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5 Stations on the Way to Damascus: Protecting Human Rights During and After Conflict

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Abstract

Numerous factors, some of which are human rights abuses, cause armed conflict. Armed conflict also prolongs, expands and, in most cases, intensifies human rights abuses. Human rights abuses are therefore both a cause and consequence of armed conflict. Since the end of World War II in particular, the international community has developed a relatively robust set of international legal rules and principles aimed at protecting human rights in conflict situations. Yet serious abuses persist, thereby making it evident that the "law" alone is insufficient to protect human rights, not least in times of conflict.

This Working Paper sets out some of the perceptions, dilemmas and uncertainties that have emerged in the mind of the author after nearly 20 years of working to uphold international human rights law during conflict and in 'post conflict' transitions. The Paper highlights some of the difficult practical relations and tensions between principles, critical thinking, pragmatism, compromise and humility when it comes to protecting human rights during and after conflict.

To illustrate this interplay, the author maps out a professional and personal journey by way of Afghanistan, Pakistan, Iraq, Libya and finally to the city of Damascus in Syria. These five journey points or *stations* represent recurring themes and dilemmas to the practical protection of human rights during and after conflict. The five themes discussed within the Paper are the changing nature of conflict, the centrality of politics in the protection of human rights, the challenges of navigating the path after conflict and repression, the critical role of civil society in post conflict transitions, and the specific role and contribution of women in those transitions. The Working Paper concludes with the author's analysis of what these five themes may imply for the future of human rights protection and conflict resolution in Syria.

Introduction

Since graduating with an LL.M in International and Comparative Law from Georgetown University Law Center in 1992, I have spent my professional life working to protect human rights in conflict situations. I have worked in the Sinai, Sarajevo, Kabul, Baghdad, Mosul, Bogotá, Khartoum, Islamabad, Tripoli and, most recently, in Damascus. I have also worked at "Headquarters" in New York, Geneva and London. I have held many different vantage points: as a lawyer, human rights officer, political adviser, conflict adviser, and chief of staff. I have worn the hats, and in some cases berets, of several international organizations: the United Nations, the Organization for Security and Cooperation in Europe, the Multinational Force & Observers in the Sinai, and the Government of the United Kingdom.

I was privileged to spend the Fall 2013 semester as the Robert F. Drinan, S.J., Visiting Professor of Human Rights Chair at Georgetown. There, I led an international human rights law seminar with JD and LL.M students: *Protecting Human Rights in Conflict Situations: Law and Practice*. My time at Georgetown helped me enormously to reflect upon my experience of working in conflict situations and the place and role of human rights in causing, continuing and terminating conflict. I am grateful to the students of my seminar and beyond for contributing so enthusiastically to my process of reflection, questioning and understanding.

Such reflection has enabled me to articulate some of the enduring perceptions, dilemmas and uncertainties that have emerged in my mind through my work since 1994. This Paper sets out some of those impressions. The Paper also highlights some of the difficult practical interplay between principles, critical thinking, pragmatism, compromise and humility when it comes to protecting human rights during and after conflict.

To illustrate this interplay, I map out a journey to some of the places I have been to and to some of the people I have met. This journey – a professional journey but also a very personal one – takes the reader by way of five *stations* to Damascus, my last duty station. By *stations* I mean to suggest that each of the five themes that the Paper discusses: the changing nature of conflict, the centrality of politics in the protection of human rights, the challenges of navigating the path after conflict and repression, the critical role of civil society in post conflict transitions, and the specific role and contribution of women in those transitions, represent a point in my own path of contemplation and of understanding my work and the world in which I live in. As is befitting of any journey, these stations also signpost some of the struggles I still contend with.

Before beginning this journey, I should set out what I understand by human rights. For me, *human rights* encompass the broad range of opportunities and freedoms that I enjoy. We should all be allowed to live, grow and develop in freedom and have access to and the ability to realize opportunity. I want to participate in creating a world where, as FDR articulated, we all live in "freedom from want" and in "freedom from fear."[1] A world where we are all free to develop our own destinies: personal as

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[1] President Franklin D. Roosevelt, U.S., *Address of President of the United States to Congress* (Jan. 6, 1941) *available at* http://www.fdrlibrary.marist.edu/fourfreedoms.

well as political; social, economic and cultural as well as civil and political. This is what I understand by *realizing our human rights.*

I believe that human rights are intrinsic to all of us by virtue of being human.[2] I also recognize that my family traditions and customs, the community and broader society in which I exist and navigate, and my educational opportunities and professional exposure, in particular, have played and continue to play a prominent role in shaping my perception of human rights and what they should mean in practice. Like most of us, my environment has shaped me to some degree. In my case, this means that I want others to enjoy the freedoms and opportunities that I have *because* my experience and exposure strongly suggest that these opportunities and freedoms can make for a more empowered, just and positive contribution to our common lives together. This does not mean I am right. Nor does it mean I am wrong. It just means this is where I am coming from.[3]

First Station: The Changing Nature of Conflict

My first station refers to the changing nature of conflict over the past 20 years or so. Below I set out five aspects of this change, which all directly and indirectly impact upon the protection of human rights during and after conflict.

First, the majority of ongoing conflicts or those that have taken place in the last 20 years or so are *non-international armed conflicts*, and not the inter-state armed conflicts that dominated the past.[4] This classification involves hostilities between government armed forces and organized non-State armed groups or hostilities carried out among members of such groups.[5] It also includes those conflicts that were internationalized in the sense that one or more states contributed troops to one or both sides.[6]

Protecting human rights during non-international armed conflict has its own specific challenges. This includes the proliferation of armed groups on the ground. Some of these armed groups have an opaque structure, indistinct affiliates and splinter groups, and lack an effective chain of command against which to apply pressure to cease abuses. For instance, Boko Haram has been described by security analysts as a

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[2] The Preamble of the Universal Declaration of Human Rights recognizes "the inherent dignity and of the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world." Universal Declaration of Human Rights, G.A. Res. 217A, at 71, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc. A/810 (Dec. 12, 1948) *available at* http://www.un.org/en/documents/udhr/. *See also* PAUL GORDON LAUREN, THE EVOLUTION OF INTERNATIONAL HUMAN RIGHTS: VISIONS SEEN 5-42 (3d ed. 2013).

[3] HANS JOAS, SACREDNESS OF THE PERSON: A NEW GENEALOGY OF HUMAN RIGHTS 66-99 (Georgetown University Press 2013).

[4] Lotta Themnér & Peter Wallensteen, *Armed Conflicts, 1946−2013*, 51 J. OF PEACE RES. 541, 541-54 (2014).

[5] Opinion Paper, Int'l Comm. of the Red Cross [ICRC], How is the term "Armed Conflict" defined in international humanitarian law? (Mar. 17 2008), *available at* https://www.icrc.org/eng/assets/files/other/opinion-paper-armed-conflict.pdf.

[6] For instance, conflicts in Afghanistan, Central African Republic, Democratic Republic of the Congo, Mali, Nigeria, Sudan, Uganda, USA (the conflict between the government and Al-Qaeda) and Yemen are considered "internationalized conflicts." Themnér, *supra* note 4.

"franchise" with some cells clearly connected to the leadership, others seeming to act more autonomously and others carrying out criminal activity while masquerading as (or being mistaken for) Boko Haram.[7] The effect is that Boko Haram is hard to understand, contain, and, for our purposes, is able to commit serious human rights abuses and international crimes with impunity. Peace building and reconciliation efforts after non-international armed conflict may also experience human rights related challenges, such as when a perpetrator of violence lives in the same village as a survivor of that same violence.

Second, we know that armed conflict has always affected civilians and civil life. Yet many political science academics increasingly refer to the *disproportionate impact of today's armed conflicts upon civilians*. Using various research methodologies, these academics have calculated that there has been a dramatic decline in battle deaths, i.e. the deaths of soldiers killed during battle over the past 20 years. Further, as a proportion of the population, most violence in conflicts today consists of violence against civilians rather than against combatants.[8]

This is not an exact science, however, and others argue the contrary view.[9] I would suggest, though, that to focus on civilian deaths vs. battle deaths is, actually, to miss the elephant in the room. For though at the global level there has been considerable clever thinking and development of doctrine and concepts on rights and responsibilities, at the local level – where it actually matters – the international community still struggles to respond to the needs and rights of civilians in conflict. As a result, civilians continue to suffer grossly and brutally. The well-intentioned and frequent debates, declarations and commitments of the international community "to protect" must surely ring hollow at best and scornful at worse to those who are detained, tortured, raped, disappeared and killed across the world's conflict zones. So today there is indeed greater international attention, outcry and handwringing at the violations and abuses experienced by civilians during conflict than in the pre-globalized era. Yet, this increased awareness, information and knowledge has not translated into a significant, let alone, satisfactory and consistent response to protect those civilians.

Third, many conflicts traditionally display some form of ethnic, religious or cultural identity-based discrimination at base. Over time, this leads to political and economic exclusions and disparities. These may act, in turn, as grievances to fuel demand for political, economic and/or social change. What started out as peaceful protest can be mobilized, including along identity-lines, and become violent, leading to full blown violent conflict. This often happens when state actors over-react to protests and respond with the use of disproportionate and indiscriminate force. Furthermore, neighboring states or regional or global hegemons may interfere and/or intervene and initiate or fuel the use of violence. The long-running Sudanese civil war, from 1982-

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[7] Raffaello Pantucci, *The 'Franchising' of Boko Haram*, 34 RUSI NEWSBRIEF 13 (2014) , *available at* https://www.rusi.org/publications/newsbrief/ref:A537A2AD166C3F/#.VClfVXNyEXw.

[8] Mary Kaldor, *In Defence of New Wars*, 2 STABILITY: INT'L J. OF SECURITY & DEV. Art. 4 (2013), *available* at http://www.stabilityjournal.org/article/view/sta.at/41.

[9] See, for instance, the statement of the Jordanian Permanent Representative to the United Nations, Prince Zeid Ra'ad Zeid Al-Hussein, at the Security Council Open Debate on Peacekeeping. U.N. SCOR, 69th Sess., 7196th mtg. at 16-18, U.N. Doc. S/PV.7196 (Jun. 11, 2014).

2005, demonstrates a number of elements of this paradigm. However, though the first and most common view of the Sudanese civil war is that it was an identity-based conflict, this is perhaps an oversimplification as various factors and forces were at play.[10]

Today's conflicts display these features. However, they *display additional, mutating features too*. These include the multiplicity of armed actors on the ground, which indicate the level of fragmentation within the conflict. There are also an increasing number of actors off the battlefield fuelling and supporting the conflict. Other features of contemporary conflict include the expanding ideology underpinning mobilized fighters; the increasing economic, military and logistical linkages between various armed groups; and the intensified asymmetric and advanced technological means of waging modern warfare. These facets are all present in the current conflict waged by the so-called Islamic State in Iraq and Syria. When these and other factors are combined with the *increased diffusion – and indeed polarization – of global power, influence and responsibility*, resolution of the underlying grievances and therefore of the conflict becomes highly complex, problematic and, in many instances, seemingly impossible.

Fourth, certain responses to conflict can escalate or aggravate underlying grievances. These in turn further fuel the conflict and make resolution ever more difficult and unlikely. In 2009, whilst working with the United Kingdom's Foreign Office, I worked with US State Department staff in Islamabad to assist Pakistani officials to develop a strategy to stabilize the north west region of Malakand following years of insecurity and instability wrought by the Pakistani Taliban. I listened to young Pakistanis explain what was driving their peers towards a violent path of change.

I recall in particular one young man aged around 20 from a village outside Peshawar. He spoke – sometimes angrily and at other times with tears in his eyes – of his former school friends who had recently joined the Pakistani Taliban. He spoke of education – not just the lack of education – but the *quality of education* being provided. He spoke of the underlying economic conditions and the absence of any expected change in those conditions that made him and his friends vulnerable to extremist opportunities as a way out of the poverty that they were born into and to which they were expected to endure. He spoke of the lack of political inclusion, acceptance and representation that he and they bore: political elites were far away, physically and psychologically – disinterested in the realities that these young people faced. He also referred to what he considered to be the unjust treatment of many Muslim people across the world, singling out the unresolved Palestinian question and the treatment of Palestinians by the Israeli state as emblematic of this unfairness. For some – maybe for many – this acted as a mobilizing factor to take up arms. This young man's story painted a picture of many lives where value, respect, dignity and hope are all but robbed by circumstance. I do not know what has happened to him since.

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[10] Alex de Waal, *Occasional Paper No. 2 Sudan: What Kind of State? What Kind of Crisis?*, LONDON SCH. OF ECON. CRISIS STATES RESEARCH CTR. (2007), http://www.lse.ac.uk/internationalDevelopment/research/crisisStates/download/op/op2DeWaal.pdf.

Violent extremists are wrecking lives, tearing communities apart and destroying the Pakistani State. But what is the *impact of the military and counter-terrorist operations* being conducted to counter these extremists? What is the right legal, moral and practical response when community leaders and extremists alike say that these operations directly lead to further radicalization and an increase in those willing to use violence against civilians to reach their goals? And laying the principles of legality, proportionality, necessity and transparency to one side, does the use of armed drones actually help to make Pakistan and the rest of the world more or less secure in the longer term?

This question is particularly troubling when one considers the broader impact of such strikes on the lives of families and communities. For whilst we know that children's education is interrupted when they are physically prevented from going to school in drone-affected areas, what do we know of the accumulated psychological impact of living continuously in fear of such violence? In 2012, Stanford Law School and New York University School of Law carried out research in northwest Pakistan regarding the impact of drones by US military forces in Pakistan.[11] The researchers found that not only have children been injured because of the drone strikes but that some parents chose to keep their children at home because their children are too traumatized to go out to school. With drones hovering 24 hours a day over communities, some community members and humanitarian workers are afraid or unwilling to assist injured victims. In sum, the presence of drones terrorizes men, women, and children, giving rise to anxiety and psychological trauma among civilian communities.

Fifth, in the course of my work with the United Nations since 2000, the world around the UN has changed significantly. While trying to help those who are in need, the *United Nations has become a target* for extremists. Beginning with the bombing of the Canal Hotel UN Headquarters in Baghdad in August 2003, in which 22 people were killed, UN staff and premises have continued to be directly targeted, including in Afghanistan, Nigeria, Algeria and Somalia.[12]

The current United Nations Secretary-General Ban Ki-moon has explained how the current asymmetric nature of warfare, seen in suicide bombings, the use of improvised explosive devices and random mass shootings, has a direct impact on the personnel and on the operations of the United Nations.[13] In many high-risk locations, ensuring staff security now means that the UN is bunkered down far from the people it is there to serve, sometimes meeting infrequently with the local population and making it harder to understand and respond to their needs. In Tripoli, UN staff lived in a resort complex with their back to the sea far from the city center. In Damascus, staff lived in a hotel located close to many Government buildings, including military installations. The practical and symbolic distance away from the people the UN was

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[11] STANFORD LAW SCH. INT'L HUMAN RIGHTS & CONFLICT RESOLUTION CLINIC & COLUMBIA LAW SCH. GLOBAL JUSTICE CLINIC, LIVING UNDER DRONES: DEATH, INJURY AND TRAUMA TO CIVILIANS FROM US DRONES IN PAKISTAN (2012), *available at* http://www.livingunderdrones.org/wp-content/uploads/2013/10/Stanford-NYU-Living-Under-Drones.pdf.

[12] Imogen Foulkes, *How Baghdad Put UN Aid Missions at Risk*, BBC NEWS (Aug. 18, 2013, 20:37 ET), http://www.bbc.co.uk/news/world-europe-23717105.

[13] U.N. Secretary-General, *Safety and Security of Humanitarian Personnel and Protection of United Nations Personnel: Rep. of the Secretary-General*, U.N. Doc. A/68/489 (Sept. 27, 2014).

created to serve and protect impacts upon the UN's credibility, legitimacy and relevance in many conflict situations.

The UN is being targeted essentially because of the perception by some that it is too closely aligned with 'western interests.' For some, the Organization is not seen as a symbol of "We, the peoples of the United Nations." Instead, the United Nations is seen as an instrument of a small group of states to promote their interests. From their perspective, this perception makes the UN a legitimate and relatively soft target. Meanwhile, demands for the United Nations to operate in increasingly high-risk areas, including amid armed conflicts and in volatile post-conflict environments continue to grow.

These five aspects – the specific challenges posed by non-international armed conflict, the difficulties of protecting civilians in conflict, the increasing regional and global linkages of grievances and the challenges of responding to these grievances, as well as the threat to the UN and its role in responding to conflict – form part of the changing context of conflict today in which we work to protect human rights.

Second Station: The Centrality of Politics in Protection

This takes me to my second station; to politics. Though many reading this Working Paper may wish that it were, the law itself is not a guarantee that rights will be fulfilled, protected and realized. Rather, I would suggest that it is politics that is at the heart of the processes and institutions that give life to the law and which permit people to experience their rights.[14] This is no less relevant in conflicts, which are usually initiated or fuelled by the struggle to obtain, manage or retain power.

At the beginning of my career, I served as a Human Rights Officer for 7 years in Bosnia, Afghanistan, Iraq, Sudan and Colombia, as well as in Geneva. During this time, my task was to help individuals document their stories of torture, disappearance, arbitrary arrest and extrajudicial killings. In very few cases did state authorities follow up on our allegations. Redress to survivors of violations was provided in even fewer cases. In fact, in the vast majority of cases there was no response at all from the state. This lack of response and redress certainly bothered me. However, what bothered me even more was my fledgling sense that by working solely on individual cases, I was not getting to the 'root' of the problem. If we could not address the 'root' of the problem, I felt that these cases would never end, and that I could work my whole life documenting individual human rights violations. However, I did not know what the 'root' of the problem was.

I sensed that what was missing from my understanding was "something political." I could not elaborate much beyond that. So I moved to the political heart of the United Nations in New York, where I worked closely with the Under-Secretary-General for Peacekeeping Operations. As time progressed, I came to realize that although I had worked in conflict and on conflict issues for most of my professional life, I had, in fact, not really understood much about conflict! I came to realize that there could be no real and meaningful protection of human rights in conflict situations unless you *understand and work* upon the political aspects of the situation.

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[14] TONY EVANS, THE POLITICS OF HUMAN RIGHTS: A GLOBAL PERSPECTIVE 36-56 (Pluto Press, 2005).

By politics I refer to two aspects. First, that politics matters locally, nationally, regionally and globally. You have to understand what drives conflict in Goma in the eastern Democratic Republic of the Congo (DRC) at the micro level of relations between ethnic groups.[15] At the same time, you have to understand what is the macro role of Rwanda, Uganda, Zimbabwe, and the US, the UK, Belgium and others in fuelling and sustaining, as well as managing and eventually terminating the long conflict in the DRC.[16] Specifically, you have to understand interest, motivation and leverage of all actors, not just those fighting on the ground. Second, you need to understand where politics sits vis-à-vis the other factors driving the conflict. This also implicates where politics sits with ending the conflict. Specifically, you have to join the dots between politics, conflict, economics, identity, history, culture, human rights, and so much more.

So in the DRC, for instance, this twin-pronged approach requires an understanding of the behavior and incentives of those with major economic interests. In 2002, an independent Panel of Experts of the United Nations determined that the conflict had become mainly about access, control and trade of five mineral resources. The Panel found that exploitation of the natural resources of the DRC by foreign armies had become systematic and systemic. The Panel determined that the role of the private sector in the exploitation of natural resources and the continuation of the war had been vital. The Panel also found that the "systemic exploitation of natural resources in the DRC used the existing systems of control established by *Rwanda* and *Uganda*. Key individual actors including *top army commanders and businessmen* on the one hand, and *government structures* on the other, have been the engines of this systematic and systemic exploitation . . . Other contributing factors however exist — the roles played by some entities and institutions, and the opportunistic behavior of some private companies and influential individuals, including some *decision makers in the DRC* and *Zimbabwe. Some leaders in the region bear a direct responsibility.*" The Panel also noted that *bilateral and multilateral donors* had also sent mixed signals to Governments with armies in the DRC. In fact, the Panel described the conflict in the DRC as having created a "win-win" situation for all belligerents – because of the lucrative nature of the conflict. "The Panel concluded that the only loser in this huge business venture is the Congolese people."[17]

The DRC case illustrates the conflict role of Congolese, regional and international state and non-state actors and the need to understand how different relevant factors and forces – economic, political, security, identity, culture etc. – interact to initiate, sustain and terminate conflict. Absent such an integrated approach which incorporates geographic as well as sectoral perspectives, efforts to protect human rights in conflict are likely to fail, as are corresponding efforts to bring about an end to these conflicts.

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[15] Armin Rosen, *The Origins of the War in the DRC*, THE ATLANTIC (June 26, 2013, 11:59 AM ET), http://www.theatlantic.com/international/archive/2013/06/the-origins-of-war-in-the-drc/277131/.

[16] Christopher Williams, *Explaining the Great War in Africa: How Conflict in the Congo became a Continental Crisis*, 37 FLETCHER F. WORLD AFF., Summer 2013, at 81.

[17] Rep. of the Panel of Experts on the Illegal Exploitation of Natural Resources & Other Forms of Wealth of the Dem. Rep. Congo, U.N. Doc. S/2001/357 (Apr. 12, 2001).

Whilst working at United Nations Headquarters, it was not always straightforward or indeed clear to me as to how I should reconcile my aim of protecting human rights with my new knowledge of the political realities that shape international action (or not) on human rights. I struggled to fit the practice of politics within my legal human rights paradigm. It was one thing to accept the principle of politics playing a central role in the protection of human rights; it was quite another to actually bring them together in practice.

I encountered a particularly difficult moment in July 2008 prior to the public announcement by the Prosecutor of the International Criminal Court (ICC) of an application to the ICC for a warrant of arrest for war crimes and crimes against humanity for the sitting Sudanese President, Al-Bashir.[18] At this time, the United Nations had two peacekeeping operations deployed in Sudan: one in southern and northern Sudan and another in Darfur. I asked myself many contradictory questions: First, surely this indictment and the subsequent hand-over to the ICC of the President would be a step towards a just peace for the Sudanese people? But hold on, wouldn't this forthcoming public humiliation of the Sudanese President impact negatively upon the ongoing 'peace process' in Darfur? And wouldn't it create a security risk for the Darfurians, as well as UN and other humanitarian workers? But on the other hand, how would not indicting President Al-Bashir affect the hopes of the Sudanese people for accountability and redress? What would be its impact on other people around the world suffering from oppression at the hands of their government? But then again, once indicted, what incentive would President Al-Bashir have to move swiftly on the peace process? And so the questions went on.

In informal discussions with colleagues at the UN human rights office as to whether it would be 'better' to postpone the indictment to a time when there might be less risk of retaliation to the population, humanitarian partners and the United Nations and when the Darfur peace process was on a more secure footing, I was criticized for "selling out." Did I not "care about the Sudanese people?" I felt pulled in two opposing directions. I did not think I had "sold out." But how was I to align the human rights principles with these political and security related considerations? We were living the very real dilemma of how to ensure peace and justice. I was conscious that the application was an important step forward to advance human rights principles. I was also conscious that such a move could have short-term negative consequences on the ground. But I was also skeptical as to the potential positive outcome of the indictment. In the end, we were lucky. Following the application, there was no major impact on the Darfur peace process. Nor was there any immediate major retaliation against the Sudanese population. However, after the ICC issued an arrest warrant for President Al-Bashir for war crimes in March 2009, the Sudanese Government expelled 13 international NGOs and closed three Sudanese relief organizations.[19]

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[18] Situation in Darfur, The Sudan, Case No. ICC‐02/05, Annex A: Public Redacted Version of Prosecution's Application under Article 58 (July 14, 2008), *available at* http://www.icc-cpi.int/iccdocs/doc/doc559999.pdf#search=prosecutor%27s%20application%202008%20%22annex%20a%22.

[19] *Sudan: NGO expulsion to hit Darfur's displaced*, IRIN (Mar. 9, 2009), http://www.irinnews.org/report/83370/sudan-ngo-expulsion-to-hit-darfur-s-displaced.

Before moving to the third station, I should mention that some human rights practitioners find it difficult, personally and professionally, to participate in the 'politics' of protection. In journals, seminars and conferences when we are far from where the violence and abuses are taking place, we can all engage in safe, rigorous and categorical discourse on how rights should best be protected in conflict situations. We can hypothetically agree the imperative of balancing respect for human rights with not derailing delicate political negotiations. Most of us can appreciate the value of sequencing actions aimed at protecting human rights with efforts to expand the political settlement. We may even recognize that these processes – sequenced or simultaneous – may lead to increased mutual tensions and, indeed, counter-productive policies and actions.

But the reality in practice is that there is often a trade-off between immediate human rights protection and efforts to secure 'peace' over the longer term.[20] This was the case in Afghanistan.[21] Instead of prosecuting known warlords for known international crimes, the international community in Afghanistan allowed these persons to, inter alia, stand as candidates in national elections in 2005 and subsequently to wield official power on the national and international stage. These steps were taken in order to facilitate a more 'inclusive' and representative political process. Such inclusivity would, presumably, help to shore up the still tenuous and delicate political settlement and improve the security environment over the longer term.

To this end, former President Karzai did not allow publication of the Afghan Independent Human Rights Commission's Conflict Mapping Report, completed in December 2011.[22] The Report documents serious human violations from 1978 until 2001 and reportedly includes the names of some of those responsible for these violations and international crimes. It is assumed that the Government's failure to publish the Report is because some of those named in the document still hold prominent positions in the Government.

However, as we have seen in Afghanistan,[23] as well as in many other contexts, it is highly uncertain, doubtful even, whether this trade-off on human rights and particularly continuing impunity for serious human rights violations, breaches of international humanitarian law and international crimes has actually contributed to a significant improvement in the political, security or economic fields. In Afghanistan, for instance, it is hard to argue that the situation has evolved much beyond a fragile,

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[20] Bronwyn Anne Leebaw, *The Irreconcilable Goals of Transitional Justice*, 30 HUM. RTS. Q. 95 (2008).

[21] Norah Niland, *Justice Postponed: The Marginalization of Human Rights in Afghanistan, in* NATION-BUILDING UNRAVELED? AID, PEACE, AND JUSTICE IN AFGHANISTAN 61-82 (Antonio Donini et al eds., 2004).

[22] Rod Nordland, *Top Afghans Tied to '90s Carnage, Researchers Say*, N.Y. TIMES (July 22, 2012), http://www.nytimes.com/2012/07/23/world/asia/key-afghans-tied-to-mass-killings-in-90s-civil-war.html?_r=3&pagewanted=1&ref=asia&.

[23] PATRICIA GROSSMAN AND SARI KOUVO, AFGHANISTAN ANALYSTS NETWORK, TELL US HOW THIS ENDS: TRANSITIONAL JUSTICE AND PROSPECTS FOR PEACE IN AFGHANISTAN, (June 2013), http://www.afghanistan-analysts.org/wp-content/uploads/2013/06/2013-06_AAN_TransitionalJustice2.pdf.

cold, temporary peace. Major human rights violations persist.[24] Risk of reverting back to high levels of violence, conflict and insecurity, across the country is high.

There is also the recurring matter of conscience: who am I to trade-off for you? Indeed, taking into account the practice or even evidence to the contrary, the decision to continue to participate, directly or indirectly, in advocating for human rights trade-offs for 'peace' requires a leap of faith or, conversely, suspension of disbelief.

Third Station: Navigating the Path After Conflict and Repression

We have arrived at my third station. We are halfway through my journey. It is appropriate that I now share with you what I find the most challenging of all: navigating the path after conflict and repression, and articulating the role of the international community, and specifically that of the United Nations, on that path. I will use the recent and ongoing Libyan situation as the prism to shed light and sow doubt on some relevant and vexing issues.

In 1969, Colonel Qadhafi seized power from King Idris through a military coup.[25] With Qadhafi at the helm for the next four decades, Libya experienced systemically corrupt and marginalized state institutions, the creation of parallel political, security and legal systems, and widespread unemployment and underemployment, in particular, of young men and women.[26] Civil society was virtually absent; the media was in the hands of the state. After two generations of repression, in February 2011, the Libyan people, led by the youth, rose up against the Qadhafi regime. With the military support of NATO, the Libyan people carried a Revolution, fuelled by self-belief, optimism and hope, upon their shoulders.[27]

Today, three years after this Revolution, what do we see? The Revolution left the country awash with small arms and light weapons as well as larger weaponry and defense systems. Initially, militia groups who had fought against Qadhafi's forces provided a palpable although fragile sense of security through much of the country, together with a smattering of state-provided security. Over the past year and particularly during the last six months, the security situation has steadily worsened. These same militias - never friends in the first place – now compete with each other in increasingly bloody and chaotic confrontations across the country. State provision of security has all but disappeared. The militias are motivated by political and ideological differences, which are exacerbated by the ethno-social tensions and regional divisions within Libya. The wealth of the country facilitates this rivalry; it also acts as an incentive for further conflict. To top it off, these militias are supported and/or manipulated by external actors who use Libya as a proxy playground for their ongoing political, ideological and sectarian battles.

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[24] U.N. High Commissioner for Human Rights, *Report of the United Nations High Commissioner for Human Rights on the Situation of Human Rights in Afghanistan and on the Achievements of Technical Assistance in the Field of Human Rights in 2013*, U.N. Doc. A/HRC/25/41 (Jan. 10, 2014).

[25] DIRK VANDEWALLE, A MODERN HISTORY OF LIBYA 76-95 (2d ed. 2012).

[26] ALISON PARGETER, LIBYA: THE RISE AND FALL OF QADDAFI 145-175 (Yale University Press, 2012).

[27] LINDSEY HILSUM, SANDSTORM: LIBYA IN THE TIME OF REVOLUTION 7-46 (Faber & Faber, 2012).

Against this violent and insecure backdrop, we see increased political division and polarization across the country. Two 'parliaments' are currently vying for power; the internationally-recognized new parliament elected in July has had to convene in Tobruk close to the Egyptian border because the security situation in the capital of Tripoli, much of which caused by the militias, does not allow it to meet there. At the same time, the previous 'Parliament' continues to meet in Tripoli. The process of national dialogue is struggling, if not moribund. Constitution drafting has stalled. Human rights abuses by both the state as well as militias continue, largely unchecked by anyone or any institution. The economic system, fueled by oil exports, is subject to enormous political and security stresses, increasingly hijacked by militias and narrow political groupings unresponsive to the needs of the people. And civil society – which for the first time during the Revolution enjoyed a sense of legitimacy, power and agency – now inhabits an increasingly confined and imperiled space.

What do I understand from Libya's experience? First, that the path to a more secure, peaceful and just future after conflict and repression is not easy. *Sometimes, there are no satisfactory answers.* Second, I see that people who have for so long been excluded from political life struggle to adapt to the work, business and compromise of politics. *Politics requires practice.* Third, I realize that articulating a *national vision based upon a set of common purposes is not necessarily an intuitive process* that flows together. Fourth, I comprehend the existential nexus between politics, security, rule of law, economic opportunities, and human rights in transforming transitional societies, and in particular the importance and, in fact, pre-eminence of *understanding history, culture and identity*. I also feel daunted by the inherent complications of making these elements work together.

Fifth, I recognize that *the path after conflict is seldom a linear one*. It may not lead to "Democracy" as we know it. There may be many potholes along the way, as well as steps backwards and side-wards. There may be many detours. And sometimes, there may be only trees; there may be no path. Besides, as experience elsewhere has shown, the *democratic project takes time*. The French Revolution took one hundred years to "settle." It took the United States decades to live up to its revolutionary ideas. In both cases, *democracy is always a work in progress*, with achievements never to be taken for granted.

In fact, the experience of Libya and other transitional societies has caused me to pause and *question the place, value and role of "Democracy"* in all societies and contexts.[28] For I have come to doubt whether what is understood in the West as "democratic processes and institutions" can work in all contexts at all times. Instead, rather than encouraging transitional states to embrace "Democracy" with all its attendant facets as the outcome, I wonder whether it may be more realistic and effective to refocus both the process as well as the outcome towards fundamental human rights principles. I would argue that *it is these principles: of inclusion, participation, accountability, transparency, and non-discrimination, that can guide all states, societies and peoples at all times and in all contexts*. Governing and living by these principles should lead to what could be described as a more democratic society, with corresponding citizen-state responsibilities, duties and rights.

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[28] Anna K. Jarstad, *Dilemmas of War-to-Democracy Transitions: Theories and Concepts*, in FROM WAR TO DEMOCRACY: DILEMMAS OF PEACEBUILDING 17-36 (Anna K. Jarstad & Timothy D. Sisk eds., 2008).

I do not intend to deny the relevance of the specific processes and institutions of democracy, such as holding elections, drafting a constitution, and building rule of law institutions, all of which are often supplied to post-conflict and other transitional contexts. Rather, I would suggest that international efforts to support countries emerging from conflict and repression should not necessarily be front-loaded with these processes and institutions.[29] The specific context should determine the specific approach.[30]

Likewise, more effort and resources of both national actors and international partners should be spent on creating and developing a *culture and environment, practice as well as expectations*, in which all of those processes and institutions can genuinely flourish. Without this investment, there is considerable risk of creating edifices of democracy but little substance.

In concrete terms, in Libya this would entail rebalancing efforts, national and international, to establish a basic political culture and broad political space, which moves away from a zero-sum game and towards a practical understanding of rights with responsibilities. It requires promotion of transparency and accountability. It is premised upon the inclusion and *accommodation* of all segments of Libyan society: that is of Qadhafi supporters, the young, and militias of all hues, tribes, women and minorities. *Its success (or failure) is contingent upon compromise from all sides.*

Broadening the political space may permit people to experience the tangible benefits of participating in a political process. Such immediate tangible benefits may include, enhanced security as potential spoilers, including militias, are steadily drawn into an expanding political settlement. Supporting the broadening of political space is, of course, intrinsically contentious and delicate, especially for outsiders. It is also much harder to insert into a Log Framework and to measure progress. Nonetheless, it is where the most transformative work takes place.

At the same time, action aimed at specifically tackling the increasing violence and insecurity is required.[31] This includes political engagement with external actors to prevent and reduce their support to the militias. We should be under no illusion, however, as to the challenges inherent in such engagement. For the situation in Libya represents just one piece of a struggle for regional and ideological hegemony; identifying incentives for some to stop their intervention and support will be extremely demanding. At the same time, strategic advice and technical assistance is required to transform what is currently a weak, dysfunctional and predatory security

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[29] Jane Stromseth, *Post-conflict Rule of Law Building: The Need for a Multi-Layered, Synergistic Approach*, 49 WM. & MARY L. REV 1443 (2008); U.N. Secretary-General, *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General*, U.N. Doc. S/2011/634 (Oct. 12, 2011).

[30] ASHRAF GHANI AND CLARE LOCKHART, FIXING FAILED STATES: A FRAMEWORK FOR REBUILDING A FAILED WORLD 85-114 (Oxford University Press, 2009).

[31] JANE STROMSETH, DAVID WIPMANN & ROSA BROOKS, CAN MIGHT MAKE RIGHTS? BUILDING THE RULE OF LAW AFTER MILITARY INTERVENTIONS 134-177 (Cambridge University Press, 2006).

system into a more accountable, coherent, rights respecting and protecting security system.[32]

A more secure and peaceful environment may, in turn, support the creation of employment and other economic initiatives, thereby helping to expand the benefits of an increasingly secure peace. Over time, these *mutually reinforcing* – and not sequenced or linear – conditions may sustain an increasingly open and democratic system and society.

Fourth Station: The Importance of Civil Society in Post-Conflict Contexts

I have touched upon civil society throughout this Working Paper. My fourth station focuses upon the critical importance of civil society in conflict and post conflict contexts.[33] The following sets out some of my United Nations' experience of working with civil society in Afghanistan and Iraq. These instances seek to illustrate the role that civil society can play in protecting human rights after conflict, as well as the role of the United Nations in trying to support civil society after conflict. Additionally, these examples underscore some of the specific challenges faced by an emerging civil society after decades of conflict and repression.

In December 2001, many Afghan leaders, including some warlords but not the Taliban, signed the Bonn Agreement.[34] The Bonn Agreement proposed a number of provisional arrangements, including the establishment of an Afghan interim administration. The Bonn Agreement also set out a road map for more permanent government institutions, including a transitional administration, national elections, and a constitution drafting process. The Bonn Agreement also called upon the Afghan interim administration to "establish an independent Human Rights Commission, whose responsibilities will include human rights monitoring, investigation of violations of human rights, and development of domestic human rights institutions."[35]

In March 2002, I travelled to Kabul as part of a small United Nations team to work with "Afghans" to put together the human rights commission. Our first task was to find Afghans to work with. This was not easy. In the late nineties and early 2000s during the last years of Taliban rule, the United Nations had been operating in Afghanistan, chiefly delivering humanitarian assistance and undertaking political analysis, from a base outside the country. United Nations staff and operations were mainly located in Pakistan, with some activities in Iran too, and a limited presence in Afghanistan. So, how exactly were we to identify Afghan civil society leaders and

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[32] FREDERIC WEHREY & PETER COLE, CARNEGIE ENDOWMENT FOR INT'L PEACE, BUILDING LIBYA'S SECURITY SECTOR (2013), *available at* http://carnegieendowment.org/files/building_libya_security.pdf. *See also* Barnett R. Rubin, *The Politics of Security in Postconflict Statebuilding, in* BUILDING STATES TO BUILD PEACE 25-48 (Charles T. Call & Vanessa Wyeth eds., 2008).

[33] Thania Paffenholz, *Civil Society and Peacebuilding: Summary of Results for a Comparative Research Project*, (Ctr. on Conflict, Dev. & Peacebuilding, Working Paper 4, 2010), http://repository.graduateinstitute.ch/record/4060/files/WP-2011-007.pdf.

[34] The Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions, Dec. 5, 2001, S/2001/1154 [hereinafter Bonn Agreement], *available at* http://www.un.org/News/dh/latest/afghan/afghan-agree.htm.

[35] *Id.* at Art. III(C) (6).

activists with whom we could work to set up the commission in time for the convening of the first Loya Jirga, or grand council of leaders, scheduled to take place three months later?

We decided to reach out to Afghan humanitarian workers as we thought they would have a good idea of the human rights problems that their people faced. But in March 2002 a few months after the signing of the Bonn Agreement, many Afghan humanitarian workers were still living in the refugee camps of Peshawar in neighboring Pakistan. They were reluctant to return to Afghanistan. Some were unconvinced that the Taliban had gone for good; they were fearful for their security upon possible return to Afghanistan. Others were mistrustful about being associated with a United Nations' effort. Many others still had important humanitarian work to do in the camps of Pakistan.

After considerable creative outreach through local, UN and other international humanitarian workers, we managed to secure the agreement of some Afghans still based in Pakistan to participate in this process. Upon the advice of Afghan and international human rights experts, we also identified some Afghans who had remained in Afghanistan during the Taliban period to also participate in this process. All told, we arranged for 30 Afghan male and female humanitarian workers and human rights activists to travel to Kabul from Pakistan and diverse places across Afghanistan in order to participate in the uncertain and ambitious process of establishing the human rights commission.

In a series of workshops in Kabul, these participants assessed the human rights priorities of Afghanistan after a quarter-century of conflict. Participants drew upon other comparative experience to consider how they might want to set up their commission and what they might want it to do. They discussed, cajoled, argued, yelled, and bullied each other. I sat at the back of the workshops, often mystified, as an interpreter explained to me what was going on. Seeing me visibly confused on one occasion, a humanitarian worker, *encouraged me* with the following words: "After so many years of being forced to take sides, we can now come together with our different views and do what all strong, healthy civil societies do: we can disagree – in peace!"

Indeed, over the course of the following short weeks, these 30 participants coalesced and worked as one team. They developed a vision and adopted a program of work for the human rights commission. The commission would focus on human rights education, transitional justice, and the promotion of women's rights. And right on schedule, notwithstanding the extremely tight three months timeline, the challenge of finding suitable and interested Afghans to lead and participate in this process, and the challenges of working together after years of distrust, on 6 June 2002, the Chair of the Afghan Interim Administration, Hamid Karzai, signed the decree establishing the Afghan Independent Human Rights Commission.[36]

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[36] Decree of the Presidency of the Interim Administration of Afghanistan on the Establishment of an Afghan Independent Human Rights Commission, June 6, 2002 (Afg.), *available at* http://www.refworld.org/docid/42d6423d4.html.

Was the process representative? Hardly. Approximately 30 Afghans participated. Could we have reached out to others? Yes if the political actors – Afghan and international – had not put together such a tight timeframe, which had, in turn, been sought in order to sustain the momentum of the political process. Was the process well thought through? It was based upon an analysis of the Afghan context and international practice. Did Afghans own the process and the Commission? They probably did not own the process as the UN proposed it to them. But certainly those who participated owned the Commission.

Most importantly, having set up the Commission in this not exactly ideal way, is the Commission a useful tool to promote and protect human rights? Yes. The Commission's establishment was an exceptional achievement made possible by the outstanding commitment of a few Afghan civil society activists and their ability to define a vision for their country and seek compromise to make it happen. Today, the Afghan Independent Human Rights Commission stands across Afghanistan as a continuing – albeit increasingly lonely and vulnerable – refuge for the Afghan people.[37] The resolute and dedicated patriots who make up the Commission monitor the actions of the State, armed groups and the International Security Assistance Force. They provide a service to the victims of human rights violations and accompany them in their efforts to seek accountability and redress. They *act as a voice for the Afghan people* in the articulation of the rights they demand, particularly regarding violations of the past. They help to nurture the conditions of a more rights-respecting culture. They do all this in the face of continuing attacks on their integrity, persons, and premises.[38]

The Afghan example sets out some of the challenges faced after conflict: of convening actors across fault-lines, of negotiating and developing a shared vision and program of action, and of cohering as a group with confidence to challenge the state as well as the international community. In Iraq too, I witnessed other challenges faced by 'civil society.'

In May 2003, as the war in Iraq appeared to be switching into another phase, I traveled to Mosul, in northern Iraq. There my task was to work with civil society. Specifically I was to encourage and support civil society to play a role in service delivery and in holding the Occupying Forces accountable to their international legal obligations. However, we could not find any civil society. There were no organized human rights NGOs. Judges, lawyers, teachers, religious leaders and others did not want to talk to us, the United Nations. It seemed to me that they did not want to coalesce as a voice and movement to counter-balance the Occupying Forces or indeed the Iraqi government to follow. Eventually, our national staff tracked down some judges, lawyers, teachers, and journalists, and brought them to the UN office in Mosul. Approximately a dozen Iraqis, male and female, joined the meeting. They appeared to be in their 50s and 60s; I was 33 at the time. I felt happy, relieved and was very much looking forward to working closely finally with my Iraqi colleagues.

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[37] Rod Nordland, *Critics Question Karzai Choices for Human Rights Panel*, N.Y. TIMES (July 1, 2013), http://www.nytimes.com/2013/07/02/world/asia/karzai-choices-for-afghan-human-rights-panel-raise-questions.html?pagewanted=all.

[38] AMNESTY INT'L, ANNUAL REPORT 2013: AFGHANISTAN, *available at* http://www.amnesty.org/en/region/afghanistan/report-2013 (last visited: Oct. 15, 2014).

We all introduced ourselves. Through the interpreter, I asked my Iraqi counterparts about their needs and priorities. Silence. So I tried another approach: I asked how they thought the UN could work with them. Silence again. After what seemed like a very long and uncomfortable period of silence, a senior male judge turned to me and asked: "Madame, who says we can be here today? Who is giving their approval for us to meet? Are you, the United Nations, giving us permission?" It was my turn for silence. No one – or indeed no event or experience – had trained me in how to respond to such a basic question. Flummoxed and humbled, I responded quietly: "Sir, it is you all. You give yourself approval to be here. This is your space. This is your right. This is your country. This is your future. The United Nations just gives you the physical space to meet. The rest is all yours."

The awkwardness and sadness at being asked by a person whose country I am in as a guest as to whether it is I who gives permission and space to meet and speak has never left me. Neither has the realization that it is indeed the legacy of Saddam's repression that had *silenced* – and in many ways – disempowered his own people. *How do you help to build civil society from silence and disempowerment*?

Fifth Station: The Role and Contribution of Women in Transitions

Building civil society is indeed a vital process and *outcome* in transitions, especially after conflict. However, experience across post conflict settings reveals that civil society will remain weak and therefore ineffectual if half the population, women, are not empowered and a central part of this process.[39] My fifth and final station, therefore, focuses on the role and contribution of women in transitions after conflict.

Considerable attention, discussion and resources are dedicated, within both expert and non-expert circles, to women and girls as "victims" of conflict. There is, however, considerably less attention, discussion and understanding of the role and contribution of women in post-conflict contexts. So why is specific focus necessary?

In many societies, women are given and therefore exercise very little power. However, the role, position and power of women in society often change in and through conflict.[40] Women who previously led lives mainly within the private sphere, that is at home, may be obliged by the demands of the conflict to move into the public sphere. For instance, if male family breadwinners are called away to fight, females may be required to find employment outside the home to sustain the family. Conflict can, therefore, transform roles, responsibilities and opportunities for women.[41] Such transformation can also lead to increased and expanded confidence, aspirations and demands for a more active visible role at home, in society and beyond.

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[39] U.N. Secretary-General, *Women's Participation in Peacebuilding: The Report of the Secretary-General*, U.N. Doc. A/65/354-S/2010/466, (Sept. 7, 2010).

[40] Julie Arostegui, *Gender, Conflict, and Peace-Building: How Conflict Can Catalyse Positive Change for Women*, 21 GENDER & DEV. 533 (2013).

[41] U.N. WOMEN, WOMEN WORKING FOR RECOVERY: THE IMPACT OF FEMALE EMPLOYMENT ON FAMILY AND COMMUNITY WELFARE AFTER CONFLICT (2012), http://www.unwomen.org/~/media/Headquarters/Media/Publications/en/05BWomenWorkingforRecovery.pdf.

Women played a central role in the success of the Libyan Revolution of 2011.[42] Women mobilized mass protests on the streets. They distributed humanitarian and medical assistance. They smuggled weapons and intelligence to fighters. And they kept the outside world informed of what was happening inside Libya. Men also undertook many of these activities. But the difference is that before the conflict, gender relations in Libya had generally ensured that women did not work or associate in public with men who were not a close relative. Nor were women generally so visible in the public sphere.

However, the demands of the Revolution altered the space in which some women lived. The Revolutionary context meant that women had to work with men they were not closely related to. Women drove alone at 3am from Libya to Tunisia to provide medicine to wounded fighters. And women became the public face of the Revolution, transported by social media across the globe. The *Revolution created opportunities for women to assume new roles and responsibilities*. Where has this transformation left women in the New Libya?

It is, of course, not accurate to speak about "Libyan women." Instead, it may be less inaccurate to speak about "some Libyan women." For some Libyan women, particularly those who were motivated to participate in the Revolution because they wanted to bring about a more equal, inclusive, and non-discriminatory society, the process of their empowerment through the Revolution has left them wanting – and more equipped – to play a central, equal and meaningful role in building the New Libya. Many Libyan women are looking for a new place in politics, in the workforce, in society, and at home.

So how is Libyan society adjusting to these newly expressed demands and expectations? It is clear that bringing about such change requires time. Such change also requires considerable bargaining and managing of power, relations and roles. What is less clear is the role of the international community in supporting what is *essentially a process of social transformation*. Should the international community, in particular the United Nations as the guardian of the international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women, be strident in encouraging the equality of treatment and opportunities for all Libyans across all spheres of life, the public and the private?

Or should the United Nations, instead, take the lead from Libyan women themselves and follow what they identify as their priorities, particularly as these women know better the traditional, cultural and religious contours that impact their society and the navigation thereof? But if so, which Libyan women are we talking about? The elites of Tripoli and Benghazi? How much traction and influence do they have with other Libyan women, especially rural women? Or what about the women who actually participated in the Revolution? In Tripoli, I met a young female activist who spoke convincingly of the role and right of young women to participate and shape the New

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[42] Sarah Birke, *The Women Fighting, Organising, Feeding and Healing Libya's Revolution*, NATIONAL (Mar. 25, 2011), http://www.thenational.ae/news/world/africa/the-women-fighting-organising-feeding-and-healing-libya-s-revolution. *See also* Chris Stephen, Irina Kalashnikova & David Smith, *Libyan Women: It's Our Revolution Too*, GUARDIAN (Sept. 16, 2011, 13:37 EDT), http://www.theguardian.com/world/2011/sep/16/libyan-women-our-revolution-too.

Libya. I asked her how older Libyan women felt about the New Libya. She replied: "We don't care. They were part of the problem. Now we are just waiting for them to die." So which of these women represent the voices of the New Libya?

As a human rights defender and therefore feminist, it is clear to me that women, as men, have the right and responsibility to participate equally in all aspects of Libya's path. I recognize that gender equality extends beyond women. Women's empowerment and participation benefits society as a whole: politically, economically, socially and culturally. I acknowledge, however, that ensuring the equal treatment and participation of women is a long and slow process. I also acknowledge that the process cannot be rushed, particularly by outsiders. So what does this mean for my role? It means that I aim to ensure that Libyan women are in the lead, and to stand behind them – sometimes lightly and invisibly as if I am not really there – and other times, when it is required, to be strong, forceful and highly visible. But my aim is not to do it for them. That is not real. It is offensive to women. And, it will not have a lasting effect anyway.[43] Instead, the international community needs to ensure the consistent provision of assistance over the long term to help develop the capacities of women to play their full role.

In July 2012, a year after the Libyan Revolution, the United Nations provided assistance to women during the electoral process for their parliament, the General National Congress (GNC).[44] The UN worked with women to develop campaigning and media skills. The United Nations Secretary-General also encouraged the adoption of a quota for women in the GNC. However, we need to consider those actions undertaken behind-the-scenes as well as those undertaken publicly and *place them in the context* that is Libya. For the reality in Libya is that though there are many women who want to be political actors and play a part in determining a new future for all Libyans, the abuse, threats and intimidation that are certain to accompany them as female politicians or even as political candidates mean than many women chose to not put themselves forward and they stay away from public life.

As stated at the outset of this Paper, these five stations represent in large part the abiding impressions that have stayed with me over the course of my work, as well as the difficult questions and dilemmas that I am unable to neatly and satisfactorily respond to. They also reveal the inter-connectedness underlying many of these issues and challenges.

Arriving at Damascus: Looking Back Through the 5 Stations

Through our journey of five stations, we have arrived in Damascus, my last duty station. In fact, I arrived there in late 2012. I encountered, as is often the case, a situation more complex than I had understood from outside. I spoke with Damascenes and others. Most, if not all, were disgusted at what their government had

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[43] Lila Abu-Ghod, *Do Muslim Women Really Need Saving? Anthropological Reflections on Cultural Relativism and Its Others*, 104 AM. ANTHROPOLOGIST 783 (2002), http://www.smi.uib.no/seminars/Pensum/Abu-Lughod.pdf.

[44] U.N. Dev. Program, *Libyans turn out to vote in landmark elections, women's role applauded*, UNDP (July 10 2012), http://www.undp.org/content/undp/en/home/presscenter/articles/2012/07/10/libyans-turn-out-to-vote-in-landmark-elections-women-s-role-lauded/.

done to them, their country and their future. However, many feared more what was to come if the Assad regime fell. I discovered that for some at least conflict had induced a heightened state of experiencing the moment. Of living. Now. For others, it seemed as they though were living a slow death. One woman – I shall call her my interpreter to protect her anonymity – wept as she mourned the life she would not live. She would not complete her masters. She would not be able to find a proper job. She would not get married. She could not believe this was happening to her country. War happened in other countries. In Afghanistan or Iraq. Or even Lebanon. *She could not imagine that conflict would come to her door.* For this woman, and indeed for many across Syria, there is no freedom from fear.

So how does my journey through the five stations help me to understand what is happening in Syria today and what it may mean for Syria tomorrow?

In Syria we see very clearly the challenges that conflict poses today to the protection of human rights.[45] More than 200,000 people have been killed, the vast majority civilians. Many others are living besieged lives in besieged villages, towns and cities. More than one in three Syrians has been uprooted from their home. We see how donors have not responded fully to the dire humanitarian needs. We also see entangled dynamics on the ground: the diffuse and divided military opposition bolstered and yet distracted and destroyed by violent extremists who seek to exploit the war for their own purposes, the influence of regional powers who seek to manipulate the conflict for their own ends, and global powers unable to forge a consensus on the way to resolve the crisis. Moreover, most recently, we see an ideological conflict that now straddles neighboring Iraq and which is simultaneously, both a sectarian battle and a battle with the west. Political resolution of the conflict becomes difficult when there are so many players with divergent interests to invite to the table, confirming experience from elsewhere that a high number of armed groups active on the ground leads to more intractable conflict.[46]. The protection of *human rights gets drowned out* in the deafening complexity, intensity and seeming insolubility of the conflict.

Most of us know that politics is at the heart of the solution to the Syrian conflict. Experience from elsewhere amply demonstrates, however, that it is not enough to have a "political solution" alone. Instead, a "*just solution*" is needed, based upon the human rights principles of inclusion, participation, non-discrimination, accountability, transparency and justice. Such a solution requires understanding, inclusion and accommodation at the local, national, regional and international levels.[47] And, it is clear at the moment that the parties to the conflict, Syrian and others, lack the skills, patience and fortitude to address all dimensions of this complex conflict and make the compromises necessary to bring about and sustain a new Syrian and increasingly regional peace.

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[45] *Selected Testimonies From Victims of the Syrian Conflict*, , U.N. Doc. A/HRC/27/CRP.1 (Sept.16, 2014).

[46] David E. Cunningham, Kristian Skrede Gleditsch & Idean Salehyan, *It Takes Two: A Dyadic Analysis of Civil War Duration and Outcome*, 53 J. CONFLICT RESOL. 570 (2009).

[47] Manal Omar, *Wanted: A Coalition to Defeat the Islamic State and Assad*, FOREIGN POL., Oct. 8, 2014, http://www.foreignpolicy.com/articles/2014/10/08/wanted_a_coalition_to_defeat_the_islamic_state_and_assad.

It is also not clear where Syria is going. Even when the fighting stops, it will take years to rebuild physically and psychologically. There is, however, limited although important work that can be done now during conflict to try to build upon the relationships, understandings and partnerships that still exist across Syria and across the lines. These understandings, this *trust*, however tenuous, will form the foundation of what comes next; what comes next must be quintessentially Syrian and must be decided upon by Syrians. For its part, the international community must be prepared to be there for the long haul and to provide the political support, technical assistance and financial back up required.

Civil society is today playing a key role in delivering services across and beyond Syria, as well as in monitoring what is going on and disseminating it to the outside world.[48] Though there are indeed civil society actors aligned with the Government and the various political opposition groups and military factions, there are many civil society actors who are bridging the gaps between the various communities and trying to keep the country and her people united.[49] *This space and its actors must be protected*. It is also imperative that the voices of civil society be integrated into the political process so that this becomes a genuine and meaningful process that can be sustained on the ground long after the meetings in the conference halls far away have concluded. And when the new Syria comes, civil society will be critical in holding accountable the new settlement and in ensuring justice.

As was the case in Libya, Syrian women are filling the holes left by the death, injury or other absence of their menfolk, usually away fighting. Women are taking the lead in caring for their families as they face increasing deprivations. They are also looking after their communities, which are being torn apart from inside and out. Some women are putting together a platform that represents their common interests, needs and demands.[50] But as is often the case, women are yet to form an integral and conscious part of the tableau of interests and constituencies that have to be brought into the political process. This does not require that women need to agree on everything. However, given that the current scale is balanced against them, women are likely to play a more effective and weighty role both now and in the future if they adopt a *strategic, coherent and unified position* – quite unlike that, of course, of the largely male-dominated political opposition.[51] We would do well to remember that there is much wisdom and courage – political and otherwise – among the women of

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[48] *See* Local Coordination Committees of Syria, *About the LCCS*, LOCAL COORDINATION COMMITTEE, http://www.lccsyria.org/about (last visited Oct. 16, 2014).

[49] Rachel Brandenburg, *Syria's Civil Society: Wael Sawah on the Push for Influence*, USIP (Feb. 27, 2014), http://www.usip.org/olivebranch/syria-s-civil-society-wael-sawah-the-push-influence.

[50] Hibaaq Osman, *Where are the Syrian Women at the Geneva Peace Talks?*, GUARDIAN (Jan. 23, 2014, 4:12 EST), http://www.theguardian.com/commentisfree/2014/jan/23/syria-women-geneva-peace-talks.

[51] DemocraShe, Human Rights Watch, Int'l Campaign to Abolish Nuclear Weapons, Kvinna til Kvinna, Oxfam & Women's Int'l League for Peace and Freedom, *Ensuring the Effective Participation and Rights of Women in the Syrian Peace and Mediation Process: A Five-Step Approach* (Working Paper, Dec. 28, 2013), http://www.wilpfinternational.org/wp-content/uploads/2014/01/Ensuring-the-Effective-Participation-and-Rights-of-Women-in-the-Syrian-Peace-and-Mediation-Process_final.pdf (prepared by based on consultations with Syrian civil society partners).

Syria. As women, they are experienced practitioners of the culture of compromise. These strengths and capacities must be harnessed. Their rights must be exercised.

Concluding Thoughts

As I conclude this Working Paper, what of my own "conversion" on the road to Damascus? How have these five stations through which I have passed and to which I repeatedly return – the evolving nature of conflict, the centrality of politics in the protection of human rights, navigating the path after conflict and repression, the role and contribution of civil society in post conflict transitions, and the specific contribution of women – affected how I go about my work?

First, they oblige me to be *realistic* about my own expectations of what I can do to impact the situation and of the time required to bring about changes in beliefs, perceptions, attitudes, and behaviors.

Second, they tell me that *context* is everything. And that I would be well-advised to listen. And listen. And then listen more.

Third, they advise me to *critique* every step of the way: every lesson, mantra, doctrine, policy, and assumption. And to be self-aware of the baggage, prejudices, pre-conceptions, and misperceptions that I carry. Not just because these are incorrect. But because such misunderstandings mean that my approach is likely to be ineffective at best, with unintended negative impact at worse.

Fourth, they counsel me that the task of protecting human rights is *inherently difficult*, made more complex by the issues and factors set out here. I should, therefore, act accordingly. I should strive to be *strategically creative*: to look at all times for opportunities, moments, and people.

Fifth, and most importantly, they remind me that what matters most is the *people*. The people I am there to serve. Those who have travelled a lot can confirm that it matters not the destination. Nor indeed the stations we pass. What matters are those people – the Pakistani young man, the Afghan humanitarian, the Iraqi judge, the Libyan woman, and the Syrian interpreter. Those we meet along the way. Our challenge is to *keep their stories, hopes and resilience alive* in what we do.

For my role is to accompany these people as they move from an impossible situation of desperation, distrust, destruction, and dysfunction towards an imperfect future – acceptable to as many as possible.