolfgang	Protestant Church Development Service (EED)
Kruckow, Caroline	Protestant Church Development Service (EED)
Blake, Julika	University of Marburg
Baxmann, Marc	Working Group on Development and Peace (FriEnt)
Birtsch, Nicole	Working Group on Development and Peace (FriEnt)
Servaes, Sylvia	Working Group on Development and Peace (FriEnt)
Zupan, Natascha	Working Group on Development and Peace (FriEnt)