

## Experiences Of Reconciliation: Burma, Cambodia, El Salvador And South Africa

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[The following is a presentation on the subject delivered at a workshop titled “*Beyond Conflict*” organized by the Sri Lanka Reconciliation Forum, Sydney, at the University of Sydney on 17 August 2013.)

The concept or the mechanism of reconciliation has a special origin in Australia. In 1991, the Federal Parliament unanimously voted to form the Council for Aboriginal Reconciliation and it functioned until 2001. That is the first known mechanism for reconciliation. The experiment was emulated in New Zealand and Canada thereafter. The Council had three main objectives: (1) to educate all Australians about indigenous issues (2) to improve economic and living standards of indigenous people and (3) to acknowledge the unfair and often inhuman treatment of indigenous people throughout history. The third objective was about the truth and accountability which became the corner stone of reconciliation processes in many other countries thereafter.

A parallel development was at the UN. In the same year, in 1991, the UN Security Council asked the Secretary General to work on preventive diplomacy, peace-making and peace keeping and the SC came out with what was called *An Agenda for Peace* in 1992. There he said, “I have added a closely related concept, post-conflict peace-building.” The two concepts became merged very easily thereafter, and we alternatively call almost the same thing/s as ‘Reconciliation’ and/or ‘Post-Conflict Peace-Building.’

There are of course other roots to the concept. The concept was there in Jewish, Christian and Islamic theology for centuries or millennia. It refers to the reconciliation with God or reconciliation with truth. In Buddhism, Hinduism or Confucianism, there are only very few absolute truths. But all religions believe that ‘if you have done anything wrong you deserve a punishment.’ ‘If you are a victim, you may forgive the perpetrator and then you achieve a better merit.’ I may be inaccurate or wrong in my interpretations of these religious principles, because I am not a religious man and my knowledge on religions is quite scanty.

The concept is there even in accountancy. In accountancy, it refers to a process of tallying two or more sets of accounts to see whether they are in agreement. It is like reconciling two or three communities. Reconciliation is also a tool in modern systems of justice with roots in indigenous cultures. Instead of completely pursuing punitive justice, reconciliation is sought in settling disputes among people. It is more prominent in settling industrial disputes on wage issues or issues on working conditions. The concept has some inroads in group psychology as well. Reconciliation or some of its aspects may have therapeutic benefits. Even the whole democratic conception is based on ‘reconciliation’ and ‘consensus building’ and that is what we usually expect from parliamentary democracy.

### Scope of Reconciliation

I am here, in this presentation, more concerned about political and social aspects of reconciliation with relevance to conflicts and not necessarily to ethnic conflicts. My concern is about how the concept evolved which we popularly call 'restorative justice' or 'transitional justice' culminating in the South African experience.

There is no question that 'reconciliation' may mean different things to different people. However, there is a congruence of ideas on the basis of experiences. There is no great theory or theories as such like in the field of conflict resolution.

Reconciliation is praxis. John de Grouchy who wrote '*Reconciliation: Restoring Justice*' (in South Africa) argued "reconciliation is about restoration of justice," It is about "interpersonal and community relations" that this workshop attempts to build among us, coming from different communities and backgrounds. It is also about "the transformation of society" (back in our initial home in Sri Lanka) including its polity. There are others who have emphasised different aspects, but for this presentation I would take only four aspects given the time limitations.

1. Restoration of Justice and Accountability.
2. Decommissioning and Demobilization.
3. Institutional Design and Constitutional Reform.
4. Breaking Barriers and Building Bridges.

There are four countries that I am supposed to comment on. In fact I was given three countries and I added El Salvador to create a sequence of development although four countries are too much to cover in a brief workshop presentation. Let me say at the outset that this is not necessarily a comparative analysis. Neither the countries selected are in depth case studies. My only purpose is to show how the concept of reconciliation developed during the 1990s, almost in step by step. My comments may be very brief and in point form.

### **Burma, the Lost Opportunity**

Burma is still not a good example for reconciliation. There have been attempts in the past and most have not been successful. Even Aung San Suu kyi's father Aung San was killed with his close colleagues in 1947 because of his agreement with the minority communities and when he signed the Panglong Agreement. The enormity of the problem, apart from intransigence must have been the key obstacles. There are 8 main ethnic groups (Burman, Mon, Kachin, Kayah, Karen, Chin, Rakhin, Shan) in Burma with over 50 subgroups and four major religions.

During 1950-1962, the ethnic conflict was fairly managed under parliamentary democracy when U Nu was the Prime Minister. Democracy was overthrown by the military in 1962 under Ne Win when U Nu was negotiating with minority leaders for the settlement of some issues.

When the democracy movement erupted in 1987 there was solidarity and cooperation between the opposition Burman leaders and the ethnic minority movements. I have seen this in my own eyes and experience. There was a potential reconciliation process between 1987 and 1990. The military was forced to hold elections but when the NLD (National League for Democracy) won the elections, the military refused to hand over power and the UN or the international community could not 'intervene.' Therefore, the opportunity was lost. It was a lost opportunity for reconciliation. Burma being a 'hermit nation' before, it was largely an unknown country to the international community.

Now at present there are good signs for future reconciliation in a political sense but how far this would embrace ethnic reconciliation is not clear. The current President has started communicating with the Burman opposition, but the state oppression against Rohingias (Muslims) in the Rakhine State is still continuing viciously. I recently listen to a Radio Australia interview given by Chris Lamb, the Australian Ambassador to Burma during those troubled times, on 7 August 2013, and he was cautiously optimistic. The title of the web posting of the interview was "Reconciliation in the Air." There are positive developments going on in the country, and Myanmar is cooperating with the international community, if I may say, unlike Sri Lanka.

That was a lost opportunity in 1990 in Burma and then came the opportunity in Cambodia in 1991.

### **UN Efforts in Cambodia**

Cambodia has been a problematic country in our region. It was mainly a political conflict particularly within the Cold War context, however, with a Khmer-Vietnamese conflict in the background and also Chum Muslims as a severely persecuted minority in the process. It was a story of genocide.

The overt conflict lasted for over 20 years since Lon Nol (military) came to power in 1970 displacing a fragile democracy. Since then the power balance changed in 1975 and again in 1979. It is a country where millions of people were killed; a most conservative estimate is 1.5 million. In bringing peace and reconciliation to Cambodia, the international community and the UN attempted to play a decisive role. Australia played an initial role in bringing peace through negotiations, Gareth Evans, the Foreign Minister of that time, with his little 'Red Book.' Thereafter, it was mainly a UN effort with Paris Peace Agreements in 1991, four fighting factions signing the agreements.

The UN or the international community invested around 4 billion dollars in the process and over 25,000 personnel including a peace keeping force. There was a UN Transitional Authority (UNTAC). The main success of Cambodia was in the third area, the institutional design and constitutional reforms. The second area also was a partial success during the peace building period. Reconciliation was not the term used but peace building. Cambodia became signatory to over 15 international instruments on human rights during the transitional period. Human rights were a key element in the reconciliation process. After nearly three decades, Cambodia embraced parliamentary democracy and drafted its own constitution with international assistance.

However, the restoration of justice or accountability was not so easy or not carried out properly. The Paris Peace Agreements (1991) failed to incorporate a truth commission to the UNTAC mandate. As a result, the perpetrators were not properly confronted, tried or punished. There was no conception of addressing the issues of truth or learning the lessons from the past. The government opposed any international tribunal and dragged on in arresting many of the perpetrators for a long period. Perhaps the UN intervention was too brief. There were several other reasons for the failure of reasonable justice: (1) the complicity of some government leaders (2) enlistment of surrendered Khmer Rouge soldiers in the regular army and (3) perhaps the enormity of the task and the complications thereof. Cambodia is still paying a price for this failure.

The UN after failing to investigate the truth in Cambodia in 1991 attempted to rectify it in El Salvador in 1992.

## **El Salvador, the first UN Truth Commission**

El Salvador saw the first UN Truth Commission in 1992. El Salvador is a small Latin American or a Central American country. The population is small (less than 6 million now) and of a mixed Spanish and indigenous descent called Mestizo among other groups. I have selected this country as a link to our discussion on South Africa and partly because of my familiarity with the situation of the country during 1980s and early 1990s, although my comments would be brief. Then I lost contact. I also have a compliment. In my experience, Latin Americans are a people who readily mix with others without much ethnic or racial inhibition. This is one ingredient necessary for ethnic reconciliation.

El Salvador was mainly an ideological and a political conflict with strong class ramifications. There was a coup in 1979 which brought a military rule to the country and the country until then was a quasi-parliamentary democracy. During 1980 and 1991, there was a full scale war between the military and the Farabundo Marti National Liberation Front (FMLN) with estimated killings of 80,000. There were other insurgency groups. The Cold War in the region was the main reason for the armed conflict with the direct involvement of the US because of Sandinistas in Nicaragua. The end of the Cold War (1989) and the election defeat of Sandinistas in 1990 signalled the possibilities of peace. The US changed the position and the UN facilitated or 'intervened' with considerable backing from the US. The peace initiatives before, in the 1980s, were not successful.

UN Secretary General initiated a joint declaration by the government and the FMLN in April 1990 in Geneva. In 1992, there was a comprehensive Peace Accord participated by several organizations and there was agreement that the UN could have a major role to play in overseeing the compliance and implementation of the agreements. It was not a direct UN intervention like in Cambodia but a UN facilitated process. It was as a part of this process that the first UN Truth Commission was set up in April 1992. It was a three member commission (an ex-President from Colombia, an ex-Foreign Minister from Venezuela and a Professor from George Washington University). They worked hard for six months round the clock, wrote the report in three months and it was out in March 1993 called *From Madness to Hope: The 12 Year War in El Salvador*. It is a good read on the subject which I would recommend to anyone.

The Commission listened to over 2,000 testimonies as primary sources referring to over 8,000 victims. It also went through secondary sources of newspaper reports, videos, recorded information and research work referring to over 20,000 victims. The information also was sought from the US intelligence, governmental, non-governmental and political sources. It is undoubtedly a one model of a truth commission. Finally it was determined that there were reliable cases of 22,000 that it investigated. Out of them, 60 per cent was on extrajudicial killings; 25 per cent on enforced disappearances and 15 per cent included the cases of serious torture. The testimonies attributed 85 per cent of them to the state or the paramilitary groups of the state and the rest to various sources of insurgents and others. The direct cases against the FMLN were only 5 per cent. After the Truth Commission, amnesty was given to many and some were convicted, but all possible cases were investigated. This is the important aspect of any accountability process.

After the peace agreement, the size of the army was reduced and the police was reorganized as a civilian force divorced from the military. The police was trained in human rights. However, there was no constitutional change from the old 1983

Constitution. The system is presidential but the President is elected only for five years and only for one term. The current president is Mauricio Funes. It is believed that the mistake that the country made after peace was not to change the constitution. As per the constitution, the military still holds influence on political decisions and considerable administrative matters.

The El Salvador reconciliation process was very much successful in the first (justice and accountability) and the second (decommissioning and demobilization) aspects but not so much in the third (constitutional design or constitutional reform). Only now the country is seriously thinking of constitutional reform and changing the presidential system.

### **Truth and Reconciliation in South Africa**

South Africa undoubtedly is one of the longest conflicts in the world. It is more than an ethnic conflict, a racial one. Although we normally consider that ethnic or racial conflicts are difficult to reconcile, when we look at the South African case we should be optimistic. What we need is political determination and leaders like not only [Nelson Mandela](#) but also Frederick de Klerk, religious leaders like [Desmond Tutu](#), and people like the 'South Africans' and something like their civil society movements. For the lack of time, I am focusing only on one aspect and that is the Truth and Reconciliation Commission (TRC). But in all other aspects, the South African case was fairly a success and the TRC impacted positively not only on the first, but also on the fourth, 'breaking barriers and building bridges.'

A breakthrough came in South Africa with a regime change in 1989. Although from the same party, the regime of FW de Klerk was different to PW Botha before. De Klerk was in touch with Nelson Mandela in prison for some time. After he became the President, one of the first acts was to release Mandela and others of the ANC (African National Congress). It is normally considered that the peace and reconciliation process in South Africa is purely an internal or a national process. That is not completely correct. The UN intervention in Namibia (UNTAG) in 1988 influenced South Africa directly. There were other influences. One feature of the peace process was the extensive negotiations between the two leaders (Mandela and de Klerk) during 1990 and 1993. Then came the 1994 elections, the interim government (1994-97) and the 1997 new Constitution. Our concern is mainly on the TRC.

Truth the Reconciliation Commission (TRC) was established under an Act of Parliament in 1995. It completed extensive initial five volumes in 1998. The period covered was March 1960 and May 1994. The Commission consisted of 17 members appointed by the President. There were three committees that investigated the major aspects of its mandate: (1) Human Rights Violations, (2) Amnesty and (3) Reparation and Rehabilitation. There was an Investigation Unit and a Research Department to assist all three committees. The Human Rights Committee held high profile victim hearings unlike in many other countries.

Human Rights Violations Committee conducted sessions in 80 communities or places lasting from three to four days and victims or survivors were given the opportunity to testify, tell their cases/stories and what they want as reparations. The main thrust was forgiveness (Desmond Tutu intervening) and psychological assistance also was offered. The testimonies covered were around 10 per cent (2,000) out of 22,000 identified victims. That was however enough to uncover the truth and set in a process of reconciliation. It was not only one truth that they found but sometimes different aspects of the 'truth' or different perceived truths.

The Amnesty process was a unique innovation. It was not a blanket amnesty that was given like in some other countries. The Committee reviewed applications for amnesty by perpetrators. Individuals and not organizations could apply amnesty from civil claims or criminal charges. The applicants had to say their acts were politically motivated or under orders and a full disclosure was required. The Committee by mandate consisted mainly of judges and lawyers. It was largely a legal process. The amnesty process was possible and meaningful only after a major political change.

There were 7,000 applications and around 2,000 taken up. Others were rejected because of their criminal character. They were taken up by the courts. The survivors were given the opportunity to challenge the applications. These hearings also were public. Because of the complicated nature of the proceedings, they lasted longer than the others. In both committees, the participants could have legal representation.

Reparation Committee was mandated to come up with policies and guidelines for reparation measures. This committee had to corroborate the evidence before determining the eligibility for reparation. There are criticisms that the reparations were not enough. The Committee (and the TRC) recommended R 90,000 each for the survivors but the amount finally given was R 30,000 (\$450) to each survivor.

There were other general hearings or sessions that the TRC conducted to develop policies on various issues and roles for different sectors in the process of reconciliation: youth, trade unions, churches, women, media, academia, legal profession, prisons, public sector, health sector etc. This aspect was similar to the [LLRC](#) process in Sri Lanka.

Apartheid itself was considered a crime against humanity. Considering the past, the transition was dramatic. It was a past of deeply divided society with conflict, violence, injustice and suffering. No one can say that the present South Africa is perfect. But the situation is admirable compared to the past based on the recognition of human rights, democracy, and the rule of law. It soon became a model for other countries, sometimes too much idealized without critical assessment.

It is popularly called the South African 'transitional justice model.' Archbishop Desmond Tutu called it the 'Third Way,' something between the Nuremburg trials or the ICC and the blanket amnesty or national amnesia. Apart from possibly reading the reports of the TRC, at least another good read could be by Audrey Chapman and Hugo van der Merwe (2008), *Truth and Reconciliation in South Africa* (Philadelphia: Pennsylvania University Press).

## **Conclusion**

Ethnic conflicts are one of the most complex conflicts in the world given the subjective and emotional aspects attached to it and seemingly difficult to reconcile. There are over 6,000 ethnic groups in the world packed into about 200 states. Only a dozen of countries are relatively homogeneous and others having overt or hidden conflicts or tensions. Learning to live in peace based on justice, peaceful co-existence and willingness to understand each other might be the way out for reconciliation.

The picture however is not so promising. The number of ethnic conflicts steadily increased after the Second World War and peaked during 1993/94. Thereafter, the number came down but there are indications that they would again increase. According to Uppsala conflict assessment project, the number of major conflicts increased from 31 to 37 during 2011/12 and this was not merely due to the Arab

Spring but to the conflicts in sub-Saharan Africa of mainly an ethnic nature. The ethnic conflicts in South Asia are also continuously brewing.

The cases that we have referred to are undoubtedly would give us some important lessons, some more and some less. But the main purpose was to trace the evolution of the concept and/or the international concern on the subject leading to the South African model popularly called the 'transitional justice' model. There are other countries if we wish to draw lessons. From Latin America, Peru can be particularly important which might be very much similar to Sri Lanka in terms of how the conflict ended. From Africa, Rwanda is an important case study. From South Asia, Nepal is a recent, relatively positive, example. India is also a good case study on both how to and how not to manage ethnic conflicts within a democratic framework.

In South Africa, the image was invented to emphasise the importance of multiculturalism, plurality and peaceful co-existence for reconciliation, calling the country a Rainbow Nation. A similar image was there in Sri Lanka's own region. In mid-19<sup>th</sup> century, King Pruthvi Narayan Sha called Nepal a 'flower garden of four Varnas and thirty two Jatis.'

A good general read on the subject on reconciliation might be by Joanna R. Quinn (ed.), *Reconciliation (s): Transitional Justice in Postconflict Societies*, McGill University Press, Montreal, 2009.