Peace in Political Unsettlement

Beyond Solving Conflict

Jan Pospisil

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PREFACE

'Peace in Political Unsettlement' is a result of the academic endeavour initiated by the Political Settlements Research Programme (PSRP) at the University of Edinburgh Law School, in which I was lucky enough to participate. From the outset, the PSRP had a clear-cut research aim set by policy. Funded by the UK Department for International Development (DFID), the programme was initiated to explore the pathways towards 'inclusive political settlements' and the potential opportunities for external actors to create and foster them in peacebuilding. Therefore, the PSRP had to respond to the inclusion paradigm that has dominated the peacebuilding policy discourse over the last decade (de Waal 2017).

The PSRP approached the issue via two avenues. Firstly, it engaged in empirical research of 'live' peace processes, investigating especially Afghanistan, the DRC, Ethiopia/Ogaden, Nepal and Northern Ireland. As a second stream, the team at the University of Edinburgh developed a database of all publicly available peace agreements since 1990, called PA-X (short for 'Peace Agreement Access Tool'). The PA-X database presently consists of about 1600 peace agreements which are filed and coded along a growing number of categories and variables.[1] PA-X provides the empirical backbone of this monograph. The database allows for an in-depth investigation into peace processes in hitherto unknown quality. While this investigation revealed an alarming repetitiveness in

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[1]https://www.peaceagreements.org/, accessed 30/09/2018.

the wording of peace agreements across time and space, it also brought to the fore a wide array of hidden methods and approaches usually neglected in empirical peace process research. These findings provoked further investigation which eventually resulted in an alternative reading of how peace processes unfold.

The most important process triggered by the PSRP was the ongoing debate which soon moved beyond the elusive question of how to craft an 'inclusive' political settlement. Instead, questions of necessary trade-offs and inevitable contestations embedded in peace agreements moved into the focus. This subtler approach enabled a better understanding of the relationship between deal brokerage, power-sharing and the role of norms. The notion of 'formalised political unsettlement', which is in the title of this book, stems from these debates.

While I exploited a significant amount of collective thinking and empirical results for my work, 'Peace in Political Unsettlement' still presents my individual reflections on PSRP's journey and my subsequent engagement at the Austrian Studies Centre for Peace and Conflict Resolution (ASPR), where I have been based for the last year. Two issues emerged as particularly thought-provoking to me. First, it was the puzzling inner contradiction of DFID, PSRP's funder. While DFID, rightfully, expected scholarly, evidence-based research of excellent standard, the intended outcome of this research had already been written in the tender. PSRP was meant to empirically evidence and scientifically support the creation of inclusive political settlements, which were supposed to, in blunt words, make peacebuilding work. Such a prescriptive starting point is, without doubt, troublesome for scholarly work. At the same time, it was one of the major inspirations for writing this book.

Despite or because of its challenging restrictions, PSRP developed into the most stimulating research endeavour in which I have been involved so far. In numerous conceptual debates, the team in and around the PSRP scrutinised the inclusion paradigm and rationalised inclusion as intrinsically connected to trade-offs. Further, it developed the notion of formalised political unsettlement to describe the unfortunate reality that contrasts the optimistic approach the programme pursued.

The multiple encounters with our funder and external partners in the peacebuilding field have been inspiring, especially the productive and continuously, in the most positive way, challenging cooperation with our counterparts in DFID and the UK Foreign and Commonwealth Office (FCO). They engaged—and continue to engage—with PSRP's work

in an astonishingly open way and pushed our conceptual thinking that helped to progress on the academic level as well. The most intriguing experience, though, was to be able to participate in parts of DFID's internal reflections and thinking processes. A lasting impression was to experience the honest difficulties of the policy professionals in making sense of the almost unlimited amount of knowledge and conceptual thinking they can access. What I call the state of affirmation in peacebuilding is caused by this very real, hands-on struggle.

The second motivation for writing this book was my constant unease with the field of peace research. I share this unease with a number of colleagues. We all struggle to articulate our problem. Writing this book showed me once more that the strong normative angle, the persistent belief in the doability of things is what causes my trouble with traditional peace studies. I feel more at ease when critically scrutinising intervention, development and peace- and statebuilding. Still, something constructive was missing, exploring the middle ground between providing evidence and best-practice examples and fundamental criticism.

Peace studies themselves have become habitually critical and, in the European debate at least, have by now turned critique into the mainstream approach. The term liberal peacebuilding is, in fact, a production of the numerous critiques which have long reached the policy discourse as well. Notions such as inclusive peace or sustaining peace are a product of merging the liberal paradigm with critical notions of context, the local and complexity. However, these concepts cannot provide much guidance. Paradoxically, the contemporary peacebuilding policy discourse has attained an unprecedented level of vagueness, which is a consequence of embracing and incorporating the critical accounts. The contrast to the constant struggle of people practically working in conflict zones and the overwhelming demand they have to face is striking. Trying to make sense of these contradictions is a key concern of my endeavour. For any meaningful contribution, a thorough engagement with peacebuilding policy and practice is indispensable.

The notion of affirmation captures this struggle. It reflects the motion of acceptance, of the situation and the severe limitations of one's actions, which many peacebuilding practitioners experience. When a feeling among practitioners resonates with emergent, cutting-edge academic thinking—which is the debate on the Anthropocene and its consequences for human agency—it is likely that there is something to it. It is then advisable to join the conversation. Even if the current times

may seem risky and insecure, the enterprise this book is undertaking is practical and constructive. The message it wants to deliver is profoundly optimistic.

Vienna, Austria and Edinburgh, UK   Jan Pospisil

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This book is a hybrid product sitting in between an individual and a collective endeavour. It is the result of my involvement in the Political Settlements Research Programme (PSRP) at the University of Edinburgh, which is funded by the UK Department for International Development, and my subsequent work as head of research at the Austrian Study Centre for Peace and Conflict Resolution (ASPR). These engagements have turned my attention from critical security studies back to the problematique of conflict, peace and international intervention.

Since both PSRP and ASPR were of critical importance for this endeavour, I want to highlight the role of some people in these two institutions. First and foremost, I need to thank PSRP's programme director Christine Bell. Without her, this book would not exist. She coined the key concept 'formalised political unsettlement' and collaborated with me in writing the framing article. She carried out the amazing PA-X peace agreements database project with tireless personal effort. Christine acted as an incredibly knowledgeable partner when discussing some of the ideas and concepts presented in this book. Her almost limitless expertise on peace processes gave me a lot of insights many of which found their way into this book. She helped out not only by giving me an enormously interesting and rewarding job but by long hours of fruitful debates.

At the ASPR, I want to thank both Gudrun Kramer and Wilfried Graf who brought me back to peace and conflict studies in the closer sense. Gudrun and Wilfried forced me to reflect a lot in quite a few long and engaging debates. Without them, my arguments would not be where

they are. I also need to sincerely thank the ASPR team for their incredible support. One cannot think of having better working conditions. Pascal Abb helped me to cover my back during my writing absences. Lisa Fandl managed parts of the literature.

Some colleagues were particularly engaged when I was pitching the idea and when writing and revising the manuscript. Johanna Rodehau-Noack gave not only detailed comments on the draft but helped me with great suggestions and in bouncing around ideas along the way. Despite being constantly busy herself, she took more of her share in organising jointly with me a very insightful section at the EISA Pan-European Conference on International Relations in Prague in September 2018. Jenna Sapiano, Laura Wise, Robert Forster, Sissela Matzner, and Augustin Nicolescou read and commented on parts of the manuscript and were partners in numerous valuable discussions on the topic. Laura's in-depth knowledge and assessments about the peace processes in the Balkans were a particularly helpful resource for my endeavour.

The whole PSRP team supported me as well, especially Monalisa Adhikari, Sanja Badanjak, and Astrid Jamar. They need to be thanked for all the discussions on peace agreements, political settlements and the world in general, as well as for some amazing hikes in the Scottish Highlands. Andy Carl and Roger Mac Ginty, both members of the PSRP advisory board, offered revealing insights and valuable opinions. Some people from the PSRP partner organisations were influential in shaping my thinking around formalised political unsettlement and transitional processes. Kristian Herbolzheimer, Alexander Ramsbotham, Zahbia Yousuf, Judith Verweijen, Julia Bello-Schünemann and Catherine O'Rourke are colleagues I had insightful conversations with. Despite not being part of the PSRP, Alina Rocha Menocal was a congenial collaborator in editing a joint volume on political settlements published by the Journal of International Development. Other people in and around the University of Edinburgh and the PSRP must be mentioned as well, especially Rachel Anderson, Harriet Cornell, Charles Fletcher, Sean Molloy, Andrew Neal, and, of course, Neil Walker, who was the first to come up with the notion of formalised unsettlement.

Florian Kühn, as one of my main academic friends, played a substantial role in developing my thinking on the subject. David Chandler—especially his brilliant talk to military staff at the Royal Military Academy of Sandhurst and the discussion we had after that—had a significant influence on my overarching argument. Nicolas Lemay-Hébert

Contents

Abbreviations

AUHIP	African Union High-Level Implementation Panel
CPA	Comprehensive Peace Agreement (Sudan/South Sudan)
DCFTA	Deep and Comprehensive Free Trade Area (European Union, Georgia, Moldova, Ukraine)
DDR	Disarmament, Demobilisation and Reintegration
DFID	UK Department for International Development
ECHR	European Court of Human Rights
EUGS	European Union Global Strategy
FAO	Food and Agriculture Organization of the United Nations
FARC-EP	Fuerzas Armadas Revolucionarias de Colombia—Ejército del Pueblo (Colombia)
FATA	Federally Administered Tribal Areas (Pakistan)
FCO	UK Foreign and Commonwealth Office
HIPPO	Independent High-Level Panel on Peace Operations (United Nations)
HRW	Human Rights Watch
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICG	International Contact Group (Philippines)
IDP	Internally Displaced Persons
IOM	International Organization for Migration
IPTI	Inclusive Peace and Transition Initiative (Geneva, Switzerland)
KDP	Kurdistan Democratic Party (Iraq)
LTTE	Liberation Tigers of Tamil Eelam (Sri Lanka)
MILF	Moro Islamic Liberation Front (Philippines)
MNLF	Moro National Liberation Front (Philippines)

MOA-AD	Memorandum of Agreement on the Ancestral Domain (Philippines)
NATO	North Atlantic Treaty Organization
NCP	National Congress Party (Sudan)
NED	National Endowment for Democracy (United States)
NGOs	Non-Governmental Organisations
NIE	New Institutional Economics
NPA	New People's Army (Philippines)
OECD	Organisation for Economic Co-operation and Development
OLS	Operation Lifeline Sudan
OPAPP	Office of the Presidential Adviser of the Peace Process (Philippines)
OSCE	Organization for Security and Cooperation in Europe
PAM	Peace Accord Matrix, Kroc Institute, University of Notre Dame
PA-X	Peace Agreements Access Tool, PSRP peace agreements database, University of Edinburgh
PSGs	Peace and Statebuilding Goals (OECD, g7+ group)
PSRP	Political Settlements Research Programme, University of Edinburgh
PUK	Patriotic Union of Kurdistan (Iraq)
R2P	Responsibility to Protect
REDEPAZ	Red Nacional de Iniciativas por la Paz y contra la Guerra (Colombia)
SDGs	Sustainable Development Goals
SPLA	Sudanese People's Liberation Army (South Sudan)
SPLM	Sudanese People's Liberation Movement (South Sudan)
SSLM	Southern Sudan Liberation Movement (South Sudan)
SSR	Security Sector Reform
UCDP	Uppsala Conflict Database Programme
UN	United Nations
UNCITRAL	United Nations Commission on International Trade Law
UNDP	United Nations Development Programme
UNISFA	United Nations Interim Security Force for Abyei
UNMISS	United Nations Mission in South Sudan
UNPROFOR	United Nations Protection Force (Bosnia and Herzegovina)
UNSCR	United Nations Security Council Resolution
USIP	United States Institute for Peace
WDR	World Development Report

CHAPTER 1

Introduction

The title of this book is misleading. The book examines the loss of agency in the state of affirmation in peacebuilding. Affirmation is a state in which the world has taken over. The modern belief in doability, in this case the doability of peace, has been surpassed by a technocratic accommodation of failure and excessive demand. In peacebuilding, thus, the affirmation of the conditions of conflict and subsequent transitional processes results in accepting the disappearance of one's agency therein.

I borrow the term affirmation from the wider scholarly debate on the Anthropocene. The notion of affirmation takes in and twists the numerous critiques of modernity—in peacebuilding its top-down liberalism, its neglect of contextuality and locality, and its character as 'empire in denial' (Chandler 2006). Affirmation breaks with the assumption that there might 'be a collective happy ending' (Tsing 2015: 21). Affirmation in peacebuilding has developed its own theories, concepts and practices—in short, ontopolitics (Chandler 2018)—to accommodate inevitable and enduring failure. However, the price to pay for this accommodation is the loss of agency (cf. Bargués-Pedreny 2018: 143).

The state of affirmation in peacebuilding is something real. Peacebuilding practitioners and scholars experience and feel it. Affirmation is the outcome of efforts undertaken with the best intentions to overcome the shortcomings of liberal peace. Peacebuilding policy has embraced the opportunities to engage with peace and conflict research in recent years. Substantial amounts of personal and financial effort have

produced an incredible richness of conceptual and empirical knowledge, which is now taken seriously by policymakers, who themselves are often educated along the attitudes of critical peace scholarship. Nonetheless, the merger of conceptual education, practical experience, and contextualised, detailed knowledge based on empirical research results in a chastening outcome: confusion.

The state of affirmation is overwhelming. It accepts complexity and complexity's consequences of non-causality and non-linearity. It has reached the end of knowledge because there is too much knowledge. Affirmation is also a deeply felt loss of agency. Technocratic policymaking has found its ways of living with affirmation. It has developed concepts of peace governance ambiguous enough to conceptually work even when failing in practice: inclusion, resilience, and political settlements. Technocratic policymakers have developed the ability to personally handle failure, while collectively holding onto the claim of being on the right side of things. In many instances, failing in affirmation is a comfortable condition for peacebuilders.

The effort undertaken by this book is not to fight against affirmation. It aims to contribute to the reconstruction of agency under the conditions provided by it. First, the book offers a lens that challenges affirmation's ease. The lens of formalised political unsettlement reconceptualises contemporary peacebuilding failure as the entry point of pragmatic transitions. The book's second aim is to position this pragmatic transitional approach as a way to overcome the extensions of liberal peacebuilding in affirmation: the logic of success and failure, and the persisting predominance of outcome over process. Finally, the book aims to support the reconstruction of agency by offering a heuristic typology of practices that already exist in peace processes: the provision of hooks, creative non-solutions and disrelation.

The Logic of Peacebuilding

The mainstream approach in peacebuilding understands peace processes as an effort in which the contestation at the heart of a violent conflict is gradually resolved. The prevailing idea sees dispute settlement, preferably in an institutional form, as the main gateway to transforming a violent conflict into normal politics. A seminal paper by the Uppsala Conflict Data Program (UCDP) puts this approach in a straightforward language: 'Peace process is defined as a formal process

in which the warring parties either have decided to settle the incompatibility in a process in which one issue at a time is regulated by an agreement, or where an agreement that builds on a previous peace agreement is signed' (Harbom et al. 2006: 623, footnote 8). The cessation of violent conflict, which the UCDP expediently constructs as the number of fatalities and violent incidents in a given territory over a defined time span, thus happens by agreeing on a formalised end to the dispute.

The perceptions of peace processes have diversified in recent years. Peacebuilding, which the United Nations (2008) once defined as involving 'a range of measures targeted to reduce the risk of lapsing or relapsing into conflict by strengthening national capacities at all levels for conflict management, and to lay the foundations for sustainable peace and sustainable development', has taken root along conflict resolution and mediation efforts. Peace processes expanded from a strict focus on negotiations and dispute settlement to encompass a wide array of accompanying activities.

Despite new catchy phrases like 'sustaining peace', contemporary peacebuilding policy still relies on core assumptions of traditional liberal approaches. The 2018 joint World Bank/United Nations study '*Pathways to Peace*' emphasises the value of conflict prevention and defines it in line with the United Nations sustaining peace resolutions (UN General Assembly, Security Council 2015; UN Security Council 2016) as 'activities aimed at preventing the outbreak, escalation, continuation, and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction, and development' (World Bank and United Nations 2018: 77). In accordance with this approach, policymakers regularly comprehend peace processes as following a reasonably clear script evolving across several sequential steps.

Within this logic, the conflicting parties, as a first step after experiencing what William Zartman (2000) has called a 'mutually hurting stalemate', reach a joint understanding about the willingness to engage in peace talks. The start of peace talks is often accompanied by a ceasefire that brings the acute violent conflict to a temporary halt, which in turn facilitates the building of mutual trust. At this stage, international negotiation support usually gets involved via third-party mediators, groups of friends, guarantors or the like. An international peacekeeping mission may also be part of the equation. The customary liberal

interpretation sees the fundamental contestation as being driven by (subjective) misunderstanding or distrust, objective factors such as a failed institutional and political dispute resolution structures, or external root causes such as climate change and other environmental factors (Dyer 2011; for a critical assessment of this trope see Selby and Hoffmann 2014).

Hence, conventional logic expects the establishment of an agenda for peace talks along these issues as a second step. The parties, often supported by external mediators and experts, develop a compatible narrative about the causes of the violent conflict and agree on a list of contested issues. If the preliminary talks progress productively, a schedule is agreed upon on how negotiations shall proceed (often laid out in pre-negotiation agreements). Further arrangements determine who will be granted access to the negotiation process and in what form. The current trend in peacebuilding policy points towards greater inclusivity, where the overriding logic is to include as many stakeholders as possible. The actual talks may take place in diverse formats, with a variable degree of inclusivity regarding parties (horizontal inclusion) and societal groups (vertical inclusion), and international involvement. Commonly, the talks merge issues that are of immediate concern for a transition, such as disarmament, demobilisation and reintegration (DDR) of armed actors, security sector reform (SSR), matters of transitional justice, as well as elements of power-sharing, with responses to the root causes of the conflict. Contemporary peace process research interprets the drafting and signing of a so-called comprehensive peace agreement (as it was done in Sudan in 2005 or Nepal in 2006) as the peace process 'queen stage'.

Finally, an ideal-type sequencing focuses on the implementation of the comprehensive agreement. If required, implementation goes along with further negotiations over reshaping the political settlement and the constitutional order of the polity (e.g. as it has happened in Nepal). The implementation stage is seen as being of utmost importance in post-conflict peacebuilding. Various institutional frameworks have been developed over time to guarantee its success, such as international troikas, contact groups, guarantors or even scientific observers. The Peace Accord Matrix project at the Kroc Institute of the University of Notre Dame, for instance, tracks the implementation of all provisions of 51 comprehensive intrastate peace agreements. Achieving the maximum level of implementation is understood to be vital to a successful transformation of the violent conflict. It is a long-standing insight of peace process research that implementation and its priorities need to be rooted in the given contextual conditions (e.g.

Stedman et al. 2002). The various implications and trade-offs resulting from implementation are still often disregarded as (a) over-complex and knowledge-heavy and (b) fine-print, and both of which subordinate to the principal claim of implementation's vital role.

CRITICISING PEACEBUILDING INTO A STATE OF AFFIRMATION

Critical inquiries into the value of high-level peace mediation have emphasised the crucial role of context and deep contextualised knowledge. Peacebuilding's 'local turn' (Mac Ginty and Richmond 2013) has argued the need to look at the everyday realities of people living in zones of violent conflict and criticised liberal approaches for avoiding engagement with these realities. The notion of the 'political marketplace' (de Waal 2015) has furnished a perspective on violent conflict that looks at questions of political loyalty and disloyalty and their price level. The political marketplace problematique chimes structurally with the 'political settlements' approach (Putzel and Di John 2009), which is becoming increasingly popular in development policy circles. The focus in these approaches has shifted from objectifiable causes and grievances towards the formal and informal arrangements of the political system.

These are not the first attempts that challenge the idea of peace as the settling of political contestation and the successful addressing of so-perceived root causes. In a precursor to current discussions, a group of economists around Paul Collier and Anke Hoeffler aimed to establish a similar change of paradigm, which they introduced as the 'greed versus grievance' debate (Collier and Hoeffler 2004). Their attempt largely failed because of passionate resistance from the peacebuilding and peace research community, not the least due to the crudeness of their claims and methodological and empirical flaws in their work. Notwithstanding these shortcomings, Collier et al. pointed to a valuable insight: violent conflict often does not result from political disagreement or deep political or social distrust but may be born out of a mutual understanding of how a certain political logic works.

Changing international conditions are also increasingly hampering an ideal-type, sequenced peace process implementation. Already in 2002, Downs and Stedman assessed that the success of implementation strategies largely rests on the 'function of great and regional power interest'. Therefore, they recommended that international actors should refrain from implementation strategies if an alignment of their interests does not

prevail (Downs and Stedman 2002: 64). In contemporary peace-making, the formation of a group of like-minded powers dedicated to supporting a peace process along a mutually agreed perspective is unlikely. One factor explaining this trend is the disenchantment with earlier initiatives of forging international coalitions, particularly in cases where the peace process was preceded by international armed intervention, such as Somalia, Afghanistan or Iraq. International dissension is also the result of an emerging 'global marketplace of political change' (Carothers and Samet-Marram 2015), in which a broad array of international players offers political or practical support to warring parties in intrastate conflict. Such fluid multipolarity is, inter alia, effectively undermining attempts to enforce solutions on fundamentally contested issues.

The lack of contextuality, of understanding political bargaining, and the diminishing role international peacebuilding plays on a global stage are taken seriously by peacebuilding practice. As a response, recent policy work has moved away from its liberal political underpinnings. Multifaceted ways of representation and inclusion in peace processes have been tested and practised. Once seen as fundamental cornerstones towards lasting peace, concepts such as liberal statehood, democracy, justice and regional integration have been substituted by lofty but politically indistinct concepts signalling the state of affirmation, such as inclusion, resilience and political settlements. However, peacebuilding's shortcomings prove to be severe: in a state of complexity beyond the reach of knowledge, there is no opportunity left to evidence, plan and implement what is now called inclusive or resilient political settlements. When aiming for effectiveness and success, peacebuilding unavoidably fails.

Unsettling Affirmation

Peacebuilding failure is a considerable ethical and political challenge. Yet it is not necessarily unsettling for peacebuilding practice and scholarship. The recent embrace of concepts focusing on context and impact implies the acceptance of losing agency. Policy applications of inclusion and resilience rely on a diminishing level of responsibility. In spite of factual failure, no clear line of responsibility can be identified anymore, as demonstrated by the ambiguous conceptual underpinnings. It is not just that peacebuilding unavoidably fails, 'peacebuilding may be better if it never succeeds' (Bargués-Pedreny 2018: 143).

When Christine Bell and I (2017) developed the notion of 'formalised political unsettlement', we intended to conceptualise peacebuilding failure in a way that enables, if not compels, further transitional practice. Our endeavour aimed at the reconstruction of agency in situations which have been commonly framed as bad examples, frozen processes or wicked problems. The notion is responding to the need of developing a framework to analyse situations of violent conflict and post-conflict contexts, as well as the transitionary processes in between, that reflects the shortcomings in dealing with them. In doing so, formalised political unsettlement wants to make use of affirmation. It wants to unsettle the constant failure and to reconstitute agency by challenging the doability logic of contemporary peacebuilding. To this aim, formalised political unsettlement applies a pronounced pragmatic approach rested on existing practices in the concrete unfolding of peace processes. The key question formalised political unsettlement poses is not how to craft a new, inclusive political settlement or to renegotiate an existing political settlement after violent conflict. Instead, the intention is to explore avenues to navigate post-war transitional processes in situations where a high-level peace deal has contained and institutionalised the political contestation at the heart of the conflict.

Formalised political unsettlement, first and foremost, wants to unsettle the accommodation offered by the state of affirmation in peacebuilding. This undertaking is not confrontational, but constructive. It wants to engage with current peacebuilding practice, also with approaches of liberal peacebuilding. International peacebuilding interventions are going to continue in the foreseeable future. Their often liberal underpinnings are likely to survive as the bedrock of such interventions, not the least because this doctrine is enshrined in the United Nations System. Changing global conditions contribute to a continually shrinking factual space for peacebuilding. This shrinking space may make interveners more willing to listen to pragmatic suggestions on how to handle situations of formalised political unsettlement. Many of the critical accounts in peacebuilding scholarship fall short of digging deeper into this uncomforting reality of policymaking.

There is remarkable inertia in liberal peace. While certainly in strategic retreat, liberal approaches based on the fundamental cornerstones of the rule of law, democratic legitimacy and dispute settlement are still influential in policy circles. Policymakers demand evidence on how conflict can be solved, including precise recipes and best-practice examples of effective institutional solutions. They are searching for the capacity

to identify the conflict parties that are closest to their worldviews and, therefore, promising to relate with. International legal frameworks struggle to accept approaches that move beyond the full equivalence of polity and territory. International law does not cope well with grey zones. Governments in the Global South have learned to use these reservations to their advantage and to renew their legitimacy claims based on them (Pospisil 2017).

Navigating Pragmatic Transitions

The reality of peace negotiations and post-conflict peacebuilding is more pragmatic than policy conceptualisation acknowledges. Even liberal peace, perceived as an inherently dogmatic enterprise by its numerous critics, has always shown and relied upon pragmatic elements (Heathershaw 2008). The origin of this pragmatism can be found in the everyday reality of peace processes, which is as far away from ideal type sequencing as the model of the infamous conflict cycle (e.g. Lund 1996) is from the reality of violent conflict. In the narrow context of peace talks, constructive ambiguity is used in contract negotiations, where 'actors deliberately adopt language that is vague and can, simultaneously, mean different things to different people' (Bell and Cavanaugh 1998: 1356).

Constructive ambiguity is a useful tool in negotiations. In most instances, it serves as a way of deferring contested issues to a later stage of the process. Hence, its effectiveness depends on the commitment of the parties. It may offer comparably little help in constellations where parties are committed to reaching a negotiated settlement and a sustainable solution (e.g. in the 2012–2017 Colombian FARC-EP negotiations). Constructive ambiguity becomes useful when parties are not willing to settle. The most vocal objections to applying constructive ambiguity come from international lawyers (e.g. Franck 1997), a discipline notoriously struggling to accommodate uncertainty and blurriness. Ambiguity, say the critics, would be unfair vis-à-vis the signatories and, moreover, risk a relapse into conflict since potential trigger factors are not adequately addressed.

Yet, liberal peacebuilding requires such ambiguity, both in negotiating an agreement and in implementation. As comparative studies show, peace process sequencing does not unfold in an ideal-type way. The reality of these processes is an often messy interplay of going back and forth in a way hardly ever responsive to planning but rather dictated by

opportunity (Bell and Zulueta-Fülscher 2016: 45). Over time, liberal peacebuilding has adapted to this reality. Still, peacebuilding, even in its critical reincarnations, has persistently failed to challenge its preconditions based in modern thinking, which is one of the major preconditions of the current state of affirmation.

This book wants to challenge the contemporary peacebuilding narrative in a fundamental way. Against the grain of much of the literature in the field, the claim put forward here is that post-war transitions may depend on contested issues *not* being resolved, on groups *not* being included and negotiated parts of peace agreements *not* being implemented as stipulated. In many instances, it is the blurriness in agreements and, even more so, in their implementation that enables or catalyses the continuation of transitional processes.

The perspective of pragmatic transitions understands affirmation as a favourable condition. For this to work, the approach of not solving conflict must not be mistaken as an excuse for accepting the ease of failure as affirmation might seduce one to do. Some recent accounts on a pragmatic turn in peace and conflict studies have already initiated this debate. Louise Wiuff Moe and Finn Stepputat (2018: 295), for example, understand pragmatic peace as 'a heuristic lens that brings into dialogue perspectives on the realpolitik of stabilization, the apparent retreat of liberal idealism, and the bottom-up focus on contextualizing efforts to sustain peace'. I want to take these propositions one step further. Although the notion of pragmatic peace has been bandied about in the literature, research is still lacking on how pragmatism in post-war transitions unfolds in practice. What this book, therefore, undertakes is following up on empirical examples of pragmatism in order to reconstruct agency under the conditions of affirmation.

Another widely unexplored issue is how a pragmatic transitional approach translates into the reality of peace processes and attempts of peacebuilding. The critique offered by pragmatic transitions is twofold: first, the transitional perspective wants to overcome the binary logic of success and failure. Second, the transitional *process* aspires to take priority over *outcomes*. The indispensable precondition of pragmatic transitions is their pragmatic character. While this precondition may sound tautological, it is necessary to highlight that pragmatic practices can never be the product of long-term strategic planning or fundamental scholarly critique. They emerge in the realities of transitional processes and are shaped by them.

Pragmatic transitions do not offer a clearly framed counter-vision to liberal peace. Some notions and practices could even be considered as liberal themselves. In policy reality, pragmatic approaches in peacebuilding and broader foreign policy practice are already widespread. For example, the European Union's Common Foreign and Security Policy nowadays explicitly accepts a principled pragmatic stance (Tocci 2016). The approach offered by this book thus is not anti-liberal. But it aims to move beyond liberalism and offers a fresh view on peace reflecting both the radical critique on liberal peacebuilding as well as the challenging realities and contradictions of peacebuilding policy.

Such a pragmatic approach to peace processes draws on existing practices of contemporary peacebuilding efforts and on available insights from scholarship. Pragmatic transitions are not developed from scratch, nor could they be. Problem-solving and critical, knowledge-enhancing scholarship, a distinction proposed by Neo-Marxists such as Robert Cox (1981), need to go hand in hand. Purely critical accounts that avoid engaging with empirical realities and problem-solving will quickly lose relevance. Likewise, accounts that aim to produce evidence for pre-defined policy (or political) goals are just as unhelpful. Everything can be substantially critiqued as it can be evidenced. Keeping this in mind is pivotal for social sciences, which are often involved in negotiating broad social claims.

Approaches to Reconstitute Agency in Pragmatic Transitions

'Peace in political unsettlement' aims to offer a new perspective on issues occurring in the pragmatic reality of peace processes. Drawing on a reflection of constructive ambiguity as a principled pragmatic approach, it will mainly focus on practical elements developing in peace agreement negotiation, design, and implementation—or non-implementation. Elements will be explored that do not look ambiguous at first glance. However, their impact may be counter-intuitive, particularly if they are not implemented in the way foreseen in the agreement. Regularly, peace agreements produce institutional constructions that contain conflict and result in protracted situations. The lens applied here advocates to search for avenues in such institutionalisations that may offer opportunities for further transitions by facilitating movement and flexibility.

The book progresses along a heuristic typology of practices found in peace processes. The methodical endeavour is, in a Foucauldian sense, archaeological (Foucault 2002). While offering a distinct perspective, pragmatic approaches cannot be carried out top-down. They need to be constructed by searching, identifying and describing the methods that constitute them out of the living reality of transitional processes. The everyday of peace processes—to paraphrase one of the principal terms of the local turn (Mac Ginty 2014)—is an enormously rich resource for this endeavour. The recently published PA-X peace agreements database,[1] containing over 1600 peace agreements produced since 1990, serves as the main empirical source. My participation in the production of this database and the therefore required debate on effectively all ongoing peace processes provided the crucial background for developing the following typology of pragmatic, non-solving approaches.

The first type to be explored is the opportunity of providing hooks for inclusionary practices in transitional processes. This exploration is based on a critical inquiry of inclusive peace, a notion currently presented as a panacea by international policymaking (World Bank and United Nations 2018). How to approach inclusion in transitional processes when its penetrating over-optimist tone is left behind? I want to suggest that inclusionary hooks still are an incredibly useful element when applied in full awareness of their limitations in the broader perspective of pragmatic transitions.

The second mode is the search for and practice of creative non-solutions. In contrast to claims whereby only the solution of all possible trigger factors could sustainably reduce the risk of relapse into violent conflict, I argue that the opposite can occur as well: tackling contested issues may reignite armed hostilities. Hence, I look at examples of how such issues have been dealt with in cases where it was not possible to resolve the contestation. Peace research has repeatedly tackled the question of non-resolvability in peace processes. Oliver Ramsbotham, for example, dedicated much of his work over the past decade to the idea of 'radical disagreement' (Ramsbotham 2010, 2017). There is an element of fundamental contestation between parties in violent conflicts that represents their motivation for fighting. These reasons cannot always be resolved, even if all available methods of conflict resolution are applied,

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[1] https://www.peaceagreements.org/, accessed 29 September 2018.

such as rational settlements based on objective mutual interests, transformative approaches of reconciliation, recurring to basic human needs or power-sharing deals.

The contestation between warring parties is often addressed at the macro level. The selected responses usually include security guarantees and power-sharing, as they have been identified by Barbara Walters (1997) as the most decisive factors for successful civil war settlement in the pre-1990 era. What evolves as a result of these negotiations, however, is a sobering stickiness of power-sharing frameworks. Since decades, peacebuilders struggle with this constellation when engaging for a successful continuation of a transitional process in the aftermath of a peace agreement. Even the best combination of mediation and structural support frequently fails in transforming a conflict contained by a power-sharing framework into normal politics. Despite not holding water empirically, proponents of liberal peace continue to believe in the capacity of power-sharing arrangements to transcend ethnopolitical contestation in the long run. In a fair number of instances, only non-solutions are able to provide an element to keep such frozen frameworks moving.

Third, I discuss the prospect of disrelation in peace processes. In contrast to exclusion asserted by powerful negotiating parties, disrelation refers to the options and opportunities for people and communities affected by the violent conflict to deliberately disengage from a peace process. Disrelation is not a routine practice, even though it has been attempted in a number of circumstances. Furthermore, it must not be confused with the established peace research concept of spoilers (Newman and Richmond 2006). Disrelation may prove to be of vital structural importance in a post-liberal negotiation framework which no longer rests on a prescript of all-inclusiveness. Disrelation challenges the liberal idea of a unifying social contract, on which a political settlement is based, and the constitution of one polity. Since the polity is fundamentally contested in peace processes, disrelation is a risky enterprise. Nevertheless, political and legal theory offers conceptual entry points that can be utilised for such practices. It is indeed worthwhile to interrogate these approaches for their usability in post-war transitions.

Some elements of these three strands may sound uncontroversial and conventional, others more idealist or dangerous. However, what I argue by systematically putting them into a typology is not only that these processes exist and are ongoing. These practices also need to be perceived substantially differently. Such approaches, methods and practices are not

flaws, defects or deferred problems. They are opportunities and avenues that need to be embraced rather than bemoaned. The book aims to render these three strands—the provision of hooks, creative non-solutions, disrelation—as possible pathways for navigating transitions from violent conflict in a pragmatic way.

Overcoming the solution-based logic peacebuilding rests on is an unpopular endeavour. Peace process support is a risk-averse venture. Conflict parties and external supporters perceive the associated risk as being so high that all actors design their actions and strategies based on a very-low-risk appetite if not risk avoidance. Numerous empirical projects on so-called commitment problems of non-state armed groups have confirmed these motivations (e.g. Walters 1997). International policy actors are also trapped as prisoners of their own experience. Things ought to be done in a certain way, and any stakeholder who wants to claim relevance is going to pursue the internationally laid out policy aims.

Furthermore, a self-perpetuating tautologic chain of claims and evidence production in the peacebuilding field has been established in a sustainable way. Challenging this chain is part of a broader endeavour: the idea of linear causality and solution is a liberal notion at heart. Peacebuilding is a far more complex and diverse undertaking than even many of its critics would acknowledge. Yes, it is about liberal values, structures and aims. Yet it is also about power (Chandler 2010). Peacebuilding is about a specific epistemology and the possibility of understanding and the power deriving from it, something Michel Foucault has called power-knowledge. To disrupt this tautology is a major precondition of reconstructing agency in the state of affirmation.

The Plan of the Book

The next chapter presents the argument for pragmatic transitions from violent conflict in confronting the liberal peace paradigm and the critiques on liberal peace that have been developed in recent years. Following up on this conceptual background, Chapter 3 introduces the lens of formalised political unsettlement as a critical reflection of the political settlements debate and the inclusion paradigm in peace processes.

The characteristics and features of formalised political unsettlement will set the stage for a more detailed exploration of the three strands of pragmatic transitions described above. Chapter 4 looks at the opportunities of engaging in inclusion in pragmatic, long-lasting transitions in the context of formalised political unsettlement. It challenges the inclusion paradigm as it is currently put forward by liberal peacebuilding actors and instead proposes the provision of inclusionary hooks. Chapter 5 deals with what I call 'creative non-solutions' and the need to cope and embrace blurriness in peace processes, particularly at the implementation stage of peace agreements. Finally, Chapter 6 engages with disrelation, particularly from the viewpoint of post-national legal and post-liberal political theory. For this purpose, disrelation is understood rather broadly. It also refers to practices that are well known and regularly discussed in contemporary peacebuilding efforts, especially so-called safe zones. As diverse as practices of disrelation are, they still offer an epistemological challenge to the liberal idea of *one* peace, organised in *one* institutional framework.

The conclusions reflect on the findings of the three empirical chapters and relate them to the overarching question of how to navigate the pragmatic transitional processes in formalised political unsettlement. What are the pathways to a post-liberal peace and how can they be translated for the policy world? More specifically, the conclusions engage with the question of how, and to what aims, situations of violent conflict may be approached. Is there still room for substantive, comprehensive transformations of conflict within a peace process? The pragmatic navigation of transitional processes has the potential of reconstructing agency in a way that overcomes the failure-based logic of liberal peacebuilding.

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The State of Affirmation in Peacebuilding: Locating Pragmatic Transitions

Approaching peace processes as pragmatic transitions is neither entirely new nor groundbreaking. Inclusionary hooks, creative ambiguities, blurriness, and disrelation have been a consistent part of peace processes in the past. Peace processes at all times required flexible and creative adaptations in order to be sustained. These adaptations did not chime with the strong normative underpinnings that endeavours in the name of peace always imply, which time and again provoke dismissive assessments. Practices handling radical contestations flexibly, thus, have often been met with a negative attitude. The peace research mainstream and peacebuilding practitioners interpreted them as implementation failure and were afraid that these practices would create and sustain potential triggers for a relapse into conflict. Pragmatic methods not focusing on the resolution of conflict are regularly rationalised in a pessimistic tone as defects or breaches of the good faith of peace negotiations.

This logic made sense in an era when peacebuilding was considered as being able—and responsible—to achieve real, measurable and sustainable success. Such an understanding does not necessarily refer to positive outcomes of peace processes. Peacebuilding claimed to be a causal factor for any outcome and classified the practices and events in processes based on its ability to influence them. The argument presented here instead argues that peacebuilding has reached a state of affirmation. What is affirmed is the context of peace processes and their own disabilities in influencing peace processes in a meaningful, effective and plannable way.

The observable reality shows that the most likely result of peacebuilding endeavours is not conflict settlement, but the mere formalisation of political unsettlement. Such formalised political unsettlement (Bell and Pospisil 2017) may be able to tame violence, but is hardly the constellation peacebuilding was trying to achieve.

Contemporary peacebuilding now affirms a peace process as it unfolds. It recognises and accepts that all conceptual and empirical knowledge gained in its practice of the last 25 years of crisis (Chandler 2017) will not help to reach what it is aiming for. For reasons I want to explore in this chapter, peacebuilding has lost its agency. Practices of non-implementation and non-solution of violent conflicts are the new normality of peace processes. This book aims to detect, heuristically typologies and reinterpret these practices as pragmatic transitions in a constellation of formalised political unsettlement.

A transitional approach utilising the existing pragmatic practices in peacebuilding may be able to support the reconstruction of agency in the state of affirmation. For this to work, however, the negative connotation of these practices has to be overturned. Flexibility, ambiguity and blurriness need to be framed as opportunities and not as unfortunate fallback options for negotiators when confronted with wicked challenges or the prospect of failure. The provision of inclusionary hooks, creative non-solution and disrelation exist in the everyday of formalised political unsettlement. They are the 'great outdoors' opening up in transformations after violent conflict (Chandler 2018b). Some of them may seem uncomfortable, yet they all are rich and often inspiring in their diversity.

This chapter commences the task of preparing the conceptual backbone of pragmatic transitions in formalised political unsettlement. In doing so, it is necessary to also investigate the obstacles to such a change in perception. Some groundbreaking work has been done in recent years on the relationship between peace and pragmatism (Kivimäki 2016; Wiuff Moe and Stepputat 2018). What is still missing is, first, a deeper problematisation of the state of affirmation and an investigation in its history and, second, a detailed positioning of a pragmatic transitional approach towards affirmation. Pragmatism as a philosophical concept offers a substantial challenge to the grand visions in which the discourse of peacebuilding theory is embedded. And yet, pragmatism has always been present, and peacebuilding's history has to be re-read in the light of a pragmatic transitional approach.

Considerable change has occurred in recent years: contemporary policy debates in peacebuilding and conflict resolution evolve around lofty and hard-to-pin-down notions such as inclusion or resilience. These notions can be interpreted as the ontopolitics (cf. Chandler 2018a: 15–21) of peacebuilding in the state of affirmation. The vision of such notions is indeed ambiguous. They still rely on liberal vocabulary but also accept and embrace the call towards contextuality and process. How did this happen?

Scholars and practitioners defending the classic liberal approaches of institution building and democracy promotion seem to have fallen out of fashion lately. The substantial challenges put forward by critical peace studies movements such as the 'local turn' (Mac Ginty and Richmond 2013) or the critique of reproducing Eurocentric notions even in reflective peacebuilding scholarship and practice (Sabaratnam 2013) have been taken up in policy circles to a surprising extent. This move, while contributing to affirmation, should still be appreciated and welcomed. A deep ideational contestation characterises affirmation in peacebuilding theory and practice. As such, it provides the opportunity of relating pragmatic transitions to contemporary academic debates as well as to ongoing policy developments.

Peacebuilding has always evolved in stages (see Richmond 2001, 2011, regarding statebuilding, see Pospisil and Kuehn 2016). However, the current shift may run deeper. It overturned the almost century-old contradictory and interwoven relationship between a security-focused realist approach to international peace, grounded in a strict interpretation of state sovereignty, and a normative liberal approach, based on cooperation and global responsibility. The debate on how to characterise this shift has just started. Oliver Richmond (2018) argues that we are witnessing a shift from 'analogue'—linear, hierarchical—to 'digital'—networked, fluid—international relations. I suggest capturing this shift, using vocabulary popularised by recent debates on the consequences of the Anthropocene for social sciences, as a transformation from authority to affirmation (Chandler 2018a: 193–196, with further references).

In the following, the current debate with its reliance on vague and ambiguous notions of inclusion and resilience is presented as a result of the collapse of peacebuilding's previous phases. These phases were authorised by concepts and, subsequently, by embracing context, conceptual authority and contextual authority. Contextual authority is a

direct outcome of the criticisms raised against top-down approaches of liberal statebuilding. They would suffer from a lack of contextual understanding, a missing focus on everyday practices and ignorance towards the complexity of institutional settings in political settlements. Against the background of reflecting on these two forms of authorisation, this chapter develops the argument of affirmation and, thus, provides the background for introducing the lens of formalised political unsettlement.

The first part unearths the dichotomous history of peace interventions in between realism and liberalism during the Cold War and reveals an astonishing level of pragmatism in the early realist approaches. Parts two and three focus on the historical, theoretical, but also pragmatic foundations of liberal interventionism, and the broad changes this interventionism has undergone since the 1990s. It describes liberal peacebuilding as a phase of conceptual authority and the subsequent phase, characterised by numerous critiques and policy responses, as contextual authority. Contextual authority is based on the belief that more knowledge and a better understanding of the everyday would result in better interventions. The final part analyses the reasons for the collapse of contextual authority, which provided the entry point for the state of affirmation. In conclusion, options on how to navigate the state of affirmation are started to be discussed.

International Peacebuilding Between Normativism and Pragmatism

The idea of humanitarian intervention into violent conflict existed long before recent debates about human security and an international 'responsibility to protect'. Ethical arguments justifying an outside interference in wars range far beyond the twentieth century. Heraclides and Dialla (2015: 14–30) trace back its history to origins in the Renaissance and the period of the French Revolution. What they uncover is that state sovereignty as an international principle—resting on the dogma of non-interference in internal affairs—develops hand in hand with the argument for interfering in other polities on humanitarian grounds. Sovereignty and intervention presuppose each other.

The intervention paradigm is usually traced back to Grotius, who made the case for humanitarian interventionism already in the

seventeenth century (see Criddle 2015). Grotius proposes two theories of military intervention: the obligation to punish non-compliance with international norms and, as a second option, guardianship, that is, the necessity to protect populations that suffer at the hands of their sovereign. While the vision of a norm-based, universal international system is already embedded in these two ideas, interventions are only acceptable as an exception to an international system based on mutual recognition of state boundaries—and are in fact its historical precondition.

Sovereignty, essentially interpreted as opposing any outside interference, and humanitarian intervention are the two keystones of the liberal world order as it eventually took shape in the nineteenth century. Their relationship was uneasy, but of strong mutual dependence, in conceptual as well as practical terms. The explicit anti-liberalism displayed by realist interpretations of sovereignty, a commonplace feature after World War II, is hardly imaginable without the liberal experiments of the early twentieth century, such as the League of Nations and the anti-war movement of the 1920s and 1930s. On the other hand, liberal internationalism always had to rely on non-liberal means in the process of its global dissemination (Jahn 2007a). Liberalism was not a self-selling venture, it had to be enforced.

It is worth noting that global liberalism and non-interference could even work together. In specific constellations, international powers agreed on an international responsibility to non-interference. The most prominent example is the Spanish Civil War of the 1930s, where French and British political pressure triggered an 'international non-intervention agreement' to prevent aggravating existing tensions in order to avoid further spillover of the conflict (Padelford 1937). While the intentions behind this agreement remain contested—whether it was an international conspiracy against the Republican side or a gigantic miscalculation of the French Popular Front government (Carlton 1971)—the idea remains conceptually groundbreaking. It confirms the deep, intrinsic linkages between realism and idealism in the wider realm of modern international relations.

After the Second World War, the contentious relationship between sovereignty and liberal interventionism was enshrined in the United Nations system. Global liberal governance became institutionalised and violent conflict—as well as world peace—turned into an international public good. The United Nations Charter stipulates its commitment 'to

maintain international peace and security'. The maintenance of peace relies on two components, one military and one civic. On the one hand, the charter calls for 'effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace'. On the other hand, it already anticipates peacebuilding, aiming 'to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace' (United Nations 1945: 1(1)). For the time being, however, the concern with violent conflict remained restricted to the international sphere, one of the big compromises the UN had to accept back then. This compromise would lead to controversial debates half a century later.

The Cold War is widely interpreted as an essentially realist system based on a balance-of-power between constellations of states centred around the Soviet Union and the United States. Sure enough, bipolarity would not have worked without sensible rationalism. It had politically nihilist elements inscribed into the ideologically loaded contestation. At the same time, both sides pursued strong normative visions. The liberal internationalism of the Western bloc, while often a broken promise in the Global South, originated development policy and was the ideological precursor to the humanitarian interventionism in the post-Cold War era.

Of equal interest is the normative underpinning of the Soviet bloc, especially during the post-Stalinist phase. In 1956, Nikita Khrushchev announced the theorem of 'peaceful co-existence' with which he alluded to the open acceptance of the bipolar situation. Peaceful coexistence would eventually cause the split with the People's Republic of China, where Mao Zedong was not ready to give up the formal status of belligerency with the so-called imperialist countries. Peaceful coexistence, however, was never meant to forfeit the perspective of world communism. It was constructed as unsettlement, as the perpetuation of contestation under a global stable framework. Soviet international lawyers constructed peaceful coexistence as a de facto agreement to disagree (see McWhinney 1962). Western international law was not recognised as a guiding global principle due to what was called differences in the developments of separate systems. Some norms of international law could nonetheless still be agreed upon. What emerged was a combination of the perpetuation of a communist vision and compliance with a power-based system of increasing stability.

The doyen of Soviet international law, Feodor Kozhevnikov, elaborated five principles of peaceful coexistence: mutual respect for territorial integrity and sovereignty, non-aggression, non-interference in internal affairs, equality and mutual advantage (Kozhevnikov 1960: 16; see also Tunkin 1958). The first three of these principles undoubtedly refer to the fundamentals of a sovereignty-based realist international order. In light of the history of the Soviet Union, these principles look hypocritical at best, given the persistent culture of military interference based on the rationale of securing and expanding the Soviet sphere of influence worldwide. The means by which this behaviour was justified in conceptional and legal terms was to confine peaceful coexistence to the international arena.

Two limitations applicable to world communism specified this restriction: first, in a paradoxical move, peaceful coexistence was defined as a 'conflict between social orders, avoiding armed conflict' (Kende 1968: 353). The third principle regarding interference was particularly important for upholding the normative vision: non-interference was a qualified element that did not refer to so-perceived situations of oppression as long as interference would not risk the framework as a whole. 'There is no peaceful co-existence of colonizers and the colonized, oppressors and the oppressed' (ibid.). In the ongoing processes of decolonisation, the Soviet bloc was explicitly partial towards decolonisation, yet restrained by the general promise of not touching the power balance on the global level by a large-scale armed aggression stretching beyond their own sphere of influence.

Globally, the Soviet Union accepted a pragmatic limitation of the normative claims for the sake of stability. Principles four and five, equality and mutual advantage, were meant to underline this pragmatic decision. Both refer to reciprocity, the acceptance of tit-for-tat behaviour in both escalation and de-escalation. Further, equality and mutual advantage recognise the limitation of normative claims and the readiness to collaborate on specific matters notwithstanding the normative contestation.

In hindsight, the construct of peaceful coexistence was a remarkable achievement. It combined the approach of interference based on normative grounds in their own domain—almost a Soviet version of the 'responsibility to protect'—with institutionalised pragmatism at the international level. The pragmatism worked based on a selective legal construct that spatially limits their own normative claim by accepting equality as a global principle. This discloses an interesting perspective on the realist power-based approach. Both the Soviet approach and, as it is discussed in the next part, the Western approach were predominantly not

nihilist. They still relied on a pragmatic acceptance that the establishment of each own's default positions beyond the respective power bloc would not work. This balance of power should not be mistaken as pragmatic peace, though, since the political dimension of the global contestation was immense.

Realist peace is a precursor to contemporary challenges in the condition of global multipolarity. Realist peace is inherently pragmatic. The Soviet interpretation acquiesced in the containment of contestation by a mutually agreed restriction of global ambitions: in a sense, a global formalised political unsettlement. The normative and political contestation remained protracted, and there was no solution to the conflict but the total collapse of one side, which was what eventually happened. Still, the procedural institutionalisations of the Cold War enabled multiple, fluid entry points of coordination and collaboration, while radical disagreement was upheld in a formalised way.

Conceptual Authority: The Liberal Promise of Peacebuilding

Forging the Liberal Endeavour: Anti-communism and Post-colonial Development

The opposing side, the Western liberal bloc, was equally unprepared to bury its global ambitions. In one way or another, all post-colonial forms of military, political and economic intervention were based upon the normative superiority of liberal democratic statehood. This ideal was pursued globally by the project of a liberal world order. Therefore, political interests always shaped development policy—the principal civil instrument in global interventionism—and the external support of building states and societies.

An oft-cited example is Harry Truman's inaugural address in 1949, in which he laid out the programme of international development. He introduced three propositions that would shape the thinking about development and conflict for decades to come. First, he linked national and international interests based on the foundation of individual liberal freedom: 'Above all else, our people desire, and are determined to work for, peace on earth – a just and lasting peace – based on genuine agreement freely arrived at by equals'. Second, he links this desire to

the political goal of anti-communism, which he calls a false philosophy 'which purports to offer freedom, security, and greater opportunity to mankind. Misled by that philosophy, many peoples have sacrificed their liberties only to learn to their sorrow that deceit and mockery, poverty and tyranny, are their reward. That false philosophy is communism'.

Finally, in order to implement this programme, he constructs the idea of 'underdevelopment' and frames it as a global security challenge: 'More than half the people of the world are living in conditions approaching misery. Their food is inadequate. They are victims of disease. Their economic life is primitive and stagnant. Their poverty is a handicap and a threat both to them and to more prosperous areas'.[1] Underdevelopment as a double threat—both as a direct security challenge and as a breeding ground of communism—became the founding narrative for the broad, civic project of liberal interventionism. From the earliest beginning, this project was shaped by political interests, besides anti-communism particularly the shift from colonial to post-colonial forms of control. The international power contestation also played a significant role. Discussing globally imposed norms outside of this geo-political context is impossible. Many of the current debates about—and the resistance against—institutions of global justice and norm promotion unfold against this background.

From the outset, the international project of development policy implemented Truman's vision in an economic sense, which also translated into the United Nations' mission statement. Arguably, the most influential work shaping Western and, in particular, the World Bank's development thinking in the 1950s and 1960s, was Rostow's (1960) 'stages of economic growth', which alleged that economic progress and catch-up development would eventually result in liberal democracy. It was not by chance that Rostow subtitled his book 'a non-communist manifesto'.

This economistic and top-down understanding of developing a liberal polity—besides the epistemological problem of rolling out the Western liberal understanding on a global scale—soon resulted in a practical impasse. For achieving development success in the sense of broad-scale modernisation, the multilateral development institutions and the big bilateral players, in particular the USA, were more than willing to accept

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[1] Truman's Inaugural Address, 20 January 1949, Harry S. Truman Presidential Library and Museum, https://www.trumanlibrary.org/whistlestop/50yr_archive/inagural20jan1949.htm, accessed 16 September 2018.

authoritarian partners and to supply them with international legitimacy and the necessary means to sustain their rule. The 'bastard, but our bastard' rhetoric of US diplomacy in the style of Henry Kissinger[2] was not just an outcome of anti-communist political power play. It was also a logical and almost predictable consequence of the growth focus in international development. Chile under Pinochet and the substantial engagement of neoliberal Chicago economists in support of that regime and its economic policies is perhaps the most striking case in point. Whereas, for example, Milton Friedman explicitly loathed the Pinochet regime, he supported it for the simple reason of anti-communist teleological thought. He firmly believed that economic liberalisation would sooner or later translate into political freedom.

Against this background, peace studies as well as conflict resolution practice (the term peacebuilding had yet to be established) continued to evolve as a binary contestation between realist and normative, liberal and socialist–materialist approaches. This contestation found its expression in a specific terminology and opposing policy camps, such as security versus peace or conflict management versus conflict resolution.

Both liberal and socialist–materialist approaches, however, rested on a global claim to shape a world system based on their core principles. They were closely intertwined as well: when Johan Galtung, squarely a materialist, defined his idea of 'positive peace' in 1969, he viewed a social-liberal framework aiming for social justice as a prerequisite for the absence of structural violence (Galtung 1969: 183–185). Tactical, strategic, but also normative reasons led to a diversification of the realist camp as well. The dispute between offensive and defensive realism and their respective justifications for foreign policy behaviour exemplifies this (Rose 1998: 154).

Thus, when watching closer, both Cold War camps display elements of pragmatism, engagement and firm normative foundations. This pragmatism, however, was firmly grounded in a steadfast belief in the conceptual authority of the liberal or social-material principles. International relations scholarship has rarely acknowledged this pragmatism until the emergence of constructivist approaches (especially Wendt 1992). The end of the Cold War did not bring an end to this contestation. What followed was a substantial transformation. The breakdown of the dominant global conflict between NATO and the

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[2]The quote goes back to Franklin Roosevelt referring to Nicaraguan dictator Somoza (the elder brother), whom he called a 'son of a bitch, but our son of a bitch'.

Warsaw Pact set the scene for a rediscovery of 'smaller' conflicts that some scholars soon labelled as 'new wars' (Kaldor 1999). The international system after the end of the Cold War was no longer required to limit normative claims for pragmatic reasons. The interpretation of violent conflict from the Cold War period would still linger on for some time. It found its expression in the dispute between the 'conflict management' and the 'conflict resolution' camp, with the latter intrinsically tied to peacebuilding.

Democracy Promotion

At first, the 'winning' liberalism opted for an expansive and optimistic attitude. For reasons not yet fully understood, the USA moved away from their pure realist approach already during the Ronald Reagan presidency. The shift from promoting economic development and anti-communism in whatever form of partnership (from Somoza in Nicaragua to Marcos in the Philippines) during Reagan's first term to democracy promotion in his second term was strategic and paradigmatic. Moreover, this change occurred several years before the end of the Cold War and Francis Fukuyama's 'end of history' (Fukuyama 1989) hypothesis.

The apparatus set in place by the Reagan administration determines how peacebuilding and statebuilding are conceived until today. Highly influential organisations such as the National Endowment for Democracy (founded in 1983) and the United States Institute of Peace (founded in 1984) are creations of this period. Substantial amounts of funding, including from the US intelligence services, enabled the establishment of a whole strand of democracy promotion research as a normative undertaking supporting the agenda for building democracy (cf. Robinson 1996: 45–55). The implications were groundbreaking: the fall of Marcos, with the explicit approval of the US State Department, which had been supporting Marcos over decades without preconditions, turned into a catalysing event in democracy promotion. Regime changes in Chile, Nicaragua and Haiti followed on in the latter half of the 1980s, fundamentally reshaping the political landscape of Latin America, in what Samuel Huntington (1991: i.p. 92–97) termed the 'third wave of democracy'.

William I. Robinson's 'Promoting Polyarchy' (Robinson 1996), a renowned account scrutinising the shift to democracy promotion,

interprets this process as a successful attempt to stabilise international political control of fragile and contested polities in the Global South in preparation for a post-communist era. In his view, the bold move from supporting authoritarianism to building democracy aimed at promoting polyarchic political settlements that would be easier to control by a global power. This argument was later substantiated by Beate Jahn (2007a, b), who, in her historical examination of liberal diplomacy, rejected the idea of honest interest. Instead, Jahn assessed liberal interventionism to be a structural component of international power play.

Nonetheless, democracy promotion has deep ontological roots that reach beyond mere power interests. It is a consequence of transferring democratic peace theory from the international to the national level (Newman et al. 2009: 11; cf. Lemay-Hébert 2013). The belief that integration and institutionalist neofunctionalism are instrumental in gradually building peace and promoting liberal democracy was also one of the main cornerstones that the European Union was built upon (Rosamond 2000: 51–73) and it remains one of the main drivers of its contemporary external policies (Pospisil 2016). Accordingly, ideational reasoning has contributed to the shift to democracy promotion. The direction the Reagan administration took—and with it the whole international apparatus of multilateral and bilateral development—was, in all probability, at least partly caused by the belief that political change is not just a consequence of economic development. It was about the export of the own political system within a controllable contextual environment. David Chandler (2006), thus, interpreted Western state-building interventions as 'empire in denial'.

The end of the Cold War verified this new thinking along the consequential perception of an 'end of history' due to the convincing and irrevocable win of liberalism (Fukuyama 1989: 1). Democracy promotion thus seemed the obvious choice, at least as an accompanying element of the still dominant framework of economic modernisation. Economic development, though, democratised as well and moved from pure growth-related approaches to basic needs and, finally, towards sustainability and inclusive development. The World Bank's 'good governance' agenda translated the overarching liberalisation agenda into technocratic policy terms (Doornbos 2001).

Institutionalisation Before Liberalisation

Democracy promotion soon encountered significant problems. These problems reflected the flaws that have already been identified in the theory of democratic peace, especially the limits of an externalisation of norms by democracies in case of a substantial clash of interests. Further, the argument of a principled peacefulness of democracies was not convincing, since 'elected leaders are not especially accountable to peace loving publics or pacific interest groups' and 'democracies are not particularly slow to mobilize or incapable of surprise attack' (Rosato 2003: 585). A number of accounts criticised democracy promotion and its methods when applied to ethnopolitically divided societies (Snyder 2000). In particular, anthropological insights confirmed that the problem for democracy to take hold in many countries was not caused by capacity problems. The dysfunctionality it met on the ground was indeed functional. Sociopolitical systems looking however random and chaotic from the outside may work astonishingly well for those who are able to utilise these conditions. Political elites in a variety of contexts showed an amazing ability to make political systems serve their particularist interests (Migdal 1988; Chabal and Daloz 1999).

Along with the increasing insight into the possible dysfunctionality of electoral democracy, international politics got concerned with the issue of violent internal conflict. Somalia, Rwanda and later the post-Yugoslav wars triggered this problematisation (Duffield 2001). These conflicts were perceived as turning upside down hitherto existing ideas of warfare. Mary Kaldor (1999: 2) and others argued that 'new wars' would blur the lines between warfare, crime, organised violence and human rights violations. Such multidimensional threats needed to be tackled, which required an expansion of security (into 'unbound security', cf. Huysmans [2014]) and its conceptual underpinnings. The latter was achieved by the 'human security' concept (Kaldor 2007). Despite some claims that it was not much more than 'hot air' (Paris 2001), human security's uptake at UN level, particularly in the 'In Larger Freedom' report (Annan 2005), helped to entrench the concept in the so-called development–security nexus (Duffield 2010). The development–security nexus streamlined the international approach of dealing with violent conflict in a highly securitised and simultaneously de-politicised manner (Chandler 2007), while still relating to the core principles of liberal statebuilding.

However, the fundamentals of liberal statebuilding shifted. With democracy promotion unable to address the prevalent security concerns, top-down institution building turned into the primary response to violent conflict. International statebuilding conceptualised the crafting and strengthening of functioning state structures as a sequential process. Participatory processes needed to be postponed after institutions would reach a sufficient threshold to guarantee peaceful political competition. In contrast to the heyday of development authoritarianism, this claim was not just raised by development economists or Cold War veterans, but by proponents of liberal peacebuilding as well, such as Roland Paris (2004). Institutional support could also require armed intervention. Mary Kaldor (2013) argued that humanitarian intervention might be necessary to adequately address violent conflict in the turmoil of new wars. In her words, these liberal interventions needed to be rethought as 'cosmopolitan law enforcement rather than war-fighting'. Doubters should be convinced 'through critical publicly-engaged analysis'.

The resulting contradictory assemblage of externally supported institution building, the promotion of global rights, international power play and colonial legacy did not yield the expected results. Cases such as Somalia, Rwanda, Iraq, Afghanistan and, not the least, the difficulties in establishing a transformational settlement in the Balkans—which eventually turned out to be a formalised political unsettlement—prompted growing scepticism. Conceptual authority became challenged by its former advocates: 'we insist that we are promoting democracy, self-government, and human rights, and that any effort to rule other people is merely transitional rather than imperial in ambition. Whether the Europeans know significantly more than Americans about how to square this circle remains to be seen' (Fukuyama 2005: 164).

The post-colonial accusation of 'empire in denial' (Chandler 2006) returned. More radical critiques than Fukuyama's challenged the rationale whereby international support could help to build functional and robust state institutions that would eventually lead to democracy and human rights. Furthermore, these critiques raised considerable doubts regarding the intentions behind such interventions and about their general doability. Conceptual authority got increasingly replaced by the authority of context: the knowledge and understanding of the everyday of violent conflict, peace processes and respective intervention.

Contextual Authority: Critical Accounts and Consequences

Tellingly, the term 'liberal peacebuilding' has been coined by its numerous critics when arguing against it. Very few of those in favour of the approach used this label (a notable exception is Paris [2009, 2010]). The array of critiques is broad. In particular, three strands can be identified which criticise the normative underpinnings of the liberal peacebuilding project: the argument of peacebuilding's hypocrisy, its lack of understanding and engagement with the local context, and its limited prospects due to changing international conditions. These three strands significantly influenced and eventually transformed peacebuilding practice. However, the main implications the critique had, the infinite need for contextualised knowledge and conceptualisation, resulted in a systems overload. Contextual authority, rather than delivering the expected results, turned out to be a passing stage towards peacebuilding's state of affirmation.

Liberal Peacebuilding Is Hypocritical

The argument of liberal peacebuilding's inherent hypocrisy follows up on previous work scrutinising the intentions behind development policy and military intervention. It reflects Robinson's (1996) assessment of democracy promotion as an instrument of US global power play and shares viewpoints with those interpreting development policy as a prolongation of colonial interests, as post-colonial scholars have argued (e.g. Dossa 2007). A distinction can be drawn between accounts accepting the aims of liberal peacebuilding but understand them as overwhelmed by conditions, context and policy pragmatism, and others interpreting the hypocrisy as a result of structural problems inherent to the principles of liberal interventionism.

Barnett and Zuercher's (2009) notion of 'compromised peacebuilding' exemplifies the former perspective. They explain the shortcomings in implementing global liberal standards with the limitations of international intervention, especially those set by national and local elites. A tacit pact would be the most likely result of this encounter, since, in most instances, neither side wants to get involved in confronting power politics. By enabling constructive ambiguity, so they argue, such

compromised peacebuilding may not be the worst outcome. Concerning the question of liberal peacebuilding's normative underpinning, this raises a powerful argument: people could be worse off if international norms and standards would indeed be fully implemented. Possibly, compromised peacebuilding is the best available option in the complexity of post-conflict constellations—an already affirmational claim.

From a normative standpoint, compromised peacebuilding is ambivalent. While it still subscribes to international legal norms, it accepts their limitations—especially in the course of their implementation—and instead looks for the best possible (or 'good enough') solution. Compelling in its pragmatist stance, this strand of critique shrinks peacebuilding's normative vision to the smallest common denominator which, in a considerable number of cases, may indeed be sincerely limited.

The second strand also starts from the observation that liberal interventionism has failed when investigating its local historical and political conditions (Jahn 2007b; Mac Ginty and Richmond, 2013). In contrast to liberal self-critique, which focuses on practical shortcomings, this strand takes direct aim at the normative foundations. As Jahn (2007b: 221) argues, the 'crucial role given to elections and civil society associations in the transition paradigm indeed entails a "romanticization" of the Western model'. Jahn does not make a simple relativist claim, which would assess that human rights or liberal democracy are contextual concepts that cannot be applied globally. The critique focuses on the impossibility to synchronise a developmental approach with liberal freedoms. Those on the wrong side of a 'development inequality' would get their rights denied by interveners based on the combination of a universalist claim with a 'particularist philosophy of history' which would distinguish between 'liberals and nonliberals' (ibid.: 224).

The inherent tautology within liberal values makes them unable to fail, but for the very same reason also incapable of succeeding. In humanitarian interventions, Jahn (ibid.: 226) continues, the impossibility of the application of global liberal norms without applying illiberal means becomes apparent. However, 'failure just confirms liberalism's basic assumptions – of its own superiority ... – and leads logically to the pursuit of the already failed policies with renewed vigour and conviction'. The speech given by former British Prime Minister Tony Blair in response to the Chilcot report, which inquired his decision to go to war with Iraq under Saddam Hussein, exemplifies this sense of superiority: 'We need an honest debate in the West about our own values and level

of commitment to them. The West has a big decision to take: does it believe it has a strategic interest in the outcome of the struggle in the Middle East and elsewhere around the issues of Islamist extremism? And if so, what level of commitment is it prepared to make to shape the outcome? My view obviously is that it does have such an interest and should make the necessary commitment'.[3] When contemplating about nonliberals and their treatment, Blair does not rely on liberal procedures but solely on his own judgement.

Such an approach could be termed 'militant liberalism'. What Blair does is the construction of a Western self painted as a morally superior 'coalition of the willing', which taps onto the Just War paradigm to legitimise the invasion of sovereign territory. Not just the immediate consequences of such an approach are disastrous, as it constitutes an act of war, in whatever way the UN or other multilateral frameworks might legitimise it. The consequences of militant liberalism range considerably wider. By using liberal norms to justify invasion, these norms get voided and lose any further credibility. Conceptual authority gets irreversibly undermined. The unsettling implication of critiques such as Jahn's (2007a, b) or Chandler's (2010) is that it may not be possible to induce liberal rights and freedoms in post-war transition without resorting to anti-liberal and violent policies.

Hybridity and the Local Turn

The most prominent counter-argument against liberal peacebuilding is posed by the so-called local turn (Mac Ginty and Richmond 2013). Against the background of older ideas by John Paul Lederach (2005) and others about the inescapable subjectivity and inter-personality of any peacebuilding engagement, the local turn reflects the 'inter-subjective nature of the relationship between projectors and recipients of the rapidly hybridizing liberal peace' (Richmond 2009: 55). The daily realities of the local become the primary locus of any engagement, comprehensive knowledge about the local context its indispensable requirement: 'The everyday is the space in which local individuals and communities live and develop political strategies in their local environment, towards the state and towards international order' (Richmond 2010: 670).

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[3] https://www.independent.co.uk/news/uk/politics/chilcot-report-tony-blair-read-response-statement-in-full-iraq-war-inquiry-a7123251.html, accessed 3 September 2018.

The intellectual challenge in conceptualising the local as a tale of two spheres is not the disconnection in between them. Liberal tools such as human rights or the rule of law have succeeded in connecting the international and the local normatively (Richmond 2010: 673). This connection is the background of the concept of 'hybridity' (Mac Ginty 2011). Hybridity describes the diverse outcomes of the conceptual and practical encounters of interveners and the intervened. The local turn, therefore, does not outrightly reject liberal peacebuilding. It is about a thorough assessment of its implications and consequences: the need for establishing the authority of context.

The major shortcoming of conceptual authority, according to this assessment, is one of representation. The big liberal concepts 'have failed to represent the everyday' (Richmond 2010: 673). Therefore, '[w]hile liberalism encourages us to look forward towards progressive goals, hybridity demands that we look backwards and ask questions about origins and antecedence' (Mac Ginty 2011: 76). This claim has a conceptual shortcoming. In theory, the local was a broad, trans-territorial and multi-layered term, focusing more on multiple and hybrid everyday realities of people affected by violent conflict than on specificities of societal agency. However, such a view proved to be hard to sustain. By distinguishing between a realm of the 'international' and a realm of the 'local', the local turn still depends on 'spatially-constructed rationalities' and, moreover, runs risk of reproducing colonial tropes (Sabaratnam 2013). Indeed, peacebuilding policy and some strands of scholarship as well rationalised the critique of the local turn by doing exactly that by searching for a particular truth hidden in the local. Contextual authority thus unfolded by generating excessive knowledge about the local context.

In his attempt to construct 'everyday peace indicators', Mac Ginty (2013) speaks of a 'textured "hidden transcript" found in many deeply divided societies', a transcript that 'could allow for better targeted peacebuilding and development assistance'. Somewhat contradicting his own hybridity claim, Mac Ginty revokes traditional ideas of social anthropology and its quest to reveal indigenous knowledge. As the hybridity notion highlighted, knowledge is constructed in interaction and communication, particularly in transitionary processes with international intervention. In the course of such interactions, global, national and local levels become intertwined to the extent that they are impossible to distinguish. Thus, no hidden knowledge 'out there' can make intervention

better. The everyday represents itself as a complex amalgam of opinions that vary along the subject positionality of their respective counterpart.

Many contemporary critics cite the lack of applicability as the local turn's main shortcoming. Sure enough, from the viewpoint of liberal strategic planning and results-based management, there is not much to gain besides the requirement to better incorporate context-sensitivity. At the same time, the local turn struggles to conceptualise the emancipatory endeavour in post- or non-liberal terms. Richmond (2009: 73) refers to the abstract idea of a 'global social contract' that would combine cultural pluralism and the underlying shared values of humanity. In parts, 'peace formation' reads as a rather mundane programme that reinvokes some of the traditions of liberal peacebuilding: human rights, democratisation, political autonomy and the protection of vulnerable subjects (Richmond 2016a: 190).

While contextual authority, of which the local turn is the most pronounced advocate, is able to confront the epistemological arrogance inherent in conceptual authority, it still struggles to overcome the ontology in which it is embedded. However, the insight that peace is not a *result* achievable by means of a strategy paves the way for approaches that move beyond the modern paradigm. The recent suggestion of substituting the term 'peacebuilding' with 'peace formation' is promising, whereby peace formation is understood as a shift in agency towards the mobilities and networks of the subaltern 'which are aimed at deeper political and justice claims' (Richmond 2016a: 190). Such an approach takes into account the long dialogical tradition in emancipatory peace research, as it is represented by Herbert Kelman or John Paul Lederach, and relates it to post-colonial approaches.

Liberal Internationalism Loses Purchase Due to Changing International Conditions

The global purchase of liberalism's normative elements, such as ideologies, philosophies and traditions, is waning. Thomas Carothers and Oren Samet-Marram (2015) observe the emergence of a 'new global marketplace of political change'. The panoply of partnership offers in the global arena is unprecedented. These offers are not just based on material means but involve a new quality of normative selectivity. The global marketplace also operates in traditional spheres such as diplomacy and

conflict mediation. Moreover, it 'is also making itself felt in the traditionally quieter arena of democracy aid' (ibid.: 30). Drawing on Carothers' seminal work on the 'end of the transition paradigm' (Carothers 2002), Carothers and Samet-Marram argue that the increasing competition against the West in the quest for global democracy has to move away from the long-standing idea of inducing system change. '[T]he assumption that the established Western democracies are the dominant actors working across borders to affect the political direction or outcome in countries experiencing fundamental political change' (Carothers and Samet-Marram 2015: 29) is no longer valid.

Alex de Waal (2015) has radicalised the argument of a marketplace-like rationalisation of political identity and extended it to the local level. He asks about the role of international and other contractual rights and obligations in contexts where every form of political identity works as a fluid commodity. In his view, the political marketplace is something literal and real. In several contexts subject to peacebuilding endeavours, political loyalty is bought and sold like any other good on a market. It has a certain price level that experiences periods of inflation and deflation. De Waal underpins this claim with his observations in the Darfur peace negotiations, in which none of the included militant groups seemed to be really interested in what was discussed in the formal talks and stipulated in the peace agreement. What these actors were interested in was the amount of money and other means they expected to get out of the 'peace process'. In portraying political loyalty akin to a commodity, accounts like de Waal's and Carothers' broadly follow the argument put forward by Collier, Hoeffler and others in their World Bank-commissioned study on greed and grievance (Collier and Hoeffler 2004). The greed and grievance debate has been instrumental in shifting the attention from the potential reasons for rebellion (in conflict studies frequently called 'structural causes') to the opportunities for rebellion, in particular, the relation between costs and (potential) benefit, as well as the availability of financial and military means.

The tone of this critique is pessimistic. Overly rationalist deductions may emerge from it, such as the idea to pay off actors for the sake of achieving short-term stability. Nonetheless, the marketplace approach does not necessarily refuse the normative elements of liberalism. It entails, however, a substantial challenge on how to proceed with liberal values which are under growing pressure globally. The liberal overstretch can currently be observed in the increasing rejection of the International

Criminal Court (ICC), which, in some regions of the world, has turned into a symbol of unwanted interference of liberal power. While only Burundi withdrew its membership in 2017, the court is becoming increasingly unpopular in wide parts of sub-Saharan Africa. Uganda's President Yoweri Museveni, for example, called the court 'a bunch of useless people'.[4] The ICC as a symbol of global liberalism is not just getting rejected by a substantial and ever-growing number of governments in sub-Saharan Africa but has also experienced a downfall in public perception. Neither Museveni's remarks nor the attempted withdrawal of South Africa—currently in limbo after a court case and a change in the presidency—resulted in a noticeable public outcry.

When the defenders of global liberal governance become restricted to the OECD more and more world and the multilateral organisations situated therein, the anti-liberal backlash enabled by the global marketplace is in full swing. Consequently, ethical considerations about liberal values or related normative projects such as international criminal law are losing purchase. What remains is a problem of international power which is different from the one highlighted by the critical approaches in the 1980s and 1990s, such as post-colonialism and anti-Eurocentrism. These elements still play a decisive role in shaping political claims also in the Global South (Pospisil 2017), but their influence on political decision-making is limited.

Against this background, the marketplace critique is not arguing for value relativism but offers as a sober assessment of the globally diminishing ideational power of liberal values (cf. Newman et al. 2009: 12). The decline of liberal internationalism has significant consequences, since any further attempt to enhance the global establishment of liberal norms, for instance by the qualitative and quantitative expansion of international organisations, is bound to fail and is going to decrease the remaining normative power of liberal values even further.

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[4] *The Guardian*, 12 May 2016, 'Walkout at Ugandan president's inauguration over ICC remarks', https://www.theguardian.com/world/2016/may/12/walkout-at-ugandan-presidents-inauguration-over-icc-remarks, accessed 3 September 2018.

Peacebuilding Entering a State of Affirmation

The three scholarly critiques—peacebuilding as a compromise, the ignorance of context, and peacebuilding's diminishing relevance due to changing international conditions—were taken seriously by policy actors. However, the answers that they give—i.e. acquiring necessary contextual knowledge, attempting to practically relate with context, and accepting diminishing influence—fails to translate into positive outcomes. The task practitioners have to face is overwhelming. The initial goal of tailoring contextualised interventions by effectively focusing on a local level that would then trigger broader implications such as fostering inclusive political settlement has not materialised. The engagement with context, conceptually and empirically, failed to show the fruitful results practitioners were hoping for. Contextual authority never supplied real authority but contributed to the loss of agency. The effort of embracing context resulted in affirmation, the only remaining consequence after another quest for establishing peacebuilding authority turned out to be elusive.

Ontological Doubt

The rationalist critique vis-à-vis liberal peacebuilding, such as it was raised by Collier and Hoeffler or de Waal, can be interpreted in a more fundamental way. These accounts imply serious ontological doubts towards the foundations of liberal interventionism in the context of complexity. The ontological underpinning necessary for the responsibly acting subject—which is also the subject of modern peacebuilding—disappears with the loss of causality. Interestingly, causality was what the Collier's World Bank studies group struggled to establish. Root causes for conflict, which was what they were looking for, never appeared in a clear-cut way, remained ambiguous and were barely identifiable.

A fully autonomous, responsible subject, comparable to the infamous *homo oeconomicus*, has always been an ideal-type figure. The transformation discussed here is not about the loss of the ideal type. The claim is much more fundamental: just like the *homo oeconomicus* would be obsolete outside of the conditions of market economy, the autonomous responsible subject vanishes when its structural foundations, in particular the ability to foresee and assess the consequences of its actions, no longer exist.

As Chandler (2014) argues, the ontological conditions of the Anthropocene transcend the traditional agent–structure divide as well as the divide between the international and the local. What emerges in complex environments are structural linkages encompassing these divisions, which some would understand as 'hybrid' in the sense of an 'interaction between cultures attend contexts undergoing international … operations' (Mac Ginty 2011: 72; cf. Richmond 2009: 55). The ontological argument reaches significantly beyond hybridity. By introducing complexity as a condition of life, the global context requires to be understood 'as removing the fixed or "organic" nature of political communities and ties between states and societies'; hence, it 'problematizes the possibility of fixed moral frameworks of judgement' (Chandler 2014: 443).

In the emerging ontology, individual responsibility is no longer possible since the causes and consequences of actions are impenetrable. The conditions of personal accountability are irrecoverably lost in such a setting. Any clear and causal relationship between actions and outcomes is impossible to construct (ibid.: 444). Indeed, this ontological shift requires thinking beyond liberal norms, because the loss of the fundamental conditions of individual autonomy renders its claims of rights and obligations obsolete.

New institutional economics (NIE) adopts such a complex ontology. By transmuting the focus from economy or ideology to institutions and their contextuality, NIE neglects the possibility of successful external interventions in institutional settings. Institutionalisation is re-interpreted as a contextual process. The ontological space for crafting institutions by external support or making them work according to top-down inflicted aims has closed. Such practices had been the cornerstone of international intervention, military, politically or by developmental means. Intentional systemic change is rendered impossible, systemic critique pointless (Chandler in Chandler and Richmond 2015: 17). The agent–structure distinction transcends. The possibility of peacebuilding to do peace, its only justification, gets lost.

The End of Linear Causality

Causality is one of the central foundations of modern political thought (for a substantial critique, see Jonas 2001: 21–25). The rationale whereby a violent conflict would occur because of empirically identifiable

root causes is one of the empirical backbones of liberal peacebuilding. Hence, linear causality is a persistent characteristic of conflict analyses.

Over decades, the idea of proxy wars dominated conflict analyses during the Cold War (Kalyvas and Balcells 2010: 416–418). Such an approach was inadequate to capture the complex realities of violent conflict on the ground. Nonetheless, it offered an explanation that guaranteed strong and sustainable international buy-in. Further, it was firmly rooted in teleological optimism of the democratic peace narrative. It took almost a decade after the end of the Cold War before new narratives emerged. Mary Kaldor's description of persistent violent conflict as 'new wars' (Kaldor 1999) may sound overly simplistic in hindsight, but it broke with causality-based analysis as it was predominantly concerned with the consequences of violent conflict. Thinking in terms of 'new wars' characterised these conflicts, first and foremost, by particular effects and impacts and not by their causes.

The political translation of the 'new wars' notion, however, relied on the established conflict resolution approach. Even in the unfavourable conditions of the Cold War, conflict resolution had already some uptake and relevance after its expansion to internal violent conflict since the late 1950s. The 'Journal of Conflict Resolution', first published in 1957, pioneered this application and acted as an early adopter in deliberating environmental or ethnopolitical causes of conflict (e.g. volume 1:4). Academically, conflict resolution showed multifaceted applications and carefully distinguished between conflict settlement and conflict transformation (Väyrynen 1991). It also showed remarkable diversity regarding its epistemological foundations (Ramsbotham 2010).

Conflict resolution's application in policy and the feedback loop it took back to academia and research caused by the increasing demand by policymakers to better understand the process of intervention were simplistic. Standardised toolsets of conflict analysis, which became fashionable during the late 1990s, rested on the two cornerstones of 'root causes' or 'structural causes' and 'trigger factors', with, sometimes, 'proximate causes' in between (see, for example, Saferworld 2004: 2:3).

'Root causes' soon developed a life on their own. Frequently, they got linked with justice-related, distribution-related or governance-related factors. To become easily applicable by policy practitioners, these elements got described and evenly disbursed in standardised conflict analysis frameworks (Khittel and Pospisil 2010: 64). For the first time, the 'root causes' approach was challenged in the early 2000s by the

aforementioned, highly influential World Bank study group led by Paul Collier. Collier's group argued that opportunities for rebellion provide more explanatory value than grievances (Collier and Hoeffler 2004). While this hypothesis substantially questioned a conflict model based on linear causality, their linear claim—the opportunity structure—needed to be revoked in the end, as no significance could be established when testing a substantial number of different cases. Violent intrastate conflict proved to be too complex for persuasive statistical modelling.

The misleading character of the greed versus grievance debate had a devastating effect on the trajectories of policy thinking. Instead of accepting complexity, other types of frameworks were developed, mainly referring to state structures and state strength (cf. Pospisil and Kühn 2016). Weak, failing or dysfunctional state institutions emerged as a new root cause in the debate (see, for example, Ghani and Lockhart 2009). Subsequent standardised frameworks, such as the Fragile States Index,[5] tried to incorporate all possible factors into one approach. Instead of fighting fierce battles over which factor provided better explanatory value, each factor got included on an equal basis.

The search for root causes essentially mirrors the political and economic visions of those looking for it. Causality operates as an ontological tool for the normative underpinnings, although under the condition of tactical weakness. Over the years, the frameworks became increasingly eclectic and less rigorous. Against this background, the core objective of liberal institutionalism, democratic statehood, turned into the primary method of conflict resolution and its absence into a universally applicable root cause. Tautology was what remained when causality got lost.

Complexity

Several contemporary frameworks dealing with violent conflict work on overcoming the reasoning in linear causalities. The political settlements approach, which will be discussed in the next chapter, is one of them. Designing a trajectory for political settlement transformation faces severe conceptual challenges from the outset. However, this should be seen more as a strength than as a weakness. Following on, thinking in terms of political unsettlement offers a perspective for interpreting the political

[5] http://fundforpeace.org/fsi/, accessed 3 September 2018.

settlement framework as a process-substance dualism, as multipolar and consisting of multiple scales. Such a perspective calls for adaptive policies that seek to overcome 'high modernist' solutions of unitary policies (cf. Ostrom and Janssen 2004: 254). This multipolar, multi-layered, process-substance character is not comprehensible by causal analysis. Political settlements thus are complex systems. Their characteristics and capacities differ from those of their constituent elements (de Coning 2017: 21).

Complexity theory fairly recently made its way into debates in development research (Ramalingam 2015) and peacebuilding (de Coning 2016). Both policymakers and scholars in peace and conflict studies are still reluctant to applying it. Often, 'complex' is conflated with 'complicated'. The predictable reaction renders it as useless because 'complicated' is not an insight that surprises either long-standing practitioners or peace and conflict researchers. The difference is conceptually established: whereas complication refers to intractability, complexity refers to nonlinearity (cf. Urry 2005: 3). Despite the scepticism from the practitioner side, complexity offers valuable practical insights and implications. For these to become fruitful, however, complexity requires a different kind of analytical thinking. A shift from the currently dominating agent–structure framework to one based on systems is required: 'Complexity investigates emergent, dynamic and self-organizing systems that interact in ways that heavily influence the probability of later events. Systems are irreducible to elementary laws or simple processes' (ibid.).

Cedric de Coning's recent work has tested complexity theory for its usefulness for peacebuilding. His insights are thoughtful and the principles he derives (de Coning 2016: 3–7) chime with the post-liberal critique raised above. First, de Coning refers to the need to understand complex systems as being nonlinear, holistic and self-organising. This has potentially grave implications. If complexity is not approachable by an agent–structure-based logic, the currently dominant actor perspective in peacebuilding is substantially undermined, as is peacebuilding agency as such.

Second, complex systems tend to feed back (Ricigliano 2011: 17). Hence, any peacebuilding engagement has impacts on the interveners and on all relationships within the system. This feedback process is the main reason for the non-predictability of complex systems such as political settlements. The mutual interference of relationships, and subsequent behaviour, cannot be modelled in a meaningful way. This is not to say that complex systems are not approachable by analysis, but this analysis

has to focus on the characteristics of the system. Contextual authority is not equipped to address these questions.

Finally, de Coning raises ethical questions when dealing with complex systems, mainly the issue of unintended consequences, which are very likely to occur when cause–effect relationships do not work in a linear manner. In such conditions, the 'do no harm' approach is of no help anymore. Harm will be done, and someone's interests will be negatively hampered since any intervention will lead to political and societal shifts and transformations which unavoidably creates losers. Peacebuilding hence finds itself in a position of particular unease. Severe ethical consequences merge with a situation of diminishing agency.

The End of Knowledge and Relational Solutions

The consequences of linear causality are obvious: a clearly identifiable cause for violent conflict requests the resolution or elimination of this cause as an immediate response. Indeed, this is what a number of peacebuilding methods intend to do. Problem-solving is based on the isolation of problems, which are then 'designed and administered via a donor funded programmatic intervention' (de Coning 2017: 27). Solutions may appear in different forms. De Coning's assessment highlights the everyday of donor interventions. Programming, either by adding specifically designed programme goals or so-called cross-cutting themes, requires project and desk managers to accumulate analytical data and impact statements addressing the root causes usually established by applying a standardised conflict assessment framework.

In peace process practice, three methods are primarily used to tackle the identified root causes. The first one is development policy, which is, by design, largely restricted to economic and social factors. The second method is the establishment and enforcement, if necessary with international support, of contractual solutions that rest on a shared understanding of these root causes and provide institutionalised forms of dealing with them. The third method is to mitigate distrust stemming from the root causes. Contextual authority further complicates the task, since it does not allow for the simplifications without which any such analysis is bound to fail—in the sense of getting impossible to do, not in the sense of leading to a wrong outcome.

The experience with these methods is disillusioning. One of the major problems in designing peace processes based on a root causes analysis is

that these causes depend, first and foremost, on perception. International peacebuilders tend to project their political and societal worldviews on a given context, using root causes as transmitters, which explains the current inflation of explanations referring to inequality and exclusion. Conflict actors, in turn, use root causes narratives to justify their political claims. The inherently liberal idea of relating conflict actors along mutual experiences and, in a further step, along a joint analysis is a major pitfall. It either creates winners or losers or establishes an overcomplex framework of societal transformation that is impossible to implement in any meaningful way.

In most instances, the applied solutions that derive from such negotiations merely formalise the unsettlement in place. The formalisation may result in taming violence, but also in its perpetuation. Oddly, unsettlement is the primary gain of formalised political unsettlement. The formalised character challenges the common-sense notion of liberal political thinking that political unsettlement would be in need of being resolved. In such a case, the management of even antagonistic conflict rests on a robust and capable set of formal institutions. Neo-institutionalist insights about the highly efficient role of informal institutions (cf. Helmke and Levitsky 2004) challenge the idea that a formal institutional framework and an inclusive political settlement are the only two potential avenues to approach violent conflict. For peacebuilding already overburdened by the task of establishing contextual authority the requirement of establishing such an institutional setup based on superior knowledge just aggravated the sensed loss of agency.

Navigating Affirmation

Ontological doubts, the loss of the certainty regarding the instruments in situations of complexity and the overburdening caused by contextuality resulted in affirmation, a situation where the world has taken over. Affirmation, however, does not lead to disengagement. Peacebuilding practices continue, for political and ethical reasons, partly habitually, partly in the attempt to formulate answers to the felt loss of agency. For the purpose of locating pragmatic transitions and the notion of formalised political unsettlement, two of the propositions on how to deal with the impasse left by contextual authority are discussed in the following. One is the attempt to conceptually rehabilitate peacebuilding, the other

follows the argument of embracing post-liberalism (on post-liberalism, see Gray 1993).

'Saving Liberal Peacebuilding'

The first suggestion is brought forward by renowned proponents of the scholarly discourse on peacebuilding, like Roland Paris and Mary Kaldor. The message is simple: reform and save liberal peacebuilding (Paris 2010). The main argument in order to do so is the alleged lack of viable alternatives. The downsides of the global imposition of liberal norms, which may even take violent forms, have to be counterbalanced with the bleak outlook of all other options. Alternative approaches which are not based on a liberal normative framework 'would likely create more problems than they would solve' (ibid.: 357). Such strategies, so the argument goes, would either risk to turn into violent authoritarianism or could reinforce local rifts and divisions, thus further undermining the rule of law, which is perceived as being fundamental for the functioning of peaceful societies.

Recent accounts are more nuanced compared to early liberal interventionism in the post-Cold War period. On the one hand, the proposed changes concern tactics. They suggest shifting from a principled, such as in democracy promotion, to a sequenced approach (cf. Paris 2004; Ghani and Lockhart 2009). Nonetheless, such sequencing echoes the substantial conceptual problem any attempt of liberal peacebuilding has to face. In order to work, the consequential interventionism has to rely on illiberal and at times violent means, thus undermining its own ethical foundations (Newman in Newman et al. 2009: 30–31; Jahn 2007b). Therefore, Paris (2010: 359) adds a self-reflexive and self-constraining element. He embraces contextual authority and accepts context as a precondition for intervention, rebutting institution building in the traditional sense. Instead, Paris (ibid.) argues for the choice of support: 'Consequential decisions must therefore be made to privilege some structures and not others – and, as much as peacebuilders might view themselves as referees in such decisions, in fact they will always be "players" simply by virtue of their relative power in the domestic setting of a war-torn state'. This thinking resonates with current international strategies, such as the EU Global Strategy, in which the EU's engagement 'entails having more systematic recourse to cultural, inter-faith, scientific and economic diplomacy in conflict settings' (EUGS 2016: 31).

The remaining liberal peacebuilding camp argues for reinforcing liberal values as the guiding principles for continuously shaping intervention. Principles of liberal governance would not be something static and limiting, but rather 'offer a broad canvas for institutional design and creative policymaking' (Paris 2010: 360). 'Inclusive politics', as used in the US National Security Strategy (NSS 2015: 10–11), or the 'inclusive political settlement', as used in the EU's Global Strategy (EUGS 2016: 31), have emerged as the internationally digestible language of this 'broad canvas'. These notions already build the bridge to the ontopolitics of peacebuilding in affirmation. While still referencing liberal principles, their vague and ambiguous character enables a perpetual accommodation of policy failure.

At the same time, political demands shift back to a logic of security, democracy promotion and effective service delivery. These notions are increasingly augmented with a discourse of securitisation and delegitimisation. The EU Global Strategy, for example, explicitly refers to fostering a 'legitimate economy' when speaking about issues of inclusive politics (ibid.: 31). Likewise, the US National Security Strategy highlights 'combating corruption and organized crime' in the same sentence in which 'inclusive politics' are referred to (NSS 2015: 10–11).

These two examples demonstrate why the 'broad canvas' that liberal values provide is conceptually bound to fail in peacebuilding practice. Liberal values are always entrenched in the consequences of illiberal behaviour. Since the latter is the norm in the context of liberal peacebuilding intervention (otherwise the intervention would not be necessary in the first place), it is accompanied by a language of security, threat and interest. In a way, this is what affirmation has left to offer. When liberal peacebuilding is not doable anymore, the containment of external threat is where the last residuals of agency take hold.

Practising Post-liberalism

Affirmation also relates to another fundamental issue brought up by the local turn and post-colonial approaches. Often, even peacebuilding's fundamental critics were not able to escape the 'binaries of liberal universalism and cultural relativism' (Chandler 2015: 27), an issue profoundly felt by external peacebuilding practitioners as well when reflecting their positionality. The universalist–relativist distinction emanates from liberalism and cannot speak to the (at least potential) ontological shift away from individual autonomy to complexity as the foundation of social order.

The advent of resilience, inclusion and political settlements are a consequence of this shift. Chandler understands resilience as a possible pathway to move beyond the binaries of international/local, universalist/relativist and agent/structure. In line with this reasoning, resilience offers a counter-concept to a society ruled by law, since it relies on 'reflexive law' (Stockholm Resilience Center, quoted in ibid.: 42): 'Law follows society but not because there is a clash between liberal universalism and cultural relativism but because liberal frameworks of law are understood to be the barrier to governing complexity rather than a solution' (ibid.: 43). A post-liberal understanding in peacebuilding, therefore, does look at the process dimension of how institutions work. Resilience thus is governance that 'operates through societal processes rather than over or against them' (ibid.).

Resilience and inclusion both reorientate conceptual thinking, analysis, planning and application towards what is actually happening. The acceptance of these processes is an essential element of affirmation. There may be a chance to get integrated into a societal process, but there is no chance of influencing it in a causal way. At the same time, resilience and inclusion are vague and ambiguous, thus opening a broad political field to be populated by norms, theories and practices. They are an expression of the ontopolitics in affirmation, where 'it is the world itself that shapes and directs the content of politics' (Chandler 2018a: 15). For these notions to take root, fundamental aspects of liberal freedoms need to be sacrificed. The 'contingent sovereign decision is withdrawn under the "weight" of concrete descriptions and spatial distributions' (Aradau 2007: 499). Again, as it is with the approach of trying to save liberal peacebuilding, agency in the modern sense has been lost and replaced by choosing the best possible flow of inclusion and resilience.

Regaining Agency: Pragmatic Transitions as Relational Engagement

What is to be learned from these avenues for the options of navigating affirmation? First, the reconstruction of agency cannot be based on a supposed superiority of values or institutional settings. Even the few remaining proponents of the liberal peacebuilding camp would acknowledge that. The consequences for the international level are significant. Pragmatic transitions are not meant to utilise and, in turn, implement

global liberal governance, nor should they. In affirmation, no space remains to design internationally valid normative frameworks and impose them with external support, or to design state-like entities and subsequently work towards constructing a social contract. While the assessments are divided if such attempts ever have been successful or welcomed, those investigating affirmation, often sensed as an 'era of disillusionment' (Bell 2015), commonly acknowledge that this state cannot be approached by means of trying harder and better. A fundamental transformation is indispensable.

This does not imply the definitive end for liberal values. Human rights, electoral democracy and individual freedoms have to play their part also in pragmatic transitions. However, the prescriptive style of implementation has reached its endpoint. Global norm entrepreneurship as it is pursued by the United Nations or the European Union in their customary practices of drafting resolutions, strategies or treaties and expecting a top-down implementation have been stretched beyond their limits and, most likely, beyond their lifespan. The current global backlash against liberalism is not a result of technical problems or a lack of capacity. It is due to either a sustained delegitimisation or a change of ontological conditions, or both. Neither better consultancy nor additional support can stop the decline.

The historical take on peacebuilding's authorisations demonstrates that these are always intrinsically linked to the process of how they are searched for and constructed. Affirmation is a direct consequence of the question regarding what the current ontopolitics of inclusion and resilience evoke. The liberal promise of equal rights and obligations for all, guaranteed under one nationally organised social contract, is not able to provide the required procedural quality. Although state-builders, constitution-builders and democracy promoters alike, in theory, subscribe to a process perspective, they practically rely on blueprints. In the state of affirmation, consulting on the establishment of rule of law-based state institutions, constitutional assemblies or electoral processes is both accommodating and pointless. Failure is inscribed as well as expected.

What follows from most of the critical accounts discussed in this chapter, also from those sympathetic to liberal values, is the need to overcome the modern peacebuilding approach by embracing affirmation. Where most critics fall short is in proposing credible alternatives to regain the lost agency. The reconstruction has to start from the practices that are happening, from the pragmatic elements that have always characterised

post-war transitions. While it is impossible to know what a transitional endpoint should look like, certain principles or modes of engagement can be derived. These principles may offer guidance in the messy everyday of pragmatic transitions. As such, they form the nucleus of a renewed agency in a state of affirmation.

Reflecting the everyday of peace processes is an exercise in social learning. External involvement in transitional processes hence is an effort of relational engagement (cf. Chadwick et al. 2013). Relational engagement rests on difference and diversity. Relational sensitivity is not the same as relativism. However, self-reflexivity and mutual learning take priority over claims of justice, rights or equality. To avoid the possible problem of a relational approach not being able to overcome the issue of global hierarchy and power relations (as Chandler highlights in Chadwick et al. 2013: 25), normative inputs at whatever level (politics, law, economy) need to be understood as offers. When engaging in pragmatic transitions, especially external engagement needs to accept that such offers may also be rejected.

Without a doubt, rejections can lead to a serious, unsolvable, moral impasse and the feeling of losing any influence. It is still the only way of reconstructing agency. One consequence of the state of affirmation is that any attempt of enforcement makes the loss of agency more apparent and sustainable. Pragmatic transitions have to be conceptualised as accepting and working with the given limitations which is, in fact, the only way to manage complexity (Sanderson 2009). Post-liberal critique offers a valuable lesson in that regard. By denying the liberal potential to overcome identity politics through individual rights, it is a warning sign to apply representational approaches with care.

Considerable space exists in between the extreme avenues of value relativism and norm entrepreneurship. For describing this space, Oliver Richmond has suggested the old-school term 'humanity'. This space needs to be further explored by means of relational engagement. It necessarily comes down to societal fundamentals, where any relational engagement takes the form of mutual learning. While a firm normative stance certainly supports any learning exercise, it primarily requires self-restraint. How contemporary ontopolitical notions such as inclusion and resilience work and may be utilised for a relational exercise, or if they should be principally rejected, is a matter of dialogue and learning. To keep a dialogue going (but also knowing when to end it) is the task of the day. 'The need to mediate difference, interests, and norms,

still remains' (Richmond 2016b: 13), but in so doing, 'pluralism across widely divergent normative and identity frameworks' is a sensible prerequisite (ibid.: 14).

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Conceptualising Formalised Political Unsettlement

The narrow boundaries of what liberal peace has defined as due process and an acceptable end state are residuals from conceptual authority that are still at play in peacebuilding in affirmation. When Christine Bell and I developed the notion of formalised political unsettlement (Bell and Pospisil 2017), we sought to challenge these boundaries. In more concrete terms, we wanted to achieve two things. On the one hand, we aimed to develop a framework that accurately describes actual constellations produced by international peacebuilding as they evolve. This attempt contrasts existing methods of assessing intervention and peacebuilding progress, which evaluate given constellations from the viewpoint of an aspired end state. On the other hand, the framework should open up a fresh, optimistic perspective on activities and methods used in transitional processes, so as to overcome the pessimism and disillusionment attached to affirmation.

Most of the assessment frameworks in conflict analysis and peacebuilding inhabiting the field over the past two decades did reproduce liberal blueprints. Especially fragility assessments, a product of the late stages of the statebuilding paradigm (cf. Pospisil and Kühn 2016), speak more about those producing and using these assessments than about so-called fragile contexts. Taking a closer look at the indicators of the popular 'Fragile States Index'[1] displays how the world, states and violent conflict are ordered along ideal-type liberal framings. The political

[1] http://fundforpeace.org/fsi/, accessed 18 September 2018.

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indicators—state legitimacy, public services, human rights and the rule of law—are essential cornerstones of a liberal polity. Thus, it comes as no surprise which countries rank last on the index, namely those which are doing best across the categories of the index: Finland (178th), Norway (177th), Switzerland (176th) and Denmark (175th). The ranking is insightful regarding the worldview of the creators of the index, but less so regarding the multifaceted situations existing globally.

Nobody intends to question that the realities and processes that these categories represent in countries leading the index often represent dreadful conditions for the everyday lives of people. However, it is puzzling why such assessment frameworks still are widely used. Their content authorises itself predominantly on a conceptual level. These frameworks are not remnants of the liberal peacebuilding era. They are, in blunt words, not just old-fashioned, but have a specific function in affirmation. A rationalisable explanation for failure is provided which is sellable politically, and still enables the continuation of habituated practices, since the index renders the conceptual background of these practices as unavoidably successful. 'After all, this is *known* to work: it works in Denmark' (Pritchett et al. 2010: 42; see also Fukuyama 2012: 14–22). When failure is accepted but not recognised, the opportunity remains that an approach might still achieve what it claims is possible and necessary to achieve: 'it is hard to not believe that simply applying more resources to achieve good goals by implementing good policies through good organizations is not the obvious, if not only, strategy' (ibid.).

The liberal vision, widely disregarded in approaches relying on contextual authority, thus celebrates a remarkable comeback in affirmation. Such a vision is needed to provide accommodation because it offers a tangible script for perpetual failure. Since liberalism has worked elsewhere, it is a fair assumption that contextualised, well-informed interventions fail because of the unfavourable conditions. Peacebuilding success in one of the top-ranked fragile states would mean winning against all odds, failing to do so just confirms once more the inescapability of the context conditions, which hence need to be affirmed.

The notion of compromised peacebuilding (Barnett and Zuercher 2009), briefly discussed in the last chapter, captures what types of processes and outcomes are to be expected. Importantly, Barnett and Zuercher go a step further and argue that peacebuilding's failure to realise its aims is not the worst outcome for recipients. Indeed, tacit agreement on non-compliance may support transitions in a better way

than any confrontational engagement could do. Nevertheless, compromised peacebuilding uses a dismissive tone. It accepts failure as the best result and, thus, prepares the intellectual background for affirmation. When compromised peacebuilding is the only remaining route, there is no need for change since agency, in the last instance, has no role to play anymore.

What formalised political unsettlement argues, in contrast, is that even in protracted and frozen constellations more options for transitional engagement are on the table than contemporary peacebuilding approaches would recognise. The accommodation in compromise, one of the characteristics of affirmation, is preventing such recognition. Thinking in terms of formalised political unsettlement suggests a mode of engagement that, instead of concentrating on overcoming the impasse of unsettlement, aims to work with it and in it. It rests on a pragmatic approach and a focus on feasibility. Transitions in formalised political unsettlement rest on existing practices in the everyday of peace negotiations, some of which will be discussed in subsequent chapters. Formalised political unsettlement, best described as a lens on situations of complex crisis, also serves as the backbone of pragmatic, process-oriented practices that avoid solutions. Following on the discussion in the last chapter, the following parts elaborate the elements of formalised political unsettlement in their relationship to the political settlements concept and the general trend of post-liberal approaches in peacebuilding. Thereafter, some of its particularities, characteristics and consequences are examined.

The Ontopolitics of Peacebuilding in Affirmation

The notion of formalised political unsettlement unsurprisingly derives from the political settlements concept (Di John and Putzel 2009), which has gained traction especially in UK peacebuilding and development policy in recent years. Before the conceptual history and purport of political settlements are discussed, a thorough exploration of the conceptual background is required: an analysis of the ontopolitics of peacebuilding in its contemporary state of affirmation.

Political settlements' incorporation in the development and peacebuilding discourse consummated against the background of affirmation. Despite having a solid scientific background in new institutional economics (NIE) and some, however contested, definitions, the political settlements concept is frequently linked with two further notions of affirmation's ontopolitics:

inclusion and resilience. These terms are used in a variety of combinations. Policy discourse speaks about resilient political settlements (g7+group 2013: 14–15) as well as about inclusive political settlements (cf. Rocha Menocal 2015). While all three terms have their own histories and milieus, it is striking that they have emerged around the same period, from the mid-2000s onwards.

Political settlements, resilience and inclusion filled the void created and then left open by contextual authority. Peacebuilding was incapable of filling this void by generating empirical data, applicable knowledge and crafting comprehensive concepts. Political settlements, resilience and inclusion are, in a way, the conceptual antipodes of good governance, institution building and democratisation. The entry point of these three notions is the self-reflection in peacebuilding—and development in general—about its liberal roots. This self-reflection was already attempted in contextual authority but was then overwhelmed by the requirements an authorisation via context implies. The self-reflection, on the one hand, acknowledges the severe analytical limitations of classic liberal approaches. On the other hand, it cannot position itself in confrontation with liberal peacebuilding, since its language and elements are still dominating the political discourse and, moreover, chime with the normative orientations of the majority of the peacebuilding practitioner community.

What inclusion, resilience and political settlements thus offer as a substitution is a tacit conciliation of liberal peacebuilding with ambiguity. Instead of negotiating and carving out a superficial formalisation that serves the interest of both external peacebuilders, who need to demonstrate the implementation of a liberal framework, and national and local strongmen, who want to continue their mode of power brokerage, these notions enable both sides to take a step back and navigate their relationship without relying on clearly defined benchmarks.

The lack of benchmarks does not rule out measurement. The resilient political settlement has been chosen to become an integral part of the so-called Peace- and Statebuilding Goals (PSGs), a measurement framework jointly created by the OECD and its 'fragile' development partners. A closer look at what the notion entails reveals that it is not just about a modification of language. The resilient political settlement does not claim conceptual authority in the sense liberal peacebuilding did. A substantial transformation has taken place. The three ontopolitical terms achieve something that liberal benchmarks never were able to, namely to provide extensive leeway for interpretation, implementation and evaluation.

How does the PSG measurement framework of resilient political settlement look like? It incorporates the assertion of contextual authority and aims at reflecting the everyday. Simultaneously, measurement becomes an essentially political process. The decision on what has to be measured and what elements should be looked at when speaking about a resilient political settlement is a tough and substantially political negotiation (see Pospisil 2017). The prolongation of liberal thought remains visible as well. When defining the resilient political settlement, the PSG framework refers to well-known liberal quantities: political freedom and tolerance, democracy and good governance, or the separation of powers in government. Furthermore, it is part of the broader PSG 1 which is concerned with 'inclusive politics'. The goal as a whole demands the elaboration of contextualised and representative but still measurable indicators, which is something that is impossible to achieve. The ontopolitics of affirmation reflect the full spectrum of conceptual options and merge it into outputs never intended to be of practical use.

Resilient or inclusive political settlements are not anti-liberal concepts. Rather, they tend to unfold 'with the grain' (Levy 2014) and amenably incorporate diverse political priorities. At the same time, they avoid normative enforcement. By means of conceptual ambiguity, inclusion, resilience and political settlements represent a shift in paradigm. This shift occurs in a combination of incremental change, which is the way the policy world works, with peacebuilding's turn to affirmation. The new conceptual condition is highly challenging and volatile for practitioners. They cannot rely on safe bets anymore when designing interventions. Hardly any manifest goals are left to reach. Political settlements, jointly with resilience and inclusion, have triggered a reset of peacebuilding by creating a vast practical void.

Political Settlements

The political settlement approach is a conceptual innovation of the post-liberal shift in international relations. Besides violent conflict, political settlement thinking finds an astonishingly diverse range of applications, especially in the broader realm of development studies. The approach emerges from a critical intellectual engagement with state-society relations, utilising ethnographic insights. Hoffmann and Kirk (2013: 5–6) thus relate political settlements to other attempts of establishing a post-Weberian perspective of analysing peripheral

states and societies. Political settlements are akin to 'hybrid political orders' (Boege et al. 2009) or 'negotiating statehood' (Hagmann and Péclard 2010).

Another point of reference is the seminal work by Joel Migdal (1988, 2001). Underpinned by rich empirical data, Migdal assesses statehood in wide parts of the non-OECD world as nothing politically predominant, but as one of several parallel forms of social organisation. The state and its agents have to fight and excel against these competing formations on an almost daily basis. In their struggle against what Migdal calls 'local strongmen', state actors invent and apply sophisticated strategies. These so-called 'politics of survival' range from political or economic incentives for accommodation to 'dirty tricks' (Migdal 2001: 71–84). Embedding statehood into the wide array of other forms of sociopolitical institutionalisation is the main contribution of Migdal's work. He thus secularises statehood, which is in line with other seminal accounts such as Charles Tilly's interpretation of state development as 'organized crime' (Tilly 1985).

The second source behind political settlements originates from NIE and their fundamental insight that people institutionalise differently. For this reason, similar types of institutions in dissimilar contexts never work in the same way. Hence, the political settlement approach became increasingly applied in development research and development programming to 'better understand the organization of local politics and economy' (Behuria et al. 2017: 1).

One of the leading proponents of NIE, Douglass North, combined the new contextual thinking of institutions with a theory on global development and the problem of political violence. North et al. (2009) distinguish between so-called limited access orders and open access orders on a global scale. Open access orders essentially refer to the OECD world, limited access orders point to the conditions in many regions of the Global South. The difference is the modes along which the political settlement, defined as a tacit pact between the ruling elites on how things should be run, works.

Due to the high barriers to any societal engagement in limited access orders, the level of elite bargaining is of pivotal importance for the socio-economic setting as a whole. Power brokerage works according to its own contextual logic, at times in the form of monetary bargaining like Alex de Waal's political marketplace approach suggests (de Waal 2015). Still, political settlements refer to situations that, in whatever crude

but sustainable way, function politically and economically. 'Political settlement is a combination of power and institutions that is mutually compatible and also sustainable in terms of economic and political viability' (Khan 2010: 4). They work either because of a carefully calibrated balance-of-power between the major stakeholders or because the institutional setting proves to be sophisticated enough to mitigate existing power disbalances or both.

Informality has a distinct place in the political settlement approach (e.g. Khan 2010: 55), as has the predominance of structural thinking. Besides these fundamental characteristics, a considerable divergence exists about the scale and the scope of political settlements. Development economists lean towards a broad interpretation. For example, Khan (ibid.: 20–24) suggests speaking of two analytical levels. The high level is interrogating the 'social order', i.e. how society operates. The other is the so-called deep level, which focuses on the institutional structure reflecting the relative power of (contending) elites. Such reasoning, occasionally, results in crude typologies. North's idea of open and limited access orders is one of them, the distinction between inclusive and extractive institutions, as proposed by Acemoglu and Robinson (2012), another. While offering a refreshing perspective, these accounts run the risk of replicating the liberal teleology camouflaged by a mere change in vocabulary.

For the purpose of pragmatic transitions from violent conflict, the political settlements approach must be broken down to a more concrete level. Classic political settlement research interprets violent conflict as the result of failing to manage highly contested processes of institutional reform (e.g. Di John and Putzel 2009: 10). This failure results in the 'virtual collapse of formal institutions' (Khan 2010: 49). Such a collapse would then define the situation of political unsettlement as a chaotic, non-formalised way of open struggle for political power. The notion of collapse does not refer exclusively to institutions of liberal governance, but to all types of institutions in a contextualised real-world sense.

Political settlements hence provide a pronounced pragmatist analytical capacity. The approach offers a normative component as well. Political settlements are expected to be able to 'tame politics' (Rocha Menocal 2015: 2) by providing an appropriate institutional framework in whatever normative or constitutional form. Hence, political settlements are concerned with the impact side of things. They are not about political design; they are about the political effects that need to be navigated and

managed. It is hardly surprising that the conceptual substance of what 'political settlement' means in policy practice quickly became contested. One suggestion, which could be described as 'liberalism light', sees the creation of 'stable, inclusive, and ultimately legitimate political settlement' (Parks and Cole 2010: 10) as a peacebuilding prerequisite. Others advocate to 'work with the grain', criticising the way international policies after the Cold War have 'sacrificed the effort to address some deeply rooted obstacles to development on the altar of political and organizational imperatives' (Levy 2014: 203).

The Conditions of Formalised Political Unsettlement

In contemporary language, peacebuilding engagement aims to contribute to the establishment of a 'resilient political settlement' (Di John and Putzel 2009: 18). It wants to settle discontent between all warring factions and to accommodate all relevant parts of society under an inclusive framework of formal and informal institutions so that conflict does not turn violent. For a number of practical reasons, a good part of them context-related, peacebuilding regularly falls short of this achievement. Some of these reasons reoccur in most peace processes and thus allow to speak about the conditions of formalised political unsettlement in generalisable terms.

First of all, a majority of peace deals fail to create a sustainable political settlement. The currently dominating inclusive peace approach rests on the assumption that this is because a peace process did not sufficiently represent and reflect all interests and stakeholders. The liberal element in inclusive peace assumes that an optimal solution, based on which all stakeholders are better off when the fighting is terminated, does exist. The unfortunate reality is that violent conflict serves some political and economic interests well. Not all actors are going to profit when a peace deal is struck. In many instances, this is what makes peace negotiations difficult and peace agreements imperfect. While certainly justified in theoretical terms, much of the critique raised against such agreements and their implications fails to consider that there was no other option on the table—or on the political market (de Waal 2017).

A second major factor is the changing context of international intervention. In whatever way the international conditions are going to change, external intervention in violent conflicts is here to stay. Affirmation, in all probability, will not result in the definitive abandonment of liberal interventionism. The motivations are going to change and may retrace back to predominantly geostrategic and power-related reasoning. The new predominance of geopolitical reasoning is already noticeable in the changing perception of violent conflicts with Russian involvement, where a Cold War-style rhetoric seems to be on the upswing again.

In politically legitimising interventions on the national stage, liberalism, somewhat paradoxically, plays a much stronger role in OECD countries than before. While elements of anti-communist rhetoric have been replaced with anti-Islamism, cornerstones of liberal or post-liberal internationalism such as democratisation, human rights and the rule of law remain in the political game when involvements are debated and decisions are taken. Partly, the new rhetoric is caused by the national identity purpose foreign policy has always served (Campbell 1998), and by the need for the political leadership especially in OECD countries to provide a unifying discourse for forging international partnerships. Such a discourse has to be normatively substantial and, at the same time, the lowest common denominator. Liberalism is still able to cater to those contradictory needs in the current period. Consequently, policy actors at all levels involved in peacebuilding continue to work with frameworks and benchmarks relying on liberal elements, despite all criticism that this approach has not worked well over the last three decades. Political demands will always override empirical insights.

Second, the current transformation of the international system has severe structural implications. Multipolarity, now the systemic condition of the international system, has materialised in the rise of China and other so-called emerging powers. This rise has resulted in global structural fluidity and stimulated a rapid shifting of political alliances. Fluid multipolarity takes on different forms in different regions across the globe. The political purchasing power of the OECD world, which dominated the global political arena not too long ago, has sharply declined. Shifting alliances in the Global South emerge and vanish on an almost daily basis. There is a noticeable comeback of a state-led sovereignty discourse with strong references to non-interference (Pospisil 2017). The post-colonial development relationship has transformed, which naturally affects all aspects of foreign policy involvement for all actors in the international arena.

Fluidity, regionalisation and political marketplace characteristics are likely to evolve from the central conditions of contemporary international intervention. When even those working towards an inclusive political settlement perspective argue that all external actors need to be on the same page forn conflict prevention to be successful (e.g. World Bank and United Nations 2018: xxv), the odds are not good in the current geopolitical environment. Contemporary peace process reality highlights the difficulties of external intervention. In the given hybrid contexts, international fluidity spills over to the national and local level and offers political actors at these levels an operating space they rarely ever had before. While regional marketplace deals continue to happen and may have a fair chance to stick—the 2018 Khartoum Agreement that attempted to settle the South Sudanese Civil War may serve as a case in point—efforts motivated and mediated by liberal peacebuilding structures regularly fail. Those succeeding hardly resemble inclusive political settlement but turn into institutionalised forms of a fragile power-sharing deal, enshrining rather than resolving existing contestation.

External engagement, in whatever form, is not going to produce more than these often unfortunate and 'difficult to love' constellations (Bell and Pospisil 2017: 579). The rationalist arguments for peace settlements have proven to be unsustainable in the practice of peace negotiations, and the means of global powers to enforce or buy peace are not at their disposal anymore. However, this situation is not entirely new. The political settlements discourse is apt to leave behind prescriptive approaches and to substitute them with pragmatic practices relating to what given power configurations hold in store.

The comfortable way for policy actors to reconcile their previous efforts with the political settlements approach was moving away from a focus on institutionalisation towards actor-centric interventions. This shift occurred around frequent questions in policy debates: with which actors would it be best to align in a conflict or post-conflict setting in order to forge the optimal political settlement. Who needs to be supported, who needs to be included in negotiations and who are the spoilers that prevent the potential success from happening? Such efforts are not only ignoring the roots of political settlements thinking in NIE. Complexity and the limits of knowledge restrict the outlook on these attempts. It quickly turned out that the number of actors influencing post-war political settlement processes at different levels is unlimited. Their formal and informal impact

on decision-making and subsequent institutionalisation is unpredictable, as is the shape these institutions would take. So, the political settlement approach reveals the limits of strategic planning and the need for political decision-making in peacebuilding under the conditions of enduring uncertainty.

Formalised political *un*settlement, in contrast, shares characteristics with stabilisation. It is not able to transform the conflict but, in many instances, can indeed contain if not prevent further fighting. The parties signing up to it in peace negotiations are usually well aware that formalised political unsettlement may perpetuate if once agreed. In many instances, the formalisation of unsettlement is one of the main reasons why they sign up to it, as the configuration guarantees that neither side wins and is able to permanently establish their default positions. The Dayton Peace Agreement in Bosnia and Herzegovina is a striking illustration for such a tacit pact. As one of the first and probably best-known deals, it designed a top-down formalisation of political unsettlement by resorting to enormous international pressure.

What formalised political unsettlement usually can deliver on the ground is what Judith Verweijen (2016) has called 'stable instability', which describes a fluid situation with persistent outbreaks of violence. In the best possible scenario, it may establish a permanent non-violent transition in political unsettlement. The above-mentioned example of Bosnia and Herzegovina may be characterised in this way. Such a non-violent transition might sound like a reference to Galtung's 'negative peace'. However, it differs in two important aspects. For one, it is prone to instability. Second, any reference towards 'positive peace', the counter-vision, becomes controversial, since the structural condition that enables formalised political unsettlement in the first place is the prolongation of radical political conflict. Using Clausewitz in reverse, Foucault once has strikingly called politics 'the continuation of war by other means' (Foucault 2003: 16).

Thinking in terms of pragmatic transitions in formalised political unsettlement transfers this debate. What once was conceptualised as peace in pre-affirmation stages is now being navigated as a permanent process of bargaining about and/or dissociating from a polity without the conflict being resolved. Enduring transition may indeed offer the only viable opportunity at hand when engaging with formalised political unsettlement. In most instances, conflict settlement or conflict resolution are not an option in the short or medium term.

Unsettling Affirmation: The Conceptual Background of Formalised Political Unsettlement

For discussing the conceptual background of formalised political unsettlement, the notion first needs to be located within the contemporary academic discourse. I caution against calling formalised political unsettlement a concept. Being taken as a concept would entail the pitfall for formalised political unsettlement to get thoroughly defined and delineated. Such a definitory struggle, in turn, would trigger debates about typologies and classifications of possible cases and examples. This is not what the notion is aiming for. It does not want to offer another fruitless attempt of ordering the world. Moreover, the fluidity and flexibility of the notion are a strong asset and its main contribution to unsettling the state of affirmation in peacebuilding. It should remain possible to call the Cold War constellation of peaceful coexistence a formalised political unsettlement just like Bosnia and Herzegovina's post-Dayton reality, without compromising on the descriptive and operational capacity. In order to safeguard this strength, it may be helpful to think about formalised political unsettlement as a lens. Such an attempt is closely related to the approach of pragmatic transitions that has been carved out in the preceding chapter.

Formalised political unsettlement is an attempt to spell out a framework that incorporates both the insights from various forms of constructive criticism on liberal peacebuilding and the fundamental critique that has been raised against it over the last decade. The debate between these two intellectual approaches has gained momentum in recent years (cf. Lemay-Hébert 2013), not just in academia, but also among peacebuilding practitioners. For showcasing the gap that formalised political unsettlement addresses, it is advisable to refer to the camps of the contemporary peacebuilding debate in the state of affirmation. These are the 'saving liberal peacebuilding' camp, the inclusion camp embracing the ontopolitical innovations of affirmation, and the approaches working with complexity and post-liberalism.

Formalised political unsettlement relates to elements of all three approaches. It is not offering a mere counterclaim. However, formalised political unsettlement has a substantial pragmatist element resulting from its construction out of the existing realities and practices in peace processes. There is a middle ground to gain between spatial, temporal and political concepts and a new form of authority after conceptual and contextual authority have faded away. The lens sits at the fringes

of the three 'camps'. It is concerned with the practical challenges which cause the established approaches to struggle conceptually. Formalised political unsettlement does not suggest dismissing all practices that peacebuilding has pursued so far, yet it argues to rationalise them in a different manner.

Formalised political unsettlement reconstructs the understanding of acting and intervening in post-war transitions from a pronounced practical standpoint. Doability and the navigation of processes are its only benchmarks. Needless to say, the analytical shortcomings may leave many unsatisfied. The lens is primarily descriptive since it wants to eschew the conceptual prescriptiveness that characterises most of the analytical frameworks peacebuilding has on offer. Furthermore, there is no claim of better understanding conflict or armed violence. Against this background, formalised political unsettlement relates to other scholarship working in and with affirmation, especially approaches related to complexity.

Any pragmatic conceptualisation is descriptive to an extent. Pragmatism can solely unfold in the practical engagement with concrete problems. The lens of formalised political unsettlement embraces affirmation since it accepts the limits of knowledge in understanding context under the conditions of complexity. It is thus inevitably a simplification, not just due to the limits of knowledge, but also because of the limiting role of knowledge in enabling understanding. For example, knowing about the manifold elements of authority in clan structures in a certain part of South Sudan may not necessarily be supportive for pragmatically engaging in an eventual South Sudan's post-war transition. Such an attitude clashes with the assumptions of conceptual and contextual authority.

This is not to say that knowledge, as well as understanding, are not important. However, both cannot evidence what needs to be done or guarantee a particular outcome. The lens suggested here argues for a return to politics, for reasonable decision-making under the conditions of limited information and unclear outcomes. Embracing affirmation should translate into risk-taking. Hence, interpreting formalised political unsettlement is an active process in itself and relies on continuous political dialogue and controversy with and among all involved actors. At the same time, formalised political unsettlement thinking is born out of the insight that the era of alleged conceptual clarity in peacebuilding is over. It rejects the ontopolitical vagueness which makes affirmation so accommodating. By emphasising mutual learning, the preparedness to take risks and the acceptance of politics, it aims at unsettling affirmation.

Concerning post-liberal peace as advocated by proponents of the local turn, formalised political unsettlement wants to address two specific structural problems. First, as aforementioned, the practical implications of post-liberal peace remain vague. Richmond (2016) highlights the importance of Southern-based self-organisation but in so doing refers to organisations such as the g7+, a gathering of twenty self-declared fragile states.[2] As shown elsewhere (Pospisil 2017), the g7+is a club of national elites many of which actively engaged in warfare rather than an endeavour of the everyday. The self-reflective tone of relational engagement is surely appropriate, but the concrete avenues such engagement could take are not yet sufficiently explored. There is a logical inconsistency inscribed in localised post-liberalism. While such localism claims to rely on distinct practices of the everyday, the recognised hybrid character of any conflict and post-conflict situation implies that such practices cannot exist in such distinctiveness.

Every understanding, self-understanding or practice at any level will always incorporate and reflect all other levels as well. A distinct local is an ideal-type construction and as such too weak a model for justifying an epistemological claim. That is the advantage the political settlements lens can offer when understood in concrete terms. Its spatial flexibility makes it possible to scale it up or down.

A second unsettling feature of formalised political unsettlement is its pragmatic relationship with the international justice dimension any peacebuilding process entails. Christine Bell and others have discussed—and continue to do so—the multifaceted relationship of formalised political unsettlement, pragmatic transitions and justice claims on the national and local level (Bell and Pospisil 2017; Wise 2018). Global justice involves a specific challenge, since it implies two different and, in the present condition of a world spatially and politically organised in nation states, necessarily contradicting logics. On the one hand, there is the issue of international justice, referring to the international power-structure, international law and international criminal law. On the other hand, there is the question of internationally guaranteed justice, the internationalisation of local and national practices of justice in order to safeguard their functioning.

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[2] http://www.g7plus.org/, accessed 16 September 2018.

The apparent contestation between these two elements of justice has been briefly touched upon in the preceding chapter when discussing the necessarily illiberal character of liberal interventions based on Beate Jahn's work (Jahn 2007a, b). Without power asymmetry, safeguarding national and subnational justice processes internationally would be virtually impossible. Even in an ideal world of states of equal strength, any intervention in national affairs would require a revocation of power politics. International law, enshrined in the United Nations System and almost unanimously accepted, can provide a safety net against the excessive use of power based on justice claims. By no means, however, can it guarantee the enforcement of justice—by political pressure, sanctions or armed intervention—without relying on political, economic and military power.

The interrelation with power runs across processes of global justice, which, in most instances, are articulated and rationalised along a nation states-based logic. Accounts of post-liberal peace circumvent this contradiction. The substantial reliance on critical materialism, especially on claims of global injustices and inequalities as reasons for violent intrastate conflict, is reproducing an idealist picture of global and grounded forms of justice going hand in hand. The post-liberal critique remains embedded in the foundations of the liberal peace and the hybridity it produces. Hence, the proposition put forward by these accounts is a big bang: solving global inequalities while at the same time fundamentally redirecting international engagement to the—already hybrid—local, based on particular knowledge claims about the everyday. Certainly attractive in theory, the potential implications for reshaping policy against the background of existing international and local realities remain opaque.

The formalised political unsettlement lens has no stakes in the contestation of competing justice claims. It does not render them pointless yet interprets their interplay as part of the inherently political character of unsettlement. In all probability, no solution is able to offer an alignment of all justice claims. Justice is, in the last instance, a political good, representing political views and reflecting specific power constellations. A pragmatic approach attempts to work with notions of justice but is perfectly aware that their imperfections will not get solved. Such positioning applies to the global level as well. The descriptive character of formalised political unsettlement aims to keep the performative power always embedded in analytical frameworks at a bare minimum. It has no preferred outcome in global disputes but instead focuses on catalysing

cooperation in post-war transitions that reaches beyond the big deals. Geostrategic or geopolitical power contestations are the unfortunate reality with severe amplifications on every transitional process. The suggestion is to work with and in these realities, and not against them.

This realism does not imply that the approach is value-relativist or even nihilist. First, signing up to a transitionary perspective as a clearly outlined principle has itself the character of a value. Second, while resting on pragmatic decision-making, working in formalised political unsettlement still requires relying on normative orientations. Formalised political unsettlement thinking is unable to offer clear recipes on what to do or not to do in certain situations. It spawns a certain *problematique*, a way of thinking in terms of trade-offs and multifaceted practical options which are neither sequential nor solution-focused. Such an approach is experimental and risky. The only feasible way to navigate in this environment is by combining pragmatism with a principled stance emerging from existing ethical and political positions. Acting in post-liberal conditions by post-liberal means does not allow for bypassing politics and norms.

Summing up, engaging in formalised political unsettlement is a pronounced pragmatic endeavour. It aims at being constructive without being prescriptive and wants to provide a perspective without being performative. Its main challenge is that it starts from conditions nobody wants and strives for, namely political unsettlement. Therefore, it resonates expectations not too different from international relations' various 'realism' approaches. Realism is, as its advocates would argue, something nobody may like, but it is there, it is for real. While not being a realist approach, formalised political unsettlement comes along with an unavoidable aura of disappointment. It does not speak about an ideal-type vision but provides an enabling framework that invites fresh thinking on the hybrid mess of post-interventionist situations.

Identifying Formalised Political Unsettlement

Formalised political unsettlement is a largely descriptive framework capturing the reality of post-war transitions. Expanding this lens in a way that connects with pragmatic engagement and post-liberal approaches so to unsettle affirmation presumes a lot. Without engaging in fruitless debates on how peace should look like, it is still useful to reflect the applied terminology and the consequences formalised political unsettlement could have. Its application does not offer a watertight, clear-cut

concept with sharp boundaries. Identifying formalised political unsettlement is tied to subjective normative orientations and perspectives of involvement.

The distinction between unsettlement and settlement is blurry. Political settlement and political unsettlement are on a continuum that reflects the degree and quality—violent or not—of dispute on a given polity. Political settlement and unsettlement, therefore, are relative and moving conditions. What complicates matters further is that they are intrinsically interlinked and, to an extent, mutually conditional. Settlement occurs in unsettlement, and any settlement has a certain unsettled character. Every approach dealing with social and political institutionalisation as a contextualised process has to live with such interconnectedness.

Processes of social institutionalisation are always fluid and versatile. So are peace processes. Local peace processes, for instance, may result in subnational political settlements that provide an essential ingredient of the formalisation of political unsettlement at the national level. Any such formalisation requires a settlement on unsettlement, an amount of agreement to disagree. The organisation of disagreement without compromising on the fundamental issues at stake is a remarkable account of cooperation and mutual understanding.

Formalised political unsettlement, per se, is not necessarily tied to violent conflict. It can be an existential condition for liberal democratic systems as well. Neil Walker (2014) has argued that such a 'constitutional unsettlement' is at play in the UK. For Walker, constitutional unsettlement is resulting from fundamental political disputes on territory, political representation and the political process. At the very moment any agreement would get pinned down in a formalised, written constitution, the system would risk getting torn apart. Various actors only accept to be part of the polity because the contestation on the shape of this polity is conceptually imaginable and constitutionally possible. Blurriness, therefore, becomes a condition of national existence.

It is worthwhile following Walker's argument in more detail. He distinguishes between four phases or types of liberal democratic polities: a settled constitution, an unsettled constitution, a constitutional settlement, and, finally, a constitutional unsettlement. However, he does not suggest a specific sequence in between these stages. The argument is not teleological, and it has no ideal outcome. There is potential for expanding and adapting the argument to violent conflict, as these always are situations of constitutional unsettlement, at least to some extent.

Nonetheless, the unique constellation at play in the UK, which has developed over centuries through various stages of political settlement and political unsettlement, is an important caveat to be raised when transferring Walker's idea of constitutional unsettlement to pragmatic post-war transitions.

Besides the insights on the constitutional setting in the UK, Walker's approach to constitutions as living, processual documents argues for flexibility when thinking about transitional processes in settings without a liberal democratic tradition. It offers a refreshing counterclaim to liberal peacebuilding's conceptual authorisation, which thinks of a written, clear-cut constitutional framework as the best way forward when designing a political system post-conflict. Discussing polities in terms of constitutional settlement and constitutional unsettlement establishes a language which makes it possible to overcome the dogmatic approach of constitution building in post-conflict contexts. Harnessing legal doctrine and secondary sources, Walker (ibid.: 531) takes up Adam Tomkins' definition of the status of 'unsettledness' as a 'prolonged moment of constitutional fluidity'.[3] Indeed, fluidity is the key term that makes this approach valuable and transferable to the broader context of political settlements.

Applying constitutional unsettledness in the sense of fluidity from the constitutional setting to a polity as a whole has two important implications. First, fluidity in the context of political settlement or unsettlement is a considerably broader condition and, hence, more difficult to formalise. Any constitutional setting rests on a tacit compromise. For this reason, it is not possible to derive from the constitutional setting to the constitution of a polity and its political constellation. Constitutional unsettlement may appear as formalised political unsettlement, but it may as well be related to a still existing political settlement.

Beholding the UK as an example, there can be procedural agreement on a political process in a situation of constitutional unsettlement. Interestingly, there may even be a constitutional settlement in a state of fundamental disagreement about the procedures of the political process. Comparable constellations can occur in case of an ambiguous constitution that enshrines political unsettlement, as it is the case in Bosnia and Herzegovina.

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[3] Evidence of Adam Tomkins, cited in House of Commons European Scrutiny Committee; 'The EU Bill and Parliamentary sovereignty', 10th Report (2010–2011) para. 24 (An unsettled constitution).

Second, there is a limit to re-establishing a polity by employing a constitutional process. Walker's framework reminds us that constitutions are always a product of a settlement on a polity. For the better or worse, no shortcut can be taken. The formalised political unsettlement framework relies on this insight.

DEFINING AND PROBLEMATISING THE SUBJECT

Almost by definition, formalised political unsettlement is a messy configuration. The conception is driven by both the requirement for a radical paradigm change and the often-disenchanting policy reality of incrementalism and muddling through. Combining these two considerations is a formidable task. It requires marrying a firm normative stance with pragmatism and linking contextual knowledge with the ability to think beyond the current perspectives of how things should be done. The extent to which liberal approaches of peace- and statebuilding have not just shaped practices of internationals, but those of national and local actors, is frequently underestimated. Besides international politicking, it is on the national and local levels where conceptual authority has its remaining stronghold.

The formalised political unsettlement lens is concerned with particular constellations. It is about pinning down the often impractically broad interpretation of the political settlements concept to make it applicable to concrete, observable processes of transformation. The observations resulting in an assessment of formalised political unsettlement mostly operate at the mid-level of a national political setting. Yet, the lens is flexible enough to look both at broad, regional processes and at the local level.

Some terms and concepts often referred to need further clarification. The first element concerns the *actors* within formalised political unsettlement. The political settlement concept provides clear guidance in this regard. The political deal at the heart of any settlement, and therefore missing in political unsettlement, is an elite pact. Lindemann (2008: 2) understands the inclusivity paradigm as a distinctive feature of elite politics, which 'involve a ruling party that integrates a broad coalition of key elites by defining inclusive access to state structures (jobs) and state resources (rents)'. By examining the politics and processes of political institutionalisation, formalised political unsettlement indeed looks at the level where deals are struck and decisions are taken.

However, elites are never elites in objective parameters. Elite is a relative and relational concept. Some generalisable patterns prevail: economic elites most often can afford a certain level of status notwithstanding the context, whereas it is possible to think about situations where their status does not bear relevance anymore. The same goes for political elites. When we look beyond the absolute international top level such as heads of states, it soon becomes negotiable and flexible who belongs to a political elite or not. A powerful regional figure, such as a state governor, has of course relevance at the national level. Internationally, this elite status diminishes quickly and is completely dependent on context, mainly if the governor is invited in her or his official function or not.

Whereas the formalised political unsettlement lens focuses on elite politics, it does not subscribe to an objective view of what elites are. In a way, actors become elites if they become part of the brokerage of a peace settlement, at least in the context these negotiations are referring to. Irrespective of the level of peace processes, national or subnational, formalised political unsettlement is related to the actor groups involved in these processes at whatever level: conflict parties, other stakeholders having active interest in the process, for example from the private sector or civil society, mediators, guarantors and international actors. Especially for the claim of inclusive peace regularly raised when supporting processes of political settlement and unsettlement, the best estimate is to identify actors as those actively involved in a transition process, irrespective of the formal status of their engagement.

Another necessary clarification is that formalised political unsettlement is concerned with peace processes during and after violent conflict. The issue of violence needs to be highlighted since it is the most significant difference to the broader application of the political settlement concept in development studies (Pospisil and Rocha Menocal 2017: 553). A peace process as understood here is a process of enduring post-war transition. The perspective on peace processes is long-term and does not end with the signing of a comprehensive peace agreement.

The focus on post-war transitions is closely related to the issue of temporality. A formalised political unsettlement lens is relevant as long as formalised political unsettlement can be observed, which is simply the case as long as it provides helpful insights. It may end if the political

system in a given polity reaches a quality of self-renewal that renders the transitional process to be not anymore at risk of relapsing into violent conflict. In such a case, it is feasible to speak about a political settlement because the radical disagreement about the polity and its nature has been overcome and replaced by a contestation within the polity.

Resilience as the end stage of a post-war transition, as it has been introduced by the g7+ group of fragile states in their 'fragility spectrum' (g7+ group 2013) as the end stage of a post-war transition, is interesting in this respect. Even though the resilience stage is currently framed in liberal democratic terms when it comes to the political system, its concern with impact and effect generates a politically open space for self-renewal. Resilience provides a vague end state, not in the sense of an ideal, clearly spelt out and rationally working sociopolitical system. Resilience does, of course, reflect affirmative thinking. At the same time, it may be a promising option to deal with various kinds of transitional disturbances.

Working in the context of affirmation forces post-war transitional engagement to accept imperfection and taking the risk that legitimate political ambitions may become undermined by potentially violent formalisation processes dealing with radical disagreement and contestation. However, this is a risk worth taking if the alternative would have one political vision indisputably winning.

A further aspect closer characterising formalised political unsettlement is the question of what the lens is actually looking at. As already highlighted, the political settlement approach is structural in its focus. Sociopolitical institutions, their evolvement and their transformations are the main concern of this approach. The structural dimension has a prevalent character as well. Due to its practical focus on transitions, the processual dimension of structures is the predominant concern of formalised political unsettlement.

With respect to peace processes, formalised political unsettlement refers to three central elements. First, it analyses the power dimension in the contestation between the conflict parties. As already discussed before, likeminded observers frequently converge in their assessment that peace negotiations are about looking for mutual solutions. The sobering reality of negotiation processes is their embeddedness in and perpetuation of existing disagreement. In the everyday practice of peace processes, containment is an endeavour often forming the precondition of formalised political unsettlement. In order to better understand the

process that unfolds after a deal, the motivations of the parties are of primary concern. Taking the parties seriously poses significant challenges, particularly how to define the 'real deal'. There is an array of possibilities, although none of them necessarily provides ultimate explanatory value. Are we witnessing a more rational power-sharing deal, is it a marketplace deal, is it, in Zartman's (1989) traditional language, a stalemate-like deal in a situation ripe for a settlement, or was the deal primarily internationally enforced or incentivised? Several of these options may intertwine and can be at play in parallel.

Second, in doing so, the contemporary trends in peace processes need to be reflected in how specific areas of contestation are framed and described. Peace agreements texts show a noticeable tendency towards a unified, technocratic language. Often, these agreements stipulate what could be called 'package deals' tackling the alleged crucial challenges of the post-conflict phase. Demobilisation, disarmament and reintegration programmes (DDR), security sector reform (SSR) or transitional justice (TJ, Jamar 2017) are the best-known examples. Given the high degree of standardisation, it is difficult to carve out the profound trade-offs and deals that are happening beneath the surface. These so-perceived technical processes are highly political themselves and show substantial overlap with formal and informal power-sharing in the security sector. In many cases, this overlap goes to the heart of the compromise carved out for formalising unsettlement as well as of potential opportunities for transitional processes.

Third, the broader peacebuilding discourse is also reflected in broader normative and legal frameworks utilised in peace negotiations and in the downstream navigation of peace processes. Trans-contextual fashions impact the drafting of peace agreements. Currently, this refers to the issue of inclusion, which has been internationally identified as an urgent need to be addressed even in the crudest mode of deal-making. Against this background, it is worthwhile scrutinising the text for possible hooks that enable further engagement in the emerging formalised political unsettlement. The fundamental challenge of the formalised political unsettlement lens is navigating the relationship between the discursive and the material power-dimensions in peace processes. Transitionary processes evolve in the interplay between these two dimensions.

Characteristics and Attributes
of Formalised Political Unsettlement

Any attempt of generalising such a fluid setting unavoidably remains crude. However, it is possible and necessary to highlight some characteristics that situations of formalised political unsettlement have in common. When we suggested the notion (Bell and Pospisil 2017), we carved out four main overarching elements: the enshrinement of contestation, the durableness of transition, the institutional fluidity due to a permanent unsettledness and the 'glocal' character.

The enshrinement of contestation. The post-conflict formalisation of political unsettlement constructs a political and legal framework that is not set-up to settle the fundamental contestation, but rather contains and reproduces it. The warring parties compromise on such an institutionalisation because it guarantees that, while the own ambitions may get restricted, the framework still disables the other parties from enforcing their default positions. The formalising institutional frameworks provide an incentive structure for upholding discontent. Most commonly, they rest on forms of power-sharing arrangements that effectively disable compromise, since any compromise would result in losing out politically.

This incentive structure is the procedural difference between regular politics in radical disagreement and formalised political unsettlement. The distinction is in the substance of radical disagreement. Settled situations rest on what political theorists call the 'social contract', which refers to the broad acceptance of the polity and the given 'rules of the game' (North 1991: 4). Political unsettlement is a situation when these two elements, the polity and the rules of the game, are fundamentally disagreed upon.

How the formalisation unfolds primarily depends on the claims and political positions of the warring parties in the peace negotiations and the transitional process after that. Other actors, as they have been described above, may as well have significant influence. Still, the tacit agreement on not solving the radical disagreement at the heart of the conflict remains the predominant condition. These situations are best observed in constellations of institutionalised contestation. The specific form a power-sharing deal takes (e.g. territorial, political, economic or a combination of these elements) shapes the trajectory of the transitional process. However, this is just a secondary aim since these deals are primarily concerned with ending the armed violence. Some of these arrangements are more successful

in this respect (Bosnia and Herzegovina, Kosovo, the Philippines and to a certain extent, Nepal), others fail to set a transitional process in motion (such as in South Sudan, Yemen, or Somalia).

The durability of transition. The institutionalisation processes laid out in peace deals designed to formalise political unsettlement are meant to serve as temporary arrangements, as a stage necessary to pass through while establishing the conditions for a self-renewing, unified polity. In most instances, the actual design of these institutions prevents this from happening. The Dayton peace agreement for Bosnia and Herzegovina, representing an obvious case for the enduring character of a transition period which is ongoing for more than two decades, provides a striking example. Box 3.1 shows parts of the constitution that has been produced as part of the peace agreement. The entities, designed as a spatial compromise disentangling the population which is divided/defined along ethnopolitical lines, get responsibilities—especially concerning the international level—that effectively undermine any mutual arrangement in the future. The stipulations provide for each entity to design its own foreign and domestic policy. In such a set-up, any need for compromising on a unified polity diminishes.

Box 3.1: General Framework Agreement for Peace in Bosnia and Herzegovina, Annex IV, 21 November 1995, Paris, France, provided by PA-X, Peace Agreement Access Tool

Constitution of Bosnia and Herzegovina

Article III

    2. Responsibilities of the Entities.
        (a) The Entities shall have the right to establish special parallel relationships with neighboring states consistent with the sovereignty and territorial integrity of Bosnia and Herzegovina.
        (b) Each Entity shall provide all necessary assistance to the government of Bosnia and Herzegovina in order to enable it to honor the international obligations of Bosnia and Herzegovina, provided that financial obligations incurred by one Entity without the consent of the other

prior to the election of the Parliamentary Assembly and Presidency of Bosnia and Herzegovina shall be the responsibility of that Entity, except insofar as the obligation is necessary for continuing the membership of Bosnia and Herzegovina in an international organization.

(c) The Entities shall provide a safe and secure environment for all persons in their respective jurisdictions, by maintaining civilian law enforcement agencies operating in accordance with internationally recognized standards and with respect for the internationally recognized human rights and fundamental freedoms referred to in Article II above, and by taking such other measures as appropriate.

(d) Each Entity may also enter into agreements with states and international organizations with the consent of the Parliamentary Assembly. The Parliamentary Assembly may provide by law that certain types of agreements do not require such consent.

Despite being temporary and exceptional in nature, formalised political unsettlement is in reality long-lasting. Any common vision would existentially endanger the political aims of the parties. For this reason, carving out concrete unifying steps in a peace agreement is virtually impossible. The level of commonality, which in the case of Bosnia and Herzegovina is a constitution, remains at the level of an agreement to separate, and some general, nonbinding principles. There is no foreseeable solution in the situation, which makes it considerably unpopular in scholarly and political assessments, but also among the wider population. However, viable alternatives are missing. What remains is the realist character of a balance-of-power-based framework that aligns with the institutionalist practice of contemporary peacebuilding.

Institutional fluidity. Formalised political unsettlement is characterised by enduring transition and permanent 'unsettledness', an intrinsic fluidity. The fluid institutional character emerges because of the permanent need to renegotiate the framework as a whole instead of navigating change through a regular political process. Court decisions often play essential roles in these renegotiations, as Jenna Sapiano (*forthcoming*)

shows with the cases of the MOA-AD decision by the Philippine Supreme Court[4] and the Sejdić and Finci v. Bosnia and Herzegovina decision by the European Court of Human Rights[5] (cf. also McCrudden and O'Leary 2013). The permanent unsettledness remains open-ended since no feasible endpoint of transitions in formalised political unsettlement exists, even if agreements and other documents state otherwise. Institutional fluidity is not necessarily a disadvantage for engagement. In fact, it is one of the main loopholes providing appropriate opportunities.

The 'glocal' character. Formalised political unsettlement evolves in the interplay between internal and external actors. Usually, peace processes with national implications see considerable bilateral and multilateral international involvement, as well as from civil society and private actors. The only notable exception is the recent peace process between Colombia and the FARC-EP (2012–2016), which deliberately abstained from using international mediators (although some countries like Cuba, Norway and Venezuela played substantial roles in some phases). Most other processes rely on multipolar sources of authority and legitimacy which rest on a wide variety of sources, ranging from compliance and authorisation by the multilateral level to questions of local authority and consent. As Mac Ginty (2011) has argued, these processes are therefore hybrid because the diverse layers interact and bring about specific, contextualised discourses and practices.

[4]The Memorandum of Agreement on the Ancestral Domain (MOA-AD) was part of the negotiation process between the Government of the Philippines and the MILF. The Supreme Court describes the MOA-AD in its decision 'by stating that the same contained, among others, the commitment of the parties to pursue peace negotiations, protect and respect human rights, negotiate with sincerity in the resolution and pacific settlement of the conflict, and refrain from the use of threat or force to attain undue advantage while the peace negotiations on the substantive agenda are on-going.' After a complaint by several political stakeholders, the Supreme Court decided on 14 October 2008 that the agreement was unconstitutional since the president would have extended his powers beyond the limits of the constitution. Hence, the agreement was not signed.

[5]ECHR Case 27996/06 and 34836/06 (merged from two initial cases). The court found the limitations on political representation in Bosnia and Herzegovina on the three ethnopolitical constituencies (Bosniaks, Bosnian Croats, Bosnian Serbs) to be in violation of the human rights of non-aligned minorities.

Hybridity also relates to the institutionalisation of political unsettlement's formalisation process. Institutions in these contexts consist of the same mix of actors that are at the heart of the process as a whole. The process of institutionalisation is essentially 'glocal'. 'Glocality', for example, can be observed in the case of South Sudan, where in some areas of the country the UN peacekeeping mission, UNMISS, provides the basic services required to keep the rudimentary elements of government infrastructure intact. Any political institutionalisation happens in an amalgam between multilateral, national and local actors and authorities. UN peacekeeping missions are a particularly interesting element to look at. Always meant to be temporary and time-limited in their mandates, UN Missions regularly are in for the long term. Thus, they become an intrinsic part of formalised political unsettlement and are perceived as such by national and in situ actors. A shift in financial contributions at the international level can have severe consequences on the ground, not just on the security situation, but on the broader processes of institutionalisation.

The United Nations Interim Security Force for Abyei (UNISFA), the UN peacekeeping mission in the contested Abyei region at the border between South Sudan and Sudan, is a striking case in point. UNISFA has turned into the material manifestation of institutionalised contestation by which both Sudan and South Sudan approach the political situation in the region. Therefore, UNISFA turns from a simple peacekeeping mission into an indispensable element for upholding the current formalised political unsettlement in the region. Somewhat paradoxically, all of the disputing actors can agree on this role.

Containing contestation, enduring transition, institutional fluidity, and their 'glocal' character are four common characteristics observable in most of the constellations of formalised political unsettlement. Multiple additional particularities exist in between. These may occur in different forms and at different levels and may be completely dependent on context. What the four generalisable characteristics show that, whereas formalised political unsettlement may be called a 'stabilised', and therefore static constellation, it is, in fact, volatile and permanently in flux. While this fluidity keeps challenging many stakeholders and observers, it is a useful characteristic. The institutionalisation of unsettlement at the formalised level frequently goes hand in hand with surprising flexibility and pragmatism in day-to-day businesses.

Key Functions of Formalised Political Unsettlement

When discussing the main elements of constitutional unsettlement, Walker identifies three sets of normative functions: 'These three sets of normative functions are first, *authorisation*, secondly, *institutionalisation* and thirdly, the expression and sponsorship of a basic *philosophy and set of principles of government*' (Walker 2014: 534). Naturally, these three elements go hand in hand.

A principal difference between a settlement and unsettlement in a constitutional setting and a polity is the tacit agreement on a political process that functions even in the context of constitutional unsettlement. In institutionalist language, these are processes of informal institutionalisation that often serve as the backbone of a political settlement. When applying the three normative functions Walker suggests to political settlements, slight differentiations are in order. Institutionalisation, undoubtedly, remains a critical function, yet the other two elements need to be framed in a processual instead of a procedural way. Hence, the functions are concerned with legitimacy and the philosophy and the principles of governance, which both encompass the procedural legitimacy (authorisation, government) and the broader informal processes that may unfold outside the constitutional context.

These three functions are the cornerstones of analysing the process of evolving political unsettlement. Walker describes the unsettlement process as a 'joined-up erosion'. Such erosion is not planned, but a cumulative outcome of various ongoing trends, reaching a tipping point when the mutually reinforcing quality of the core elements turns into a reverse effect—the weakening of one weakens all others as well. This picture is helpful for situations of formalised political unsettlement, although with a significant difference: violent conflict, the context formalised political unsettlement is concerned with, is the ultimate erosion of political settlement.

For applying a formalised political unsettlement lens, the reason why a violent conflict has started or what the conflict was or is about is not an urgent concern. As already highlighted, objective causes for conflict cannot be sensibly established anyway. It is more instructive to look at the claims the warring parties make during a peace process. These interactions and the subsequent reshaping of these claims form the contestation around which the formalisation of political unsettlement is constructed. Usually,

negotiating parties are not able to reach a critical threshold of mutually perceived legitimacy towards the political process and fail to achieve a sufficient level of joined institutionalisation. The erosion happens while the formalisation process takes place. It is not a simple path dependency or an unlucky trajectory which is at play here. The erosion in the process of formalisation happens at will. It is something the negotiating parties tacitly agree upon because it serves their interests at a given point in time.

Hence, the relationship between political settlement and political unsettlement is not mutually exclusive, with a precise threshold level distinguishing these conditions. The characteristics of both settledness and unsettledness are interdependent and interwoven. Without a settlement in some areas, even on the constitutional level, the formalisation of political unsettlement could not happen. The formalisation rests on dispute and radical disagreement, enshrining a situation without anybody taking a clear political decision. It is a stabilisation paid for by often severe limitations of and restrictions on the daily lives of the people. Formalised political unsettlement is nothing to strive for, yet it is a condition that exists and keeps appearing.

Another consequence of this blurriness is that it is elusive to list specific cases of formalised political unsettlement or to try to establish clear criteria for identification. Such an attempt would be misguided and contradicting one of the main advantages the lens provides, namely, the pragmatic approach that accepts both context and process as fundamental conditions of any analysis and engagement. There is no academic or political value in empirically validating if a situation counts as formalised political unsettlement or not. Formalised political unsettlement aims at providing a framework to understand and to act upon particular system characteristics. It does not want to construct a post-liberal framework of reconceptualising the world just like the fragile states concept has done (Paris 2011).

CONSTRUCTING ENGAGEMENT IN FORMALISED POLITICAL UNSETTLEMENT

To sum up, post-war transitions in the context of political unsettlement usually do not materialise as it was envisioned during peace negotiations. Political antagonism is not settled, and grievances continue to exist. The situation does not the least look like 'positive peace'. Here is the entry point for formalised political unsettlement, which provides a lens that starts its investigation from the given concrete and structural realities on the ground and aims to relate them with a transitional approach.

Formalised political unsettlement, as a constellation, 'can appear deeply unattractive to those who seek a more certain closure of the conflict in a more normal political settlement' (Bell and Pospisil 2017: 587). Nevertheless, its acceptance as a transitional condition conveys an optimistic, forward-looking attitude.

Formalised political unsettlement eschews the doctrinaire logic of conceptual authority, in which it is possible to aim for an anticipated end state. While not being anti-liberal, formalised political unsettlement also avoids the liberal residuals in the ontopolitics of affirmation: the desire to solve all contested issues and to reach what is nowadays called an inclusive political settlement still is a stark policy reality. Such desire is fuelling the constant failure which is characterising affirmation and explains the persistence of fundamental criticism bemoaning the status quo of unsettlement. Formalised political unsettlement provides a crucial opportunity for breaking free of the accommodating character of affirmation. This opportunity rests in the acceptance of the unsettled character of a conflict. When no party is able to enforce its default position, there is always something to gain or something to lose, which keeps the structure of the formalised political unsettlement stable and instable at the same time. The acceptance of unsettlement opens up space—for relational engagement on the one hand (on this notion cf. Chadwick et al. 2013), for disrelation on the other hand.

Those engaging in such transitionary efforts, irrespective of their approach to peacebuilding, must accept their limitations and the possibility of rejection. In the complex, hybrid constellation of political unsettlement, both conceptual and contextual authority have reached their practical limits. The *one* social contract, the *one* institutional framework is not a feasible way forward. Formalised political unsettlement is a peculiar situation calling for a pragmatic approach towards post-war transitions.

Approaching formalised political unsettlement by a pragmatic transitionary approach depends on the careful navigation of two partly contradictory requirements: being non-prescriptive, but, at the same time, being political. The complex and hybrid character of formalised political unsettlement renders a prescriptive approach unattachable. Nonprescriptiveness is, therefore, less an ethical consideration but an informed reflection about the circumstances and given realities of an engagement. The liberal positionality of conceptual authority could only be implemented based on global power asymmetries. The conditions have changed. In contrast to opinions still upheld by post-colonial critics of external intervention, the positionality of external peacebuilders does not

anymore constitute a major stumbling block for mutual engagement. In a global marketplace of political change, Denmark is not the only model on offer. The market has opened, and a variety of viable alternatives sufficiently weakens the traditional power position of Western interveners.

Especially for external interveners nowadays, it is their relevance which is at stake. Either they have something left to contribute or they face the possibly final loss of their remaining influence. While the general demand for peacebuilding support remains high, the peacebuilding market has tightened. The market value of conceptual authority, at least for the perspective of liberal internationalism, has all but disappeared, and contributions based on contextual authority have never really flourished. Against this background, for better or worse, non-prescriptive pragmatism becomes a precondition for any external engagement to be meaningful.

Pragmatic transitions in formalised political unsettlement require a proactive approach. Even though external practitioners have to manage these transitions under the conditions of affirmation, they are not restricted to a passive stance towards national and local politics which would solely tolerate uncritical support. Thus, political decision-making guided by norms is an indispensable element of principled engagement. Risky political decision-making is not possible without a firm value structure. In the state of affirmation, knowledge is not able to guarantee sufficient guidance anymore. Against this background, politics offer a safety net against the seduction of peacebuilding technocracy which affirmation has on offer. Politics are a cornerstone in reconstructing agency and in challenging the accommodating effect of failing technocracy. There has never been a risk-free approach based on established knowledge. In the everyday of transitions, technocratic approaches have always behaved politically and neglected to acknowledge it. In the state of affirmation, even a wrong or misguided political decision is preferable to acting politically without being aware or admitting to do so.

Finding the right balance between non-prescriptiveness and politics is pivotal. These are not complementary or mutually reinforcing principles; they unavoidably contradict each other. Navigating this contradiction is a crucial challenge for principled pragmatism. Mutual learning is a behavioural cornerstone that provides useful guidance in this navigation. Mutual learning refers to the very concrete practice of trying to gain an unavoidably limited form of understanding by seeking constant interaction. Learning, at the same time, is a metaphor requesting the self-reflectiveness necessary to lever given positionalities and to enable relational

engagement. The learning imperative is less of an ethical problem—as just said, the power constellation attached to global positionalities is rapidly changing. Still, positionality needs to be critically considered in all political decision-making, especially in situations of open violent conflict. A perspective based on mutual learning supports this consideration.

The subsequent chapters will deal with the practices of providing hooks, creative non-solutions and disrelation. Often, these practices are at odds with established principles of international peacebuilding exactly because of the normative challenges they entail. What the formalised political unsettlement lens can offer is an orientation that helps to relate these practices to a normative framework without having to apply this framework as a mode of intervention.

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Ontopolitics at Play:
Inclusion Between a Panacea and a Hook

With affirmation taking firm roots in peacebuilding, inclusion arose as the new panacea for peacebuilding policy. The 2018 'Pathways for Peace' report published jointly by the World Bank and the United Nations heralds the link between conflict prevention and inclusivity as the key ingredient for sustainable peace. 'A shift away from managing and responding to crises and toward preventing conflict sustainably, inclusively, and collectively can save lives and greatly reduce these costs' (World Bank and United Nations 2018: xvii). Together with resilience and political settlements, inclusion thus grew to become inescapable when dealing with post-war transitions. Inclusion's recent popularity is closely linked with peacebuilding's state of affirmation, in which peace is no longer doable. In such surroundings, inclusion enables practitioners and scholars alike to sustain core elements of liberal peacebuilding and transfer them to a post-liberal sphere. At the same time, inclusion refers to vagueness and ambiguity. It generates an open surface consisting of impact, context and on-the-ground realities that invites to be built on.

This chapter takes on the conceptual challenge inclusion provides by doing three things. First, it traces the career of inclusion and reflects upon its promises. The second part scrutinises the concept and asks whether the claims attached to it indeed hold water. It engages with empirical research on inclusion and the conceptual underpinnings of the concept. Finally, the third part undertakes a reconstruction.

In rethinking inclusion as a concept of inherent trade-offs, it reflects on the role of norms in pragmatic transitions and explores the opportunities certain practices of inclusion offer in the everyday of contemporary peace processes.

A Brief History of Inclusion

When reflecting on the reasons for inclusion's current popularity, the agency problem in the state of affirmation is the obvious starting point. The question of responsibility for inclusion is contested from the outset. My personal experience with inclusion in peacebuilding is almost farcical. Working in a research programme explicitly contracted to explore pathways 'towards open and inclusive settlements',[1] I was in the audience of a policy-research exchange event in the UK when, in an attempt to trigger discussion, a leading policymaker asked why research is telling peacebuilding policy that inclusive peace works better. Well, perhaps because you ask (and pay) researchers to do so.

This episode is telling about the history and recent success story of inclusion in peacebuilding. Engaged scholarship is certainly fond of participation, especially of women and civil society, which is one of the core messages inclusive peace delivers. Beyond this evident normative interest, inclusive peace seems to be the perfect fit for a situation without instructive conceptual, empirical or practical guidance. Inclusive peace relies on the predominance of process over outcome and remains largely ambiguous regarding its content. Reflecting the conditions of affirmation, inclusion enables peacebuilding policy to uphold the appearance of agency when it scarcely exists anymore.

Going back in history, the original meaning of the term 'inclusive peace' was entirely different. During the hard-fought conceptual debates in 1970s peace research, Kenneth Boulding coined the term to voice a counter-argument against Galtung's distinction between negative and positive peace, which Boulding—rightly, one might add—alleged as being misguiding and useless (Fetherston 1994: 94). Inclusion, in his understanding, referred not to a particular quality of

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[1] https://devtracker.dfid.gov.uk/projects/GB-1-204326, accessed 22 September 2018.

peace, but to its conceptual substance: inclusive peace should encompass all stages of peace which differ from war—hence, the broadest conceptual interpretation possible. While this may sound far-fetched given the contemporary conceptual filling of inclusive peace, the residual character of inclusion remains. Policy debates still use inclusion as a convenient category for referring to virtually every approach that is not a closed-shop peace deal struck between two warring parties. In a way, such conceptual vagueness closely resembles what Boulding was referring to, albeit with an entirely different intention. Boulding wanted to criticise the unhelpful idealism incorporated in Galtung's notion of 'negative peace'. Current 'inclusive peace' policy, in contrast, aims to uphold precisely such idealism as a peace process principle while eschewing responsibility for its eventual results.

Today's 'inclusive peace' evolved in a contradictory exchange between normative approaches and rationalist, empirically grounded work. The normative element, however, was always in the driving seat. Inclusion's history in peacebuilding starts with rather obscure, divinity-based accounts (e.g. Swan 1995). John Paul Lederach, himself engrained in the Christian tradition of peace research, became an early adopter. His approach to inclusion was not relying on empirical insights but on a profound moral notion and belief. In his seminal work on reconciliation, Lederach (1997: 60) contemplates constructing peace processes in deeply divided societies by 'an integrative, comprehensive approach' that would require 'the functional need for recognition, inclusion and coordination across all levels and activities'. This understanding remains highly influential until today.

Ian Spears (2000) published the first substantial and internationally acknowledged contribution on matters of inclusion from an empirical angle. His concern was the limited success of power-sharing agreements in Africa, which, in his view, was due to the limited incentives for armed elite factions to buy into power-sharing deals. Spears' interpretation of inclusion did refer to elite pacts and the need to broaden these pacts in order to make them more sustainable. The request to broaden elite pacts rapidly found more uptake in peace and conflict research, especially in the mounting work on the Northern Irish peace process and the need to include the armed factions into a comprehensive peace deal (e.g. Darby and Mac Ginty 2003: 361–362).

The utilisation of the political settlements concept in peacebuilding policy since the late 2000s results from the growing popularity of elite inclusion in peace negotiations. Research as well as policy initially understood political settlements as elite pacts (Di John and Putzel 2009: 14–17, see also the contributions by Lindemann 2008, 2011). UK DFID's internal research has defined political settlements as 'the forging of a common understanding, usually among elites, that their interests or beliefs are served by a particular way of organising political power' (Whaites 2008: 4). This version of inclusion, short-term, as in actual peace negotiations, or long-term, as in state-building processes to which Whaites is referring, would soon be named horizontal inclusion, in contrast to vertical inclusion signifying broader processes of societal participation.

The additional conceptual filling of inclusion strived to marry both components, contradictory as they were, and to deliver a unified message: broader participation, in whatever sense, would lead to better peace process outcomes. Both horizontal and vertical inclusion, however, were still vague and required additional conceptually consolidation. Horizontal inclusion, meant to respond to the shortcomings of narrow diplomatic approaches in peace negotiations, gained further underpinning by getting related to the concept of legitimacy (e.g. OECD 2010). Charles T. Call (2012: 44) provided the definitive justification of this linkage by referring to social groups. In doing so, he also explained the background for combining horizontal and vertical inclusion: 'Horizontal legitimacy provides the conceptual entry point of exclusionary conduct into peacebuilding theory. Horizontal legitimacy requires some degree of inclusion of the main social groups into the polity. Inclusionary practices or institutions are not *sufficient* for horizontal legitimacy, but they are *necessary*'.

Vertical inclusion, in turn, accomplished an impressive career concerning both policy relevance and claims of empirical research. The upswing of the gender topic in international peacebuilding undoubtedly was a trigger factor in this respect, especially the UN Security Council Resolution 1325 in the year 2000 on women, peace and security (UN Security Council 2000). The resolution argued that women would face specific threats and would have specific needs in situations of violent conflict and called for their increased participation in conflict resolution (see Box 4.1).

> **Box 4.1: UN Security Council Resolution 1325 (2000), adopted by the Security Council at its 4213th meeting, on 31 October 2000, S/ RES/1325 (2000)**
>
> United Nations Security Council, Resolution 1325 (2000)
>
> …
>
> *Expressing* concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and *recognizing* the consequent impact this has on durable peace and reconciliation,
>
> *Reaffirming* the important role of women in the prevention and resolution of conflicts and in peace-building, and *stressing* the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,
>
> …

Despite constructing an awkward nexus between victimisation and representation, which soon raised concerns by critical feminists who would claim that 'UNSCR 1325 was product/productive of conventional discourses of gender and security' (Shepherd 2008: 399), and in spite of doubts regarding the practicability of its demands (Bell and O'Rourke 2010), the resolution jump-started the debate on the inclusion of women in peace processes (cf. Cohn et al. 2004). The agenda quickly expanded into encompassing all groups perceived of needing particular protection and corresponding representation in peace negotiations: civil society, minorities, children or youth.

Another influential facet explaining the conceptual and empirical background of inclusive peace is the corresponding debate on inclusive development (on the evolution of the concept and its meaning [cf. Gupta et al. 2015: 542–546]). The career of inclusive development was prompted by a highly influential,

'Inclusive Peace', 'Inclusive Development': Scholarly Use
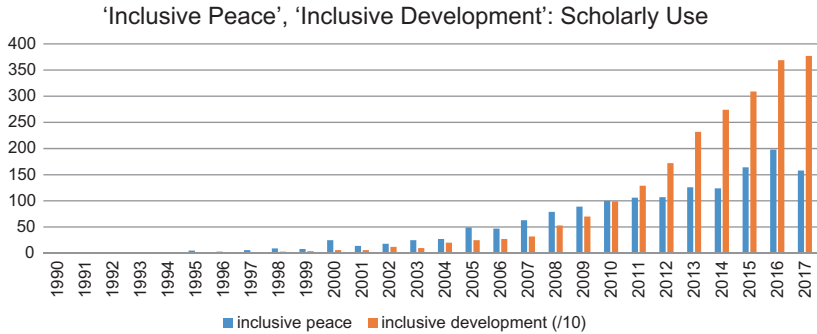
Graph 4.1 Number of research outputs per year using the term 'inclusive peace' and 'inclusive development' based on Google Scholar. 'Inclusive development' has been decreased by the factor 10

World Bank commissioned report by the Commission on Growth and Development (2008) entitled 'Strategies for Sustained Growth and Inclusive Development', and by Daron Acemoglu's and James Robinson's (2012) seminal monograph *Why Nations Fail*, based on a background paper for aforementioned report.

The foremost concern of inclusive development was to empirically and conceptually underpin the assertion that inclusive institutions would lead to more sustainable development outcomes compared with exclusive institutions. The same claim was made in peacebuilding. An astonishingly parallel trend in the scholarly popularity of the terms inclusive development and inclusive peace (see Graph 4.1) confirms these similarities. After having hardly been recognised over decades, the uptake of both notions took off in the latter half of the 2000s.

The analogy between inclusive development and inclusive peace reveals a considerable problem with deduction. Inclusive development is based on reflections about long-term societal institutionalisation. While the assertion of inclusive institutionalisation leading to better development outcomes is broadly accepted among development economists, it is widely disputed how this can be achieved. North et al. (2009) refer to so-called doorstep conditions, the main of which are the rule of law, an effective and perpetual organisation of elites, and the centralised control of violence. Without questioning the empirical validity of these conditions, it

has to be assessed that they are strikingly similar to the core programme of liberal peacebuilding—a programme that certainly fell short on delivering on expectations to establish peaceful states and inclusive development.

North et al.'s insights may be correct in historical terms and even in some empirical cases. Despite often-cited examples, predominantly in East Asia, such as South Korea, however, the expected results are barely universally attainable. If success stories occur, they do so in a highly contextualised manner. Applying broad suppositions on far-reaching and long-term societal processes to the brokerage of peace deals appears flawed. Such an application is hardly justifiable scientifically and unlikely to yield the expected outcomes.

The United Nation's sustaining peace agenda, which set off with the World Development Report 2011 and the subsequent review processes on UN peacebuilding and peacekeeping in 2015, is the most prominent expression of this deduction. On the global level, peacebuilding got embedded in the 2030 agenda for sustainable development and the Sustainable Development Goals (SDGs). Since everything is linked and mutually reinforcing in the contemporary development narrative, the SDGs would also contribute to conflict prevention: 'Inclusive and sustainable development not only is an end in itself but also happens to be the best defence against the risks of violent conflict' (UN General Assembly, Security Council 2018: para. 5).

On the day-to-day policy level, inclusion turned into a policy norm that needed to be incorporated on the mission, programme and project level. The review of the Independent High-Level Panel on the Peace Operations (HIPPO) argues that broad societal inclusion would help to achieve better country ownership (UN General Assembly, Security Council 2015: 5). It also gives a definition of whom it wants to be included in more specific terms: 'This implies participation by community groups, women's platforms and representatives, young people, labour organizations, political parties, the private sector and national civil society, including underrepresented groups' (UN General Assembly, Security Council 2015: 18, para. 44). In doing so, the HIPPO review, for the first time, articulates the linkage between horizontal and vertical inclusion as an undisputable policy norm. Soon thereafter, the UN Security Council in its resolution 2282 (2016) confirmed this approach by stating that 'inclusivity is key to advancing national peacebuilding processes and objectives in order to ensure that the needs of all segments of society are taken into account' (UN Security Council 2016: 2).

The 2018 'Pathways for Peace' report, a joint product of the World Bank and the United Nations (2018), finally established inclusion as a conflict prevention imperative. In the most elaborated way so far, the report suggests that the combination of inclusive development, inclusive political decision-making and inclusive approaches to conflict prevention and settlement would result in more peaceful and stable societies (ibid.: xviii–xix). Herewith inclusion concludes its journey from, as Alex de Waal (2017) strikingly calls it, 'moral claim to political fact'. It does so by means of a top-down enactment, which gives the amazing political success of the inclusion agenda a somewhat bizarre note. In all this, the general logic that a more inclusive peace equals a more sustainable peace is hardly ever questioned. The issue of empirical evidence, thus, requires further scrutiny.

The Evidence: Is Inclusive Peace the Better Peace?

Evidence-based policy-making is an integral feature of new public management (cf. Sanderson 2002). As such, it is a requirement to be fulfilled by all public agencies subscribing to this approach, also by those involved in conflict resolution and peacebuilding. When inclusion turned into a policy paradigm, policy needed to prove—or to 'evidence'—that it indeed worked.

On a superficial intra-agency level, this operation is a possible task. The dominant strategy is circular self-referencing: bilateral agencies use statements and publications by multilateral agencies to justify their policies, which then, in turn, serve as the background for sustaining the agenda at the multilateral level. Inclusion is a prototypical example of this model: starting from UNSCR 1325, bilateral agencies and civil society pointed towards the evident need for inclusionary approaches, since the United Nations demanded it and, moreover, because it fitted the prevalent normative orientations.

Bigger agencies, such as UK's DFID, started working on their own watertight evidence chain. Indeed, recent internal documents seem to point towards mounting evidence whereby inclusion would make peace more durable.[2] A closer look at the cited evidence indicates a different picture: the results of available accounts investigating inclusive peace are doubtful at best, despite the considerable international effort to sustain

[2]This is confirmed by unpublished internal non-papers and discussions with policymakers.

inclusive peace as an empirically valid claim. The research divisions of some agencies even acknowledge this. In a published review paper, a DFID evidence broker, after scrutinising all available empirical research, noted that 'non-elites' capacity to change political settlements is uncertain' (Evans 2012: 4; see also Rocha Menocal 2015: 9–11). Accounts suggesting a stronger focus on inclusion in interventions seemed 'to be based more on argumentative logic than it is on empirics' (ibid.: 16).

Given the attention the topic draws, it is surprising that to-date just three comparative empirical studies exist that investigate the role of civil society in peacebuilding: Wanis-St. John and Kew (2008), Nilsson (2012), and the work of the Inclusive Peace and Transition Initiative (IPTI)[3] at the Geneva Graduate Institute led by Thania Paffenholz (e.g. Paffenholz and Ross 2015).

The first empirical account by Wanis-St. John and Kew compares 24 peace processes from 1992 to 2006 applying a heuristic matrix: it relates the intensity of civil society's role in peacebuilding (low/moderate/high) with the peacebuilding outcome (resumed war/cold peace/sustained peace). Without determining any causation (ibid.: 25), they find that a majority of successful peace processes—in the sense of sustained peace— have experienced a high civil society involvement.[4] In contrast, not a single case with a high civil society involvement resulted in total failure and just two of the cases with moderate civil society involvement did.[5] While these outcomes seem to be convincing at first glance, the article advises caution, particularly regarding the political leaning and alignment of civil society actors (ibid.: 32). Further, the question of correlation and causation becomes important: did the inclusion of civil society help to sustain the process or was it the other way around, so that civil society was included because the process was already sustainable enough to be opened up further?

The correlation-causation problem is also pertinent in Nilsson's (2012) article on civil society inclusion (see also de Waal 2017: 17–18). This account deserves special attention since it developed into the major

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[3] https://www.inclusivepeace.org/, accessed 22 September 2018.

[4] These were Guatemala, Liberia 2003, Mozambique and Sierra Leone 2000. The successes in El Salvador, Macedonia, Northern Ireland and South Africa showed a moderate civil society involvement, Bosnia is asserted as being the only successful case with a low civil society involvement.

[5] These cases were Sierra Leone in 1999 and Sri Lanka.

source for evidencing the positive impact of civil society in peace processes. Nilsson's approach is fairly similar to Wanis-St. John and Kew, though she works with a larger number of cases and uses clearly defined and transparent indicators, based on which she does a quantitative analysis and a subsequent assessment.

Nilsson's study is highly interesting and solidly done. She focuses on the inclusion of both civil society and political parties in peace agreements in the period from 1989 to 2004 and establishes cases where inclusion is recognisable from the respective agreement texts. She correlates these cases with UCDP deaths in conflict data in order to derive statements on the relation of civil society and political party inclusion and the ending of violent conflict. The results are solidly significant and substantiated by control variables. Confirming the findings of Wanis-St. John and Kew several years earlier—and broadly referring to the same cases—civil society inclusion significantly correlates with durable peace.

However, there are two major caveats related to the research outcome, one of which even highlighted by Nilsson herself. First, the data used on civil society integration is crude and the sample is limited. Focusing only on agreement text in a limited number of cases restricts what is possible to call a tangible outcome: 'Admittedly, these are crude measures to use in order to capture the involvement from civil society actors. There is variation not only in terms of the sheer number of actors that are involved, but also concerning the extent of their engagement in the peace negotiations, but currently, there is no such data available. In fact, there is no record of the number of participants in peace talks' (ibid.: 253). The conditions have hardly changed: judging which peace process was inclusive, to what extent and in which form remains a tricky task.

The problems associated with empirical investigations of inclusion are not only about documenting who was involved at what level. Inclusion as such is a multifaceted if not hugely ambiguous concept which is barely possible to operationalise. For example, Paffenholz (2014), based on interviews with high-level practitioners, identified nine different models of inclusion only with respect to civil society actors. Nilsson's identification of civil society and political parties based on agreement texts cannot reflect these multiple pathways. A broader look at civil society engagement may not necessarily support Nilsson's claim: it is a fair assumption that civil society engagement *against* a peace deal, which frequently occurs, would not be reflected in peace agreements. Nilsson's methodology suffers from a success bias.

Second, in contrast to Wanis-St. John and Kew, Nilsson's study confuses correlation and causation. While she admits that her quantitative analysis does not allow for causal statements, she still argues that causality is likely in the light of the available secondary literature and existing case study research (ibid.: 262–263). Again, it is not possible to assess what causes what. It may very well be the case that the peace process was ripe for civil society participation which then, in turn, makes civil society a signifier of success, yet not its cause (at least not necessarily). Nilsson's 'conclusion is normative and conceptual first, and empirical second' (de Waal 2017: 18), which renders the article's enormous influence on the production of peacebuilding policy evidence doubtful.

The third account of empirical evidence commonly referred to is the work of the IPTI in Geneva. Following up on valuable, interview-based work on patterns of inclusion in peace processes (Paffenholz 2014), further efforts aimed at empirically substantiating the inclusive peace paradigm (Paffenholz and Ross 2015). The most recent in-depth empirical work, a 2017 report feeding into the World Bank's 'Pathways for Peace' study, claims to be based on three datasets consisting of 47 prevention attempts with civil society participation (Paffenholz et al. 2017: 13–17). Success is assessed using UCDP data of battle-related depths. However, right before spelling out solid empirical results, the analysis is overridden by a largely inconclusive narrative discrediting the own empirical backing. 'Given the limited size of the datasets and the selection of cases, we cannot claim that our datasets provide a representative sample of prevention processes globally. However, through an inductive analysis guided by the existing literature on inclusion in peace processes, the datasets enable us to develop claims about the relationship between inclusion and prevention. … In terms of comparative method, we thus do not follow a positivist comparative design that aims to produce law-like generalizations' (ibid.: 15).

Translated into plain language, this reads as, 'we have tried to establish causations, but the results were not convincing'. Against this background, it appears that a decision has been taken to explore and report interesting stories and snippets of inclusion processes instead of pursuing the causation agenda. Referencing both aforementioned articles (Nilsson 2012; Wanis-St. John and Kew 2008), the study nonetheless concludes that 'inclusion plays a significant role in the prevention of violence. It contributes to both the initial halting of violent conflict, as well as to

sustained efforts to prevent its escalation or recurrence' (Paffenholz et al. 2017: 18). The data attached to these findings is nebulous—the study speaks of 22 of 118 inclusion modalities that had a significant positive effect in halting violence, yet it remains unclear how these results were established. All graphics and data solely relate to the modalities but do not engage with their asserted effects. In the conclusions, the findings are again presented with a big caveat: 'we ascertained that the relationship between inclusion and violence prevention is highly complex and conditioned by the range of context-dependent factors discussed throughout this study' (ibid.: 60).

Like in earlier work (e.g. Paffenholz et al. 2016), IPTI starts with a strong normative proposition which bluntly reads as 'exclusion is … normatively undesirable' (Paffenholz and Ross 2015: 36). The attempts to substantiate the positive effects empirically then fall short of verifying the expected relationship. Empirical inconclusiveness would be a fair outcome if, according to due process, assessed as such. At this point, IPTI's work on inclusion becomes unreliable: instead of overtly explaining the results, the language becomes vague and condenses into one message: inclusion halts violence and brings peace. What IPTI presents in the discussion is that empirical evidence has been provided showing that inclusion works, whereas the report failed to do so.

As said, comparative empirical assessments on the effectiveness of inclusive peace are short in supply. Based on the three accounts that attempted to establish the inclusion-peace nexus, the results are sobering. With some limitations, the studies are able to demonstrate a correlation between civil society inclusion in peace processes and process sustainability. Conversely, Paffenholz et al. (2016) explicitly fail to establish a significant correlation between women's participation in peace negotiations and peace process success. None of the hitherto available scholarly work can convincingly prove any causation. The inclusive peace evidence, thus, predominantly rests on the normative belief of the authors, who in all three cases appreciate inclusion as a normative responsibility. Additionally, persistent cross-referencing supports the pretention of established knowledge when the picture is in fact widely unclear.

The authors are not responsible for the shortcomings in providing persuading evidence. Empirically proving the success of inclusion in peace processes has to fail, for two distinct reasons: first, inclusion as a concept is too ambiguous to be approached by empirical and especially quantitative research. All three studies severely struggle with

operationalisation, despite restricting themselves to civil society. IPTI's own work convincingly displays how multifaceted civil society engagement is. Correspondingly, it reveals how difficult any kind of reliable measurement is. None of the studies discussed the effects of horizontal elite inclusion, which was the conceptual starting point of the inclusion topic, or the interrelation between horizontal and vertical inclusion. No serious account argues that both forms of inclusion would go hand in hand or would even have mutually reinforcing effects.

A number of further blind spots remain as well. No comprehensive empirical assessment has investigated the complex interrelations between what de Waal (2017: 4–10) calls the four 'concentric cycles' of inclusion: armed political actors, so-called terrorists, unarmed political actors, and the particular focus on women. Such an undertaking does not promise to yield convincing results: the complex reality of and non-linearity in peace processes render an empirical significance of causal relationships between inclusion and peace improbable. The ontological preconditions are missing. Correlating two superficially simplified concepts—civil society participation, peace process success—as proxies for ambiguous notions such as inclusion and peace has to result in random outcomes.

Inclusion's Necessary Limits

The evidence challenge does not render inclusion worthless. As argued in previous work (Bell and Pospisil 2017), inclusionary practices have a role to play in pragmatic transitions. However, in order to make inclusion applicable in pragmatic transitions, a fundamental reconsideration of the current approach is required. Such reconsideration has to seriously engage with the question of whom to include into what processes at what stage to what effect. Some accounts in democratisation studies, for example, have shown that 'not all good things go together' (Grimm and Leininger 2012).

A cascade of conceptual misunderstandings is attached to inclusion. As it has been discussed, inclusion is not something that works or not or something that can be approached in the right way, for example by employing thoughtful procedural sequencing. Inclusionary practices will have effects. However, these effects vary depending on situations and context. Additionally, there are two interrelated conceptual dilemmas not yet sufficiently addressed by the debates around inclusive peace: the loser dilemma and the exclusion dilemma. In both instances, there is no clearcut way out: both dilemmas are pushing inclusive peace beyond its limit.

Like any other process of socio-economic transformation, a peace process is going to create winners and losers. This unfortunate reality produces a loser dilemma. Usually, mediators try to design peace processes with the goal to accommodate the needs and requests of the involved parties by creating rationale incentives for giving up arms. For this to work, the parties and their broader social network ought to be better off after the peace deal than they were before. The accommodation and subsequent institutionalisation of fundamental contestation provide the background for the formation of formalised political unsettlement. Accommodation is not restricted to armed actors. In peace deals, broader processes of economic change take place. Those losing out in these processes constitute an economically excluded group which is barely approachable by further inclusionary methods.

Whole economic sectors and connected livelihoods might get lost during post-conflict transformations, in a way Joseph Schumpeter (2008: 81–86) has described as 'creative destruction'. Schumpeter's insights about economists and capitalism can be directly applied to peace researchers and peace processes: 'the problem that is visualized is how capitalism administers existing structures, whereas the relevant problem is how it creates and destroys them' (ibid.: 84). The same can be said about post-war transitions, which are, at the same time, socio-economic transformations. Inclusion's implicit promise is to mitigate the disruptions brought about by a peace process by participation and representation. It cannot. The recent referendum in Colombia, where a majority of the electorate voted against an agreement between Colombia and the FARC-EP guerrilla negotiated in one of the most inclusive processes ever designed, is an impressive example demonstrating this dilemma.

Inclusion has a diminishing marginal utility when becoming broader and more encompassing. At a certain point, probably sooner rather than later, the promises surpass the results, which makes transitions unsatisfactory—not because of a lack of inclusion, but because of too much of it.

Closely related to the loser dilemma is the exclusion dilemma. Most peace negotiations experience the presence of groups and factions who do not want to be included in the talks. Traditional peace research refers to these groups as 'spoilers' (Mac Ginty 2008: 108–131). Like de Waal (2017: 5) rightly observes, 'the concept of a spoiler is meaningful only in the context of a normative peace process: outside such a process, actors are only pursuing their interests and not spoiling anything'. Inclusion radicalises the process of spoiling: by creating an inclusion pull,

it inevitably creates a simultaneous drive towards exclusion. Inclusion fails to conceptually operate without constantly producing and reproducing exclusion. It does so in practical terms as well. By trying to be as inclusive as possible, process design increases the material incentives for getting deliberately excluded. Such effects are indeed 'a normal part of a peace process' and may even have positive implications (Newman and Richmond 2006: 109). Nonetheless, they constitute the second dilemma that inclusive peace is not able to adequately address.

These two dilemmas support the argument that the claim of more inclusion resulting in more sustainable peace is conceptually misguided. Therefore, peacebuilders face the choice of either using inclusion in the sense of a post-liberal paradigm that makes affirmation a bit less uneasy or to think about the possibilities inclusionary approaches might offer in pragmatic transitions. When attempting the latter, the only option is to conceptualise inclusion in terms of trade-offs. These trade-offs, in one way or the other, derive from the loser dilemma and the exclusion dilemma. In contrast to policy claims, these trade-offs are not just pitfalls or arduous bumps in the road to eventual peace process success. Rather, trade-offs are what inclusion essentially is about: the politics of transitional processes under the condition of uncertainty. The remainder of this chapter discusses the main trade-offs inclusion involves and explores the approach of providing hooks as a potential avenue to productively utilise the still existing opportunities.

The Inclusion Trade-Offs

The empirical investigation into peace agreements and peace processes has already acknowledged some of the inclusion trade-offs (e.g. Bell 2017: 21): the contradiction between horizontal and vertical inclusion is a widespread assessment, as are the trade-offs related to timing, a constant feature of peace negotiations. Modalities possibly able to guarantee a short-term buy-in might undermine a process in the long run, and vice versa. In the following, these two inclusion trade-offs are explored, together with four other possibilities that might arise in transitional processes depending on context.

Horizontal versus vertical inclusion. In short, this trade-off is about attempting to seal a comprehensive elite pact or to attempt to organise peace negotiations as a wide-ranging societal enterprise. Virtually all research accounts dealing with peace process inclusion accept this

contradiction and admit the necessity for manoeuvring. 'A key difficulty continues to be the inherent paradox central to all peace processes, namely, that if those who are fighting fail to reach a ceasefire, little stability or justice—including for women—will be possible, but if all justice issues are sacrificed to the achievement of a ceasefire, the ceasefire is likely to achieve very little in terms of transforming women's lives' (Bell and O'Rourke 2010: 980). This blunt assessment coming from two scholars known for their human rights and gender activism is telling: the argument against large inclusionary processes raised by some peace scholars (e.g. Stedman 1997, who instead argues for effective 'spoiler management') appears to have some weight.

Short-term versus long-term inclusion. In almost all peace processes, a discrepancy emerges between signing a peace deal and organising the sustainability of this deal. Often, this discrepancy takes the shape of a trade-off. The ideal outcome of peace negotiations especially international peacebuilders are often looking for is the conversion of a short-term ceasefire into a comprehensive framework for a sustainable transition. The empirical reality of procedural sequencing in peace processes (Bell and Zulueta-Fülscher 2016) disproves this expectation. First, the ideal-type sequence that progresses from a ceasefire over a framework agreement towards a comprehensive peace deal is a rare occasion in peace process history. Just four examples broadly evolve around this pattern: Colombia, El Salvador, Mozambique and Bosnia and Herzegovina (ibid.: 20–21). Second, even within these cases, the process does not unfold as it has been laid out initially. The muddy reality in the everyday of peace negotiations forces mediators to suggest options that are neither all-inclusive nor neutral and to encourage the bargaining parties to find modes of handling such partialities. Besides post-conflict economics, justice issues are usually at the centre of time-related disagreement. Policy claims such as peace and justice being 'mutually reinforcing imperatives' (United Nations 2010: 4) are empirically and conceptually misguided. In peace negotiations, these issues tend to make matters difficult.

Broad coalition building versus 'spoiler' inclusion. The spoiler issue discussed above generates an imminent inclusion trade-off within horizontal inclusion as well. Being part of formal peace negotiations has a legitimising effect, nationally as well as internationally. For some armed factions, therefore, participation turns into a huge achievement in its own right which, in turn, may be met with scepticism by internationally recognised actors. This scepticism increases significantly if the

'terrorism' label is applied (de Waal 2017: 6–7). The horizontal participation trade-off has follow-on implications since the behaviour of actors—included or excluded—is constantly shifting in the course of a transitional process. The inclusion paradigm is not able to provide useful guidance in this respect. In the last instance, deciding on whom to talk to remains a political decision for all parties involved.

Civil society versus civil society inclusion. A civil society against civil society trade-off may sound paradoxical. Yet, it is one of the constant features especially in peace processes with considerable public buy-in. A regular misperception of international liberal peacebuilders understands civil society as their natural ally when it comes to brokering with armed actors. Peace process experience shows a much more uneven picture. Several studies have investigated the ambivalent role of civil society in war and peace. Roberto Belloni highlights the cases of Lebanon and Rwanda, where a mass mobilisation of civil society and community groups resulted in disastrous consequences: 'In these and similar cases of breakdown of civil coexistence, while political authorities, intellectuals, and religious leaders provided the rationale for violence, civil society fragmented into opposite camps, while the media quickly turned into an instrument for nationalist propaganda' (Belloni 2008b: 187).

Civil society is not immune to identity politics and, in some instances, may turn even into a pro-war force. John Keane (1998: 135) diagnoses a strong element of incivility within civil society. During the Sri Lankan peace process in the mid-2000s, when international donors strongly supported peacebuilding NGOs, the entanglement between civility and incivility became evident. On the one hand, marginalised groups used identity politics to 'mobilise to protest and improve their situation' (Orjuela 2004: 264). Eventually, a Sinhala nationalist campaign initiated a campaign in which 'good' nationalist civil society was positioned against 'evil' so-called foreign-funded NGOs (Goonatilake 2006: 247). Postcolonialist discourse was utilised to substantiate claims of genuineness which were solely directed to organise civil society support for national armed action against the Tamil LTTE. As it turned out, these attempts were enormously successful.

Civil society's contradictory role is barely considered when the inclusion agenda in peace processes is debated at international fora. Habitually, these discussions refer to the like-minded, such as women's groups, peacebuilding NGOs, liberal youth representatives or pro-peace religious leaders. The other side is conveniently neglected: nationalist

groups of supporters of armed forces, pro-war religious leaders, cultur-alist identity groups. Civil society inclusion is by no means a straightfor-wardly peace-supporting project.

International inclusion versus national and local inclusion. Inclusion relates to one of the central contradictions of peacebuilding, especially after the local turn. International development cooperation is a bilateral and multilateral enterprise. Therefore, all cooperation activities must be negotiated between the involved countries and multilateral agencies. As the global development relationship is set up at current, governments in recipient countries cannot be bypassed in any legitimate way. The reper-cussions on the international inclusion agenda are severe. The former Minister of Finance of Timor-Leste, Emilia Pires, one of the key pro-tagonists in global fragile states politics, translated the relationship into a sharp request: 'Inclusive politics must be globalized before it is local-ized' (Pires 2007: 4). This may sound straightforward and fair, yet it involves a significant trade-off: treating the governments of belligerent countries at eye level does undermine contemporary strategies and tac-tics of international peacemaking. It also has real implications on transi-tional processes and their external support. The attempt by international peacebuilders to include like-minded actors into negotiations may collide with the interests of conflict parties who want to design a process in their favour. International inclusion and honest brokerage can be contradic-tory aims.

Peaceful inclusion versus violent inclusion. Recent empirical work on complex conflict systems has demonstrated that armed violence can have surprisingly inclusive effects (Verweijen [2016] and Perera [2017], have shown this for the Eastern DRC). Peace process inclusion, thus, gets pulled into a competition with the conflict system to provide a better inclusion model. As absurd as it may sound, this is a difficult task. The South Sudanese political-military system, for example, has developed highly functional inclusive patterns during the decades of armed conflict: when commanders are seeking promotion, one of the most promising avenues for achieving this is to form a breakaway faction and trigger a limited-scale rebellion against the leadership. While this pattern, in the last instance, may be rooted in exclusionary practices (e.g. Boswell 2013), a particular culture has developed over time that reproduces it (Pinaud 2014). Most peace agreements in South Sudan thus try to care-fully address the issue of armed group accommodation, formally or infor-mally, in order to break the inclusive effects of rebellion.

Inclusion and Pragmatic Transitions

The picture of inclusion painted so far is rather bleak. While this was necessary to counterbalance the unfounded promises of inclusive peace, inclusionary practices still have a lot to offer in pragmatic transitions. There are opportunities for engagement that reach beyond pledging ambiguous solutions in contexts where solutions are impossible. However, several reconfigurations are required: first of all, against the background of the aforementioned trade-offs, the dominant idea of an overarching inclusive process design is misplaced. As it is the case with methods of non-solution and disrelation, to be discussed in subsequent chapters, the everyday of peace processes advises that inclusionary practices work best on a small scale. Christine Bell (2018: 26) has called such possible applications *hooks*.

Providing hooks are a promising method in navigating pragmatic transitions. Needless to say, hooks come along with challenges. They are not applicable when rationalised in terms of success and failure, often used as the primary dimension in measuring the quality of professionalised development and peacebuilding cooperation. Whether such hooks become helpful or remain irrelevant in the course of a transitional process cannot be reasonably predicted before they are actually used. An element of randomness always remains.

Notwithstanding their unpredictability, the provision of hooks can supply a stabilising element in the messy reality of formalised political unsettlement. One task they are able to accomplish is to enable and catalyse local engagement. They offer a link to state institutions, which in formalised political unsettlement are continuously renegotiated, and so 'can enable women and minorities who have lost out at the moment of the peace agreement deal, to continue to have avenues from which to pursue fundamental change involving increased inclusion' (Bell and Pospisil 2017).

However, the entry points for the provision of hooks may be hidden and difficult to find. For identifying such entry points, it is helpful to distinguish between process hooks and substance hooks—which refers to similar discussions on process inclusion and the inclusion of topics. These two approaches are closely interrelated. The Colombian peace process between the government and the FARC-EP, for example, showed an amazingly high level of process inclusion and ended with the longest peace treaty in history, encompassing a wide array of issues. These achievements will not vanish and allow a wide variety

of actors to relate to, even though the final agreement was subject to another round of substantial revisions after its rejection at the ballot box. This rejection, at the same time, illustrates the often-limited short-term impact of inclusionary practices. The translation of inclusionary hooks into the realities of post-war transitions is slow and viscous.

Before discussing some possible avenues for the provision of hooks, two issues require further attention: first, while both process and substance inclusion are relevant, substance should be given preference in case there is a choice. A 'hard' formalisation of unsettlement along group identities, mostly tied with modes of representation, often shrinks political space or at least reduces potential leeway for bargaining. The question of quota, for example for gender or minority representation, is hotly debated academically and politically. Empirical insights, in line with the New Institutional Economics' claim about the context-dependent character of the functioning of institutions, point towards a highly contextualised efficacy of such instruments. A representative quota is therefore not a hook to aim for under all circumstances.

Second, liberal standards and values can work as an influential tool in bargaining processes around inclusion, because their international legitimacy provides potential leverage against elite actors on all levels. Human rights as a top-down endorsed norm may be worthless and even dangerous when used as an argument against peace deals (as cases such as Colombia, North Uganda or Sudan demonstrate). However, human rights can be constructive and very powerful when understood as a process tool. Commonly accepted causes of conflict, irrespective of their academic value, may as well offer a narrative that can be utilised for substance inclusion. For all engaged actors, it is nevertheless necessary to keep in mind that these hooks are about norms *and* about tactics. When negotiating inclusion in the formalised political unsettlement, flexibility beets dogmatism anytime.

Providing Hooks

Even though the term may sound unfamiliar, hooks are frequently applied in peace agreements and transitional processes. Hooks are an effort to create a manifest structural or substantial reference for actors to relate to in their efforts to achieve inclusion in post-war transitions. Together with creative non-solutions and practices of disrelation, which will be examined in subsequent chapters, the provision of hooks is not

only an essential ingredient of pragmatic transitions but an elementary part of the project of reconstructing agency in the state of affirmation. In the following, four types of hooks will be discussed which have already been used in peace processes: infrastructural hooks, procedural hooks, normative hooks and, following up the discussion on constructive ambiguity, ambiguity as a hook.

Infrastructural Hooks

Infrastructural hooks are meant to provide structures for transitional processes to which actors can relate. The notion of infrastructures has some history in peace research. John Paul Lederach (2012) popularised the notion of 'infrastructures for peace' as a comprehensive approach that aims for translating the interdependencies between various levels of society into institutionalised structures. Commissions, which played a major role in many of the Central American peace processes, are an example of this approach. The notion of infrastructures gained renewed interest in the debates on the local turn (Richmond 2013).

The main warring parties often overlook social infrastructures because they are without immediate relevance and rarely threaten their strategic interests. Therefore, infrastructural hooks 'start with an elicitive approach, wherein pertinent actors are encouraged to analyse impediments to development (rather than the fact of potential for conflict) in a manner that does not immediately threaten anyone's positions or interests' (Kumar and De la Haye 2012: 17). They usually evolve in remote spaces of peace processes, for example as a concession towards pressures from community groups or demands from the international level.

Infrastructures can play a significant role in peace processes. Kumar and De la Haye (2012) list some noteworthy examples in a variety of post-war transitions, either structures dedicated specifically to peacebuilding, such as the National Peace Council in Ghana, or broader development structures which were related to a transitional process, like the UNDP-supported Social Cohesion Programme in Guyana. Many of these structures develop in a hybrid way, initiated by local demands, implemented nationally and supported by international partners.

An illustrative example in this regard is the infrastructure established in the peace process after the violent outbreaks during the Kenyan elections in 2008 (see Box 4.2).

Box 4.2: Nakuru County Peace Accord, 19 August 2012, Nakuru County, Kenya, provided by PA-X, Peace Agreement Access Tool

The Nakuru County Peace Accord

…

4.1 Actions to be undertaken

a. Accepting that as Elders we cannot offer simple solutions, we will seek ways of addressing mutual issues that may arise in different communities and localities. These might include local issues like drought, rivers, resource distribution, animal health and livestock movements. It could also include more general issues like state service delivery, schools, youth employment and job creation, crime and housing.

b. We will establish mechanisms for ongoing dialogue between our communities and for furthering the objectives of this Accord. This will include making reference to, and linkages with other authorities, and seeking support from relevant authorities and donors.

c. Our immediate institutional development will include:
   (1) establishing a small secretariat for our ongoing work;
   (2) creating a network of monitors and contacts with whom we can interact at different levels where that might be useful to local peace issues;
   (3) disseminating, explaining and discussing this Accord in our communities and with others who share the concerns;
   (4) establishing appropriate linkages with the National Commission for Integration and Cohesion (NCIC), the National Steering Committee (NSC) and other relevant institutions and processes;
   (5) establishing the Nakuru Elders Mediation Committee (see below).

d. Our major priorities between now and the forthcoming General Elections will be to:
   (1) prevent election violence of any sort,
   (2) disseminate and discuss this Accord, and to
   (3) build linkages with surrounding Counties for the same purposes as in this Accord.

The infrastructure provided by the Nakuru County Peace Accord has a distinct hybrid character which characterises many comparable attempts. Community-organised processes institutionalise, interrelate and eventually link up with national-level processes to strengthen their legitimacy. A flexible mix of traditional and formal leadership patterns develops. At the same time, no devolution of legal competences takes place. The hybridity also refers to a specific pattern of formalising the informal but still holding on to its informal character. In hindsight, despite the critique raised against the structures which were inflated by donor money (Chuma and Ojielo 2012), the process resulted in what was hoped for. While Kenyan elections remain contested and potentially violent, the crisis of 2007/2008, when the national elections triggered significant outbreaks of violence with more than a thousand people killed, did not reoccur.

Procedural Hooks

The procedural hook most people are instantly inclined to think about is quota. Indeed, quota, especially gender quota and quota for ethnopolitical minorities, have developed into a common feature of peace agreements. The general assessment of their impact is mixed. While some accounts argue that they lead to successful outcomes in several post-war transitional processes (O'Reilly et al. 2015: 28), others criticise their inherent depoliticising effect (Krook and True 2010: 123). Apparently, the effect of quota is mainly context-dependent and related to a pre-existing level of activism. They can provide a hook (cf. Wise 2018b), but cannot, as it is sometimes assumed, break up patriarchal structures or reverse traditional patterns of domination.

Other procedural hooks resemble infrastructural hooks but are predominantly focusing on the transitional process. In the more than two decades since its instatement, the constitutional court of Bosnia and Herzegovina has grown into the role of an indispensable procedural infrastructure in the ethnopolitically divided formalised political unsettlement generated by the Dayton peace accord (see Box 4.3). From the outset, the court has a constitutional role not different from many comparable constitutions. However, in the entirely entity-based logic of the Bosnian system, the court is one of the most critical factors to preserve the transitional process.

Box 4.3: General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement), 21 November 1995, Dayton, OH, USA, provided by PA-X, Peace Agreement Access Tool

General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement)

Annex 4
Constitution of Bosnia and Herzegovina
…
Article VI
Constitutional Court

1. Composition. The constitutional court of Bosnia and Herzegovina shall have nine members.
   (a) Four members shall be selected by the House of Representatives of the Federation, and two members by the Assembly of the Republika Srpska. The remaining three members shall be selected by the President of the European Court of Human Rights after consultation with the Presidency.
   (b) Judges shall be distinguished jurists of high moral standing. Any eligible voter so qualified may serve as a judge of the constitutional court. The judges selected by the President of the European Court of Human Rights shall not be citizens of Bosnia and Herzegovina or of any neighboring state.
   c) The term of judges initially appointed shall be five years, unless they resign or are removed for cause by consensus of the other judges. Judges initially appointed shall not be eligible for reappointment. Judges: subsequently appointed shall serve until age 70, unless they resign or are removed for cause by consensus of the other judges.
   (d) For appointments made more than five years after the initial appointment of judges, the Parliamentary Assembly may provide by law for a different method of selection of the three judges selected by the President of the European Court of Human Rights.

The framework provided by the constitution is, in a way, a trojan horse of multi-ethnicity in the ethnopolitical division of Bosnia and Herzegovina. Three of the judges must not be citizens of the country or any neighbouring state. These international judges give the court a character of hybrid sovereignty. Conventional statebuilding approaches criticise the whole Bosnian framework as an 'intentional construction of nonfunctioning states' (Hayden 2005) and as problematically political (Horowitz 2006). When accepting the condition of formalised political unsettlement, however, the court appears to have a substantial role in constantly redefining the terms of the unsettlement. The court's most influential decision, a landmark ruling upholding the collective equality of constituent peoples and minority rights, was heavily criticised by the entities which worked towards enshrining the separation along the long-term aim, at least by some of its proponents, of breaking the formalised political unsettlement apart. Even though the full implementation of the ruling got stuck, the court affirmed its role as a 'transparent and efficient *local* institution' (Belloni 2008a: 62). It acted as a useful procedural hook in the transitional process.

The peace process between the Colombian government and the FARC-EP also exemplifies the functioning of procedural hooks. The peace process relied on many inclusion modalities that demonstrated a remarkable innovative capacity (Herbolzheimer 2016: 3). Numerous local consultations were held and a system of online participation organised, both of which fed into the main talks in Havana. These participatory hooks, in turn, contributed to a hitherto unknown communication offensive by both parties. Communiques and press releases were published on an almost daily basis. The Colombian peace process managed to be very inclusive and highly exclusive at the same time, which was probably one of the critical factors for the successful closure of negotiations.

Paradoxically, the final step, designed to accomplish the broadest possible legitimacy through a public referendum on the outcome of the peace talks, failed. Without a doubt, this result was unexpected and sobering. Plausible explanations relate the result to Colombian politicking rather than to the peace process as such. However, the negative outcome confirms that procedural inclusion indeed is nothing more than a hook. It is not a panacea guaranteeing a solution or even triggering a peace movement.

Normative Hooks

The dogmatic application of international legal norms has been met with substantial academic criticism in recent years. Nevertheless, the capacity of international norms to operate as a powerful tool in transitional processes deserves to be acknowledged. The background of their weight is the interplay between various levels of legitimacy: actors involved in peace negotiations hardly dare to reject their international obligations openly. Nationalist and post-colonial rhetoric enable a legitimacy game in the wider context of the fluid global political marketplace. Nonetheless, dismissing global norms would hamper the interest of the warring parties, as they would risk losing international as well as local legitimacy.

The repudiation of a dogmatic use of human rights norms requests further reflection on how to utilise such norms as hooks in transitional processes. 'Human rights assurances made during peace processes should be understood as mechanisms for setting aside the space in which this process of political construction can take place' (Bell 2017: 54). Especially human rights are an important reference point in peace negotiations and a tool for inclusion that is not just focusing on questions of representation and who gets a seat at the table. Human rights stipulations can provide the opportunity to be related to at later stages, even in unexpected and unforeseen moments of a transitional process.

Normative hooks, therefore, are a necessary cornerstone of pragmatic transitions. A pragmatic approach conflicts with a dogmatic, top-down enactment of normative frameworks, but it does not rule out a political stance substantiated in normative principles. Normative hooks reflect this stance while also being of enormous practical value. In formalised political unsettlement, the mode of working with these norms is multifaceted and not a question of compliance by the various involved actors.

The formal element of compliance is still present and empowers actors who are structurally too weak to encounter the warring parties at eye level to refer to an official framework and to use this reference to their advantage. Of equal importance is the secondary impact these norms generate. A tacit compromise between elites at various levels may well result in mutual acceptance of non-compliance. Even if this is the case and the practical aspects fall short of international standards and expectations, the discourse created by these norms still is influential.

Subscribing to these norms, even in the more general parts of a peace agreement, may turn into an obligation when the signing parties are required to take a public stance. Government actors must officially state that they comply, and in case of breaches, or accusations thereof, in most instances at least offer statements of denial. However misguided and wrong these denials might be, they are entrenched in a discourse that is profoundly affecting the roots of their legitimacy. Rejecting this discourse is a difficult task: effectively, the only option is candid opposition, which has been tried before—for example along the narrative of Asian values. However, none of these attempts has achieved lasting success against the legitimising power of the global liberal discourse.

One instructive example is the political dispute on presidential term limits in sub-Saharan African countries. Often implemented in the aftermath of peace deals, term limits presently experience remarkable public popularity (Posner and Young 2018: 268–270). Political elites have to face enormous political pressure when trying to extend these limits, which may even result in their downfall (such as Blaise Compaoré in Burkina Faso). The procedural stickiness of norms is extraordinary and a concurrent feature in transitional processes. Normative hooks, thus, provide an anchor that, on the one hand, potentially supports processes of self-empowerment of marginalised groups and, on the other hand, shapes the ongoing institutionalisation in formalised political unsettlement towards increasing flexibility.

Ambiguity as a Hook

How processes or spatial or political units are named is often a considerable stumbling block in peace negotiations. One example is the use of the term 'federalism' in the Sri Lankan peace process. Substantial parts of the Tamil community and several major international actors promoted the concept—or its politically broader sibling of confederation—for designing a structural outline for sustainable conflict resolution. With the upswing of Sinhala nationalism in the mid-2000s, the term became a no-go in Sri Lankan political debates. In the peace negotiations, federalism, in the end, was fiercely rejected by both sides (Salter 2015: 111–121). Intended to serve as an inclusive tool to reunite Sri Lankan society, the federalist discourse turned into a catalyst for re-escalating the violent conflict.

In general, ambiguity towards how processes or structures are named is a regular feature in peace negotiations (Wise 2018a: 31). Along the typology proposed in this book, this ambiguous use of naming comes already close to creative non-solutions. Some examples from Bosnia and Herzegovina, which will be discussed in the following, would definitely deserve such a label. Since naming plays a vital role in identity formation and the political association of people, however, they can legitimately be interpreted as inclusionary hooks as well.

In Bosnia and Herzegovina, the Dayton framework was used to square the circle of formalising a structure based on sub-states unwilling to cooperate in a federal state. The approach towards naming thus had several purposes: Bosnia and Herzegovina does not have a clear-cut political set-up in the traditional sense. Its complex structure of consociational governance is *sui generis*. The Bosnian and Croat parts form a federation, whose relationship with the Republika Srpska is just the central state, which is not even federal, but organised in a crude form of consociational power-sharing. In all agreed frameworks, the Republika Srpska and the Federation are referred to as 'entities', which is a highly unusual term for a political system. It does not imply any further characterisation of the system of governance of the central state, something that would be immediately contested by one of its parts. Usually, 'entity' is an overarching term for a variety of legal associations, which points towards the specific character of the Dayton framework. Entities, thus, are meant to do three things at once: to enable people a political relation along existing ethnopolitical identities, to provide a national vision able to possibly reconfigure these ethnopolitical identities, and, in doing so, to avoid any settlement on the polity and its enduring characteristics.

Another example is the political accommodation of the contested Serbian-dominated areas around Mitrovica in Northern Kosovo. Recent attempts of international conflict settlement between Serbia and Kosovo searched for a compromise between three irreconcilable interests: Kosovo's goal to get recognised as a unified state including these areas, Serbia's goal to sustain a formalised political unsettlement resting on the ambiguity of Kosovo's status, and the interest of the Serbian-dominated areas to not become formal part of the Kosovar polity. Ambiguous language enabling multiple relations was thus essential (see Box 4.4).

Box 4.4: First Agreement of Principles Governing the Normalisation of Relations (Brussels Agreement), 19 April 2013, Brussels, Belgium

First Agreement of Principles Governing the Normalisation of Relations (Brussels Agreement)

1. There will be an Association/Community of Serb majority municipalities in Kosovo. Membership will be open to any other municipalities provided the members are in agreement.
2. The Community/Association will be created by statute. Its dissolution shall only take place by a decision of the participating municipalities. Legal guarantees will be provided by applicable law and constitutional law (including 2/3 majority rule).
3. The structures of the Association/Community will be established on the same basis as the existing statute of the Association of Kosovo municipalities e.g. President, vice President, Assembly, Council.
4. In accordance with the competences given by the European Charter of Local Self Government and Kosovo law the participating municipalities shall be entitled to cooperate in exercising their powers through the Community/Association collectively. The Association/Community will have full overview of the areas of economic development, education, health, urban and rural planning.
5. The Association/Community will exercise other additional competences as may be delegated by the central authorities.
6. The Community/Association shall have a representative role to the central authorities and will have a seat in the communities consultative council for this purpose. In the pursuit of this rile a monitoring function is envisaged.

…

The 2013 Brussels agreement does not even attempt to find a clear and common language. Instead, it resorts to a bold compromise: the dual use of community and association, even in alternating order. The implications are legal and political. Legally, an association would give the Serbian parts a much stronger legal standing within the Kosovar governance framework. This ambiguity was the compromise Kosovo had to make since Serbia was sustaining parallel government structures in these territories after Kosovo's declaration of independence in 2008. Politically, Serbia compromised on accepting the use of the term 'association', which is how the Serbian-dominated areas are officially referred to in Kosovo's political discourse.

The ambiguous language of the Brussels agreement was able to set off two parallel processes. On the one hand, it produced a situation of 'institutionalised contestation', a classic non-solution which will be discussed in the next chapter. The institutionalised contestation was a necessary precondition for normalising the relationship between Serbia and Kosovo, which was substantively incentivised internationally: EU-accession for Serbia, participation in global multilateralism and an expansion of territorial control for Kosovo. On the other hand, the ambiguity works as an inclusionary hook: 'this association/community has the potential to serve as an institutional incentive and a mechanism for further advancing the integration of the Serb community in Kosovo, enhance inter-ethnic trust and increase communities' participation in public life' (Visoka and Doyle 2016: 871). Undoubtedly, the formalised political unsettlement of Kosovo is not going to be solved by this ambiguity. But the institutional fluidity characterising this settlement can be utilised in further inclusionary practices.

Inclusion and the Provision of Hooks: Ethical Considerations

Inclusion in the vague sense of inclusive peace has severe limitations and has hardly any conceptual or practical use in pragmatic transitions. The trade-offs inherent to inclusion raise serious doubts if it is normatively desirable under all circumstances. The thrive behind the notion neglects that some exclusionary practices have deep ethical roots as well. It was, for example, due to well-founded ethical considerations that liberal legal systems decided to exclude victims from deciding on a final judgement

over a committed crime. When reflecting on how to harness hooks for inclusionary practices in transitional processes, the contestation between inclusion as a political act, its normative background and its functionality in pragmatic transitional processes need to be considered.

In a state of affirmation, norm contestation is the rule. Norm contestation is usually framed as a contestation between different norms, yet, especially in conditions of formalised political unsettlement, the contestation about the application of norms is of equal importance: should norms be used as a dogmatic element and compliance assured, or should they function as a process tool, and if the latter, how?

The peace process between the Colombian government and the FARC-EP highlights these tensions: the criticism of lacking human rights provisions became one of the main crystallising points in the 'no'-campaign against the peace agreement. Unexpectedly, some international human rights NGOs, especially Human Rights Watch (HRW), were at the forefront of campaigning. HRW called the agreement 'a facade of justice that guarantees impunity for atrocities in Colombia'.[6] In its 'world report 2018', HRW explained that '[t]he agreement provides a historic opportunity to curb human rights abuses, but its justice component contains serious shortcomings that risk letting war criminals escape justice'.[7]

The conceptual project of inclusion was to transcend the peace-justice contradiction by transferring the relationship to a post-liberal framework within a broader stance of affirmation. If this trick has worked or not is a matter of perspective. In the context of perpetual failure, the failure of inclusionary practices does not render inclusion wrong. Contemporary post-liberal peacebuilding policy uses this reasoning to generate broad political acceptance. The trade-off, however, is huge. The passive affirmation of perpetual failure embedded in the inclusion paradigm results in the total loss of agency. For policy actors, used to working under the conditions of a permanent muddling through, perpetual failure can be quite comfortable. The ethical dimension remains a challenge, which is of course also true for working with formalised political unsettlement.

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[6]Human Rights Watch, José Miguel Vivanco, 16 August 2016, 'Colombia Peace Deal's Unwelcome Critic', https://www.hrw.org/news/2016/08/16/colombia-peace-deals-unwelcome-critic, accessed 4 September 2018.

[7]Human Rights Watch, 'Colombia: Events of 2017', https://www.hrw.org/world-report/2018/country-chapters/colombia, accessed 4 September 2018.

The examples of hooks illustrate that inclusionary practices can work towards reconstructing agency as well. In order to do so, inclusion needs to be relieved from its inherent overarching solutionism. It works best as concrete, small, situational practices within a wider transitional process, along with non-inclusionary or even anti-inclusionary elements. Inclusion thus has a role to play in its appearance as pragmatic hooks. Further, the overarching inclusion-exclusion narrative in post-war transitions is in dire need of deconstruction. It has no message to tell and no insight to deliver, neither about violent conflict, nor its causes, nor its transformation. Inclusion understood as 'humanist or modernist solution' to affirmation is not only going to fail: it risks being intrinsically unjust (Chandler 2018: 27, interpreting critiques against a 'positive' approach towards the Anthropocene).

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Moving Beyond Solving Conflict: Creative Non-solutions

This chapter will dig deeper into the practices of pragmatic transitions. It explores a territory that conventional peacebuilding research hitherto has largely ignored: creative non-solutions. Creative non-solutions are practices that move beyond solving or settling a conflict, or the issues thought to be at the roots of it. Similarly to the hooks discussed in the preceding chapter, non-solutions regularly occur in the everyday of peace processes. Such practices are no abstract vision, but a manifest reality. The heuristic typology presented in the following chapter examines opportunities of addressing disputed issues without solving them. The typology encompasses activities based on conscious decisions to avoid settling contestation or to strategically defer agreement implementation. Often, these decisions enable the continuation of a fragile transitional process and rely on creative arrangements and the acceptance of messiness. After discussing the notion of an unresolved space in conceptual terms, the chapter will engage with four types of non-solutions: institutionalised contestation, infinite postponements, territorial blurriness and pragmatic sovereignty.

Opening Up an Unresolved Space

Despite all the talk about conflict resolution and addressing the root causes of violent conflict, the non-solution of issues is a persistent feature of peace processes. Particularly, spatial contestations in conflicts over territory, often framed as 'status questions', favour situations of permanent non-solution.

Since traditional approaches in international and constitutional law struggle without an undisputed and exclusive linkage between territory and polity, contestation about space hardly ever gets permanently resolved through a compromise. When territorial power-sharing, the usual methodology for dealing with such issues, cannot be achieved, the stakes raise instantly. The belligerents tend to stick to their default positions, while fundamental principles of sovereignty and authority become contentious. Post-separation demarcation issues, such as in the Abyei province between Sudan and South Sudan, thus offer one clear-cut example for an unresolved space, the usually intricated situation of peacebuilding in and around unrecognised states is another one.

Postponements do not make a problem go away: the Israeli–Palestinian conflict demonstrates how spatial contestation, without bursting open the exclusive linkage between territory, sovereignty and polity, can only be managed by institutionalising the political unsettlement. As discussed above, the management of spatial contestation is one of the major pathways towards formalised political unsettlement, which 'breaks the link of the state to a unitary and singular expression of political and cultural identity, by creating a form of institutionalisation that can sit more easily with competing identity claims because they incorporate and translate these claims into an uneasy and unsettled into institutional formation' (Bell and Pospisil 2017: 590). Formalised political unsettlement leaves the prospects contingent.

By enshrining competing identity claims, formalised political unsettlement prolongs contestation. But, in most instances, it also offers warring parties opportunities for accommodating identity claims which may transform the conflict. Some of these options are discussed in the following. The Israel–Palestine conflict, however, is probably a bad example for such an investigation: over decades, external activists sympathising with one or the other side have aggravated the radical disagreement (Ramsbotham 2010). Their engagement effectively undermined any creative, non-territorial pathways. International support, not the least in the name of international solidarity, can have a devastating impact on a conflict setting: if such support reinforces identity claims on which the conflict is based, the room for pragmatism and creativity shrinks immediately. Arguably, international solidarity for both Israelis and Palestinians, delivered personally, politically and financially over decades, has contributed to an entirely inflexible formalised political unsettlement.

Some more creative attempts in sub-Saharan Africa, in contrast, have been pursued against international pressure and support. Whereas international mediators usually favour clear border demarcation and the implementation of an effective border regime, national and local elites are often forced to look for alternative pathways because of the broad social resistance tight border regimes provoke. Many peoples living in border regions struggle to make sense of the concept. They experience borders primarily as an obstruction to their daily business. Migrating populations, in particular, are subject to these restrictions: nomadic cattle herders or traders regularly cross borders. Sudan, for example, has about 400 tribes that regularly cross borders to neighbouring countries (on this issue, cf. Schomerus et al. 2013).

Flexible border arrangements do not impede the development of national identities. In sub-Saharan Africa, national identity has been found to even positively correlate with ethnic diversity (Robinson 2009: 24). This insight applies to border areas as well. It is a myth to think of delineated borders as a necessary prerequisite for people to feel and understand themselves as citizens. The finding is equally valid in other regions of the world. As it will be demonstrated below, the conflict between Moldova and the internationally not recognised Transnistria has engendered some remarkably pragmatic patterns on issues such as citizenship, travel and trade. Moreover, international actors acquiescence in and partly support some of these practices due to the lack of a feasible alternative. In some instances, formalised political unsettlement reaches a level of fluidity and institutional flexibility that resembles pan-archical conceptions of political organisation (cf. Tucker and de Bellis 2016).

Without a doubt, the interpretation presented here is disputable. The argument that unresolved issues will eventually cause a relapse into violent conflict, especially put forward by multilateral organisations and international lawyers, cannot be easily dismissed. However, the opposite may be true as well: an enforced settlement does not make a contested issue disappear, also in the long term. Conflict resolution can also exacerbate tensions: the Israel–Palestine conflict demonstrates that through stubbornly upholding the perspective of a solution, currently represented by the two-state-mantra (cf. Tilley 2010: 1), the extreme default positions within the conflicting parties are strengthened. When default positions prevail, the space for pragmatic transitions effectively shrinks.

These few examples already confirm the existence of an unresolved space in the everyday of peace processes. The argument put forward here is to accept and to embrace this space. The heuristic typology of several contemporary practices of non-solution demonstrates some of the available options when navigating pragmatic transitions in formalised political unsettlement.

Practices and Options of Creative Non-solutions

Practices and methods of creative non-solution develop in all constellations of formalised political unsettlement. They arise in the interplay between political, military and economic layers of contestation. Mainly, non-solutions originate from the impasse in attempts to accommodate political positions of warring parties through mutually agreed peace deals, which rely either on joint processes of inclusive institutionalisation or on power-sharing. In contrast to other modes and activities discussed in this book, non-solutions rarely develop under the radar. They affect commonly acknowledged problems, often those in the 'root causes' category. In most instances, these issues are tackled in peace negotiations, yet elude any settlement, because they interact with the core foundations of the parties' claims, or because the context proves unfavourable to these issues getting settled.

When dealing with unsolvable issues, creativity becomes an imminent requirement, even though, more often than not, it contradicts the ground rules of the international system. Creativity refers to two distinct components: on the one hand, non-solutions require process innovation, they attempt things that have not yet been applied on a regular basis. On the other hand, creative non-solutions are embedded in a process of creative destruction. They, in Schumpeter's (2008: 83) words, are 'incessantly destroying the old' structure, that of a solution-based implementation, while 'incessantly creating a new one', a transitional process which also relies on non-implementation. Creativity tends to exist in the grey zones of post-war transitions, in ambiguity, blurriness and discontent. Therefore, many creative non-solutions require some element of non-compliance with international principles—either formally, by rejecting international proposals, or more informally, by not implementing or postponing existing suggestions, roadmaps or frameworks.

From the outset, constellations shaped by practices of non-solutions are far from guaranteeing a stable state, a sustainable or resilient area-specific settlement, which at times also occurs in the context

of formalised political unsettlement. As tautologic as it may sound: it is important to keep in mind that non-solutions are not solutions. Often, they are politically opposed and fluid. They usually create winners and losers and, therefore, may remain contested for as long as they exist. However, creative non-solutions offer at least temporary stability and show a remarkable stickiness. Ideally, they also open up further opportunities for external involvement in the transitional process.

Institutionalised Contestation

The first type of creative non-solutions may already be a disappointment since the practice is neither unknown nor necessarily creative. What is introduced in the following under the label of 'institutionalised contestation' resembles well-known constellations of stalemates based on a balance-of-power logic. These situations resemble the Cold War on a smaller scale. The unrecognised states in the former area of influence of the Soviet Union are even a material leftover from this epoch. Interpreting institutionalised contestation as a pure stalemate would be a misperception, however. The reasons for parties to decide not to implement usually sophistically designed and laid out frameworks, despite often considerable international support (as in the Abyei case, the main example discussed here), vary and are worth exploring.

In the language of traditional peace research, situations of institutionalised contestation often sit in between a mutually hurting stalemate and ripeness (Zartman 2000). When a mutually hurting stalemate does not coincide with the ripeness of a conflict to getting resolved, solutions inevitably get an imposed character. Institutionalising the existing dispute by modalities that work to ensure and safeguard the livelihoods and interests of the affected people to the widest possible extent may be the best scenario on offer at some stages of post-war transitions. Moreover, institutionalised contestation can overlap with additional creative processes and openings for broader participatory engagement.

Notwithstanding the opportunities, most of these cases look rather bleak from the outset. This is at least true for the first example presented here, the special administrative region of Abyei, which is disputed between Sudan and South Sudan. Abyei represents the decades-long Sudanese North–South conflict in a nutshell. When reflecting about the unique character of the region and the interesting constellation the non-solution of the 'Abyei issue' has led to, the whole context of the Sudanese conflict needs to be taken into account.

Sudan as a whole is like a continent in itself. Frequently, Sudanese conflicts—the North–South conflict as well as the one in Darfur—are assessed as being caused by broad ethnical (Arab versus African), religious (Muslims versus Christians) or language-related fault lines, or as competition over resources such as oil, water or grazing lands. While all these factors have a role to play, they are not able to explain a conflict embedded in centuries of regional power politics involving major external players.

Abyei, unluckily, happens to be right in the geographical centre of these conflicts (see Johnson 2008). Existing tensions between Ngok and Twic Dinka, one of the groups that migrated into Abyei from the South, and Islamist groups motivated the Anglo-Egyptian Condominium government in 1905 to transfer Abyei from the Bahr al-Ghazal province to Kordofan (ibid.: 4). This transfer, meant to ease tensions between the groups by providing a joint administration, turned into one of the most controversial subjects in the North–South war and in all attempts of settling this conflict. The widely uncontested perception holds that Kordofan is a province belonging to the North, whereas Bahr al-Ghazal belongs to the South of Sudan. This view was certified by the Comprehensive Peace Agreement (CPA) of January 2005 signed between the Government of Sudan and the Sudanese People's Liberation Movement/Army (SPLM/A). Furthermore, the CPA provided for a referendum to be held on the final status on Abyei in parallel to the referendum on South Sudanese independence after a five-year transition period that started from the date the CPA was signed.

Historically, the Dinka population in Abyei has overwhelmingly identified itself as part of the South. Dinka have always represented the majority in the SPLA, in its leadership as well as in its rank and file, to the extent that fears of 'Dinka dominance' remain persistently present among other South Sudanese communities (LeRiche and Arnold 2013: 230). The Misseriya, in contrast, are politically affiliated to the North. Like the Ngok Dinka, however, they have strong political and economic interests of their own. Misseriya representatives were at odds with the Sudanese NCP government at various times during the CPA negotiation and thereafter, mainly about the Abyei borders, and felt misrepresented and even betrayed (Johnson 2008: 14–17; Craze 2013a: 69). Ngok Dinka representatives, of considerable influence in Southern politics, were also not willing to compromise on border issues, especially after a report of the Abyei Borders Commission in July 2005 essentially confirmed their claims. Substantial economic interests due to oil

development blocks in the north of the region further complicate the constellation.

Abyei, hence, represents a protracted, multidimensional issue, whose 'intractability lay in the complex power-play between tribal and political interests' (Johnson 2012: 645). These political interests play out at the national level as well. States are the representatives in the so-called track one arena of peace negotiations, which also applies to the negotiations on Abyei and its territorial definition and status. States represent their own interests, but, at the same time, they need to manage the manifold interests of the communities living in and migrating through the area. These communities, in turn, are not part of the big negotiations. In the case of Abyei, they instead rely on settling their differences and rights in local peace conferences.

Local negotiations increased and improved since the continuous military infighting between Sudan and South Sudan in the area stopped after the signing of a peace agreement in 2011[1] and the installment of the international peacekeeping mission UNISFA, consisting exclusively of Ethiopian troops.[2] Nevertheless, considerable issues regarding political representation (with the contradiction between traditional rights—of the people living and migrating in the region—and political rights of state actors at its heart, see Craze 2013a) remain pressing, as is the persistent insecurity. When discussing aspects of Abyei as (potentially) creative non-solutions, it has to be taken into account that both Sudan and South Sudan are in a state of formalised political unsettlement and captured in permanent, often fragile processes of transition.

Against this background, the perception commonly held by international observers that a solution for Abyei has been laid out and its implementation is just a matter of political will is misguided (see, for example, from US civil society, Rendon and Hsiao 2013). The Abyei protocol of the CPA wisely provided for a vague framework. While it was agreed that a referendum would be held on the final status of the region, most of the related questions, especially regarding territory, boundaries, voting rights (who counts as a resident of the region and who does not) and timeline, were referred to specific commissions and later-to-be-decided processes.

[1] 'Agreement Between the Government of the Republic of Sudan and the Sudan People's Liberation Movement on Temporary Arrangements for the Administration and Security of the Abyei Area', Addis Ababa, Ethiopia, 20 June 2011.

[2] United Nations Interim Security Force for Abyei (UNISFA) with a maximum of 4,200 military personal, established by UNSCR 1990 (2011).

These ambiguities supported the process and, at least to a certain extent, kept it open-ended. For example, residents of Abyei could obtain dual citizenship even before the formal split between Sudan and South Sudan, in the protocol referred to as citizenship of the provinces of Western Kordofan and Bahr el-Ghazal, together with the right of political representation in both states.

In the short run, the CPA provisions did not succeed in alleviating tensions. Already in 2008, during the interim period the CPA provided before the status referendum, severe fighting broke out between Sudan and the SPLA, which could only be contained under severe difficulties. The immediate aftermath of the South Sudanese independence referendum in early 2011 experienced another wave of fierce fighting. At first, local militias (with rather obvious support by the Sudanese government) provoked the hostilities, followed by an involvement of regular armed forces. At first glance, these incidents confirmed international concerns that Abyei would turn into a trigger factor for the continuation of warfare. The fighting, however, also prompted further negotiations. Eventually, Sudan and South Sudan signed another peace agreement, which also resulted in the establishment of UNISFA.

The Sudanese government and the SPLM-led South Sudanese government agreed to put the contested findings of the Abyei Border Commission, one of the committees established in the aftermath of the CPA, before the Permanent Court of Arbitration in the Hague (on the proceedings, see Salman 2013: 39–45). The award of the tribunal was a well-drawn compromise. The core territorial claims by the Ngok Dinka and the SPLM were largely confirmed, and the grazing rights (called 'secondary rights') of the Misseriya were upheld. Sudan gained control over substantial oil fields that had initially been declared as being part of the Abyei region by the Abyei Border Commission but were now designated as being outside of the region (this concerned particularly the oil blocks in the Heglig area). Both sides accepted the award. Contrary to some international expectations, however, this acceptance did not bring the Abyei issue closer to a settlement.

At the same time, an African Union High-Level Implementation Panel (AUHIP), chaired by former South African President Thabo Mbeki, held consultations with both governments. In their interim report from September 2012, the AUHIP demanded the final status referendum to be held in October 2013 (AUHIP 2012: point 23). This demand displays the persistence of an Abyei status referendum, which had already been

mentioned in the Addis Ababa agreement between the Sudanese Nimeiri government and the Southern Sudan Liberation Movement (SSLM, the SPLA-predecessor) in 1972. Ever since then, no implementation has taken place.

In the build-up to October 2013, tensions on all sides aggravated. The Sudanese government repeatedly rejected the referendum because of undecided voting rights. The South Sudanese government showed significant political buy-in, but, eventually, was not willing to let tensions with Sudan escalate with an existential internal political crisis already on the horizon (Vice President Riek Machar was sacked by President Salva Kiir in December 2013, which escalated the South Sudanese Civil War that would tie all armed forces under government control for years to come). Additionally, the South Sudan government was under severe pressure from intellectuals (e.g. Diing Akol 2013) and political and military strongmen with personal relationships to Abyei.

Facing this intractable situation, the SPLM government took a remarkable decision: it both did and did not accept the referendum and its outcome. The Abyei referendum was indeed held from 27 to 29 October 2013, supported and paid for by the South Sudanese government, despite international warnings that a unilateral move could result in renewed fighting. About 63,500 Ngok Dinka participated, only 12 of them voted for Abyei becoming part of Sudan. While the result was hardly a surprise given the circumstances, the subsequent political process was. South Sudan decided not to recognise the vote and declared the referendum an informal process accounted for by the Ngok Dinka community. The South Sudanese government, thus, clearly indicated its willingness to remain in the status of institutionalised contestation and to not risk this institutionalisation for a final status that implied substantial political and military risks.

The mere idea of holding a referendum in the region demonstrates the incompatibility of liberal approaches towards highly contested issues in formalised political unsettlement. If a vote could settle the issue, it probably would have been tried before—but it cannot, despite having inscribed in several political agreements. The CPA implementation process reveals the hybrid relationship of conflicting parties with internationally brokered agreements and established liberal methods such as referenda. In most instances, the actors know the likely outcome of referenda provided by peace agreements. If they sign up to such a process, they do so in full awareness of the possible result. Therefore, a referendum provision can

serve two different purposes: either it contributes to publicly legitimise the result of a negotiation, or it serves as a placeholder for open-endedness and perpetual postponement. The Sudanese CPA exemplifies both options.

The referendum on South Sudanese independence, as stipulated in the CPA, was held largely according to the timeline stipulated in the agreement. In January 2011, about 99% of the eligible voters opted for South Sudanese independence. To the surprise of many international observers, Sudan accepted the outcome and agreed to a by and large peaceful split. Most international observers had rendered this split totally impossible a decade earlier. The acceptance of losing the South to independence was already the historic compromise the CPA provided. It was foreseeable to the NCP government that it would be almost impossible to backtrack from the independence referendum, and completely impossible to win it. The referendum, first and foremost, served the purpose of legitimisation, on various levels: internationally, to trigger the unanimous international recognition of the newly created South Sudanese state, regionally, since the split between Sudan and South Sudan was just the second split of an African country after decolonisation (with Ethiopia and Eritrea the other), and nationally, primarily for the Sudanese government, in order to justify the loss of the South towards the critical public, especially towards those who have personally fought (many of whom not voluntarily) against this independence for decades.

The Abyei referendum, in contrast, was hardly ever meant to be implemented. The fallback position of both sides had initially been-vto hold the referendum only under conditions that would guarantee a majority: by the existing majority of Ngok Dinka permanently living in the region from the perspective of the government in the South, or by expanding the voting rights to all Misseriya as an ethnic community and accepting broad-based participation that would allow the big-scale physical transfer of voters into the region from the perspective of the North. Obviously, neither of these approaches would be acceptable for both sides. Hence, the most likely explanation for both parties signing up for the referendum was that they never intended to implement it from the moment it was agreed. Each party knew its counterpart very well and had a clear assessment of its available tactical and strategic options.

Agreeing on a process that remains a distant, yet unrealistic perspective can serve a variety of purposes. Whereas a hard border approach remains the official position insisted on by both sides, life in the region

continues, and the risk of hard military confrontation lowers over the course of the enduring transition. Informal and more creative processes unfold in parallel, some of which will be discussed later. Without a doubt, Abyei has an exceptional setting. It has a particular conflict context and is part of a much larger conflict system as well. Abyei's status as institutional discontent, in a wider regional framework of formalised political unsettlement, however, offers valuable insights with implications far beyond the specifics of the Sudanese conflicts.

Four insights from Abyei exemplify the role of institutionalised contestation in navigating formalised political unsettlement: first, the specific form of institutionalisation stems from an agreement on procedures which are not meant to be implemented, but still need to remain in place for continuously reproducing the underlying contestation. This process, in turn, feeds the formalised political unsettlement, which relies on the institutionalisation of procedures for stabilising a formerly highly volatile setting. Without the interplay of implementation and purposeful non-implementation, institutional discontent cannot be established.

Second, while the non-implementation of jointly agreed stipulations often frustrates external mediators, guarantors and observers, it serves the strategic interests of the main actors. Non-implementation enables them to invoke their core claims and default positions without having to act upon them. In doing so, they can gain grounded legitimacy while reducing the risks of a relapse into a violent confrontation that they could lose. In their respective national political narratives, Abyei belongs to either Sudan or South Sudan—institutionalised contestation does the trick of breaking with the claim of exclusive territorial sovereignty by relying on it.

Third, Abyei exists in a hybrid constellation between international, national and local actors. The current status could hardly be sustained without that. Interestingly, all involved actors, irrespective of their position, are repeatedly calling for a continuation of the UNISFA peacekeeping mission. The international involvement guarantees the overarching stabilisation of the formalised political unsettlement and a persistent influx of resources. Moreover, it enables the opening of increasing space for local agency in peace negotiations that are repeatedly held when the grazing season starts and migration routes, questions of taxation and grazing lands need to be decided. UN organisations such as the FAO and the IOM assist conducting so-called pre-migration conferences,

meanwhile held annually, in which the contested issues are negotiated at the community level. Paradoxically, the formal political space needed for such negotiations is provided by the institutionalised contestation. Such a stratification of continuous transition is a feature of many comparable processes.

A second striking example of institutionalised contestation is unrecognised states. Unrecognised states are institutionalised contestation *in extremis*: all separatist entities in Eastern Europe and the Caucasus, such as South Ossetia, Abkhazia, Artsakh and Transnistria, broke away in warfare. Any internationally acceptable solution respecting international law and the ground rules of the United Nations system would result in one of the conflict parties—namely the unrecognised states—losing everything and the other party—the recognised state they broke away from—winning along its default position. Moreover, the inconsistent practices of international state recognition exacerbate the navigation of transitional processes: Kosovo, which in terms of its non-acceptance by a substantial number of UN member states could be listed in this category, is widely accepted as a legitimate state, either due to considerations of realpolitik (Ryngaert and Sobrie 2011) or through what Bolton and Visoka (2010) call 'remedial sovereignty'.

The practices of recognition of other non-recognised states are divergent as well. While South Ossetia and Abkhazia, entities over which Georgia claims sovereignty, are presently recognised by five UN member states (Russia, Nicaragua, Venezuela, Syria, and Nauru), the comparable cases of Artsakh (the former Nagorno-Karabakh, which split from Azerbaijan) and Transnistria (which split from Moldova) are not recognised by any UN member state. These status differences confirm a compelling insight that Ryngaert and Sobrie (2011: 489) offer regarding the necessary tension in the process of state recognition. State recognition, they claim, has to navigate 'between recognition as a legal act allowing an entity entry into the community of states and recognition as a political act advancing the interests of the recognizing state'. Without political interest or pressure, recognition is not going to happen.

However, their suggestion of developing a new universal framework for state recognition expresses a firm belief in liberal solutionism. The structural role non-recognised states often play as part of a broader formalised political unsettlement is exactly the frozen contestation about their formal recognition or, as in the case of Transnistria, informal acceptance and support. Like in other situations of institutionalised contestation,

the strategy of taking a hard-line approach and of dogmatically rejecting the de facto independence is mistaken (Caspersen 2012: 151–152), due to two reasons. First, non-recognised states are of what Nina Caspersen (ibid.: 150) calls 'transient quality'. These entities must carefully navigate between dependence and independence in their international as well as in their 'national' relations. Unavoidably, such navigation opens up space between them and their counterparts for flexibility on issues such as sovereignty, authority and citizenship.

The second factor concerns the role of non-recognised states in regional power struggles. Conventional approaches in international relations, especially from a neo-realist angle, perceive non-recognised states as a threat to international stability. These entities would create a power vacuum that could, according to Grygiel (2009) possibly result in 'vacuum wars'. While referring to what he calls 'failed states', Grygiel's reasoning applies to non-recognised states as well: if the respective state is not 'too distant and ultimately strategically irrelevant', he assumes that international powers would inescapably intervene, resulting in a partition, preventive intervention, or war. This assumption disregards the buffering character institutionalised contestation is able to provide. The ambiguous state between partition and non-partition, recognition and non-recognition and the indispensable need to deal with all external forces turn non-recognised states into a structural element in formalising the political unsettlement. In other words, external powers do not intervene exactly because of the existence of non-recognised states as a 'frozen' buffer area.

Transnistria provides a striking example in this respect: despite an official, OSCE-led mediation format in place, the so-called 5 + 2 process (for a brief history, cf. Hill [2018]), the international context develops unfavourably. The competition between the EU-induced Deep and Comprehensive Free Trade Area (DCFTA) and a Russian-backed customs union in the states east of Moldova and Transnistria (Tudor 2017) caused significant political turmoil. The subsequent Russian military endeavours in Ukraine, resulting in the de facto separation of the Crimea and the two oblasts of Donetsk and Luhansk in Eastern Ukraine, further exacerbated the situation.

While undoubtedly a manifest expression of the long-standing tensions between the European Union and Russia, Transnistria is still an entry point for ongoing on-the-ground flexibility. Its existence forces both sides into a permanent negotiation of daily challenges. In particular,

trade relations are a matter of concern. As it will be discussed in further detail later in this chapter, Transnistria is entirely dependent on the EU's pragmatism[3] while, at the same time, it has to mitigate the strong political influence by Russia. By institutionalising the contestation, Transnistria effectively establishes a buffer zone in between the two international adversaries. Counter-intuitively, the existence of Transnistria is not preventing a sustainable conflict resolution, but instead enables the continuation of pragmatic transition embedded in an adverse regional context.

Institutionalised contestation cannot be 'created' in peace negotiations. Nor can it be purposefully inscribed in peace agreements. Therefore, two important caveats apply when discussing institutionalised contestation in a typology of creative non-solutions in peace processes. First, in most cases, institutionalised contestation is hardly creative. As said, there is a strong resemblance to the Cold War's frozen balance-of-power constellation. Neither party can solve the contested issue in its sole interest; thus, the parties invent modalities to deal with it. Such has always been the everyday of realist conflict management. In order to contribute to pragmatic transitions, institutionalised contestation needs to occur in combination with other practices of navigating formalised political unsettlement. While the constellation as such hardly is creative, it can be creatively handled. The case of Abyei, which features prominently in other types of non-solutions as well, is another example for such an amalgamation.

Second, enough space for such creative handling needs to be available. Availability refers not only to political space but to legal and social space as well. The fluctuating availability of such spaces makes institutionalised contestation a challenging issue, but also an issue displaying the opportunities for transitional processes in formalised political unsettlement. Treating institutionalised contestation as an opportunity in a peace process and not as a threat requires a fundamental review of peace agreement implementation. As it has been shown, implementation still ranks as one of the key ingredients of peace process success: if peace agreements are understood as delivering solutions to the main problems and root causes of the violent conflict, they need to be fully implemented to

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[3] See, for example, eurasianet: 'Moldova: Separatist Transnistria Region Reorienting Trade from Russia to EU', 4 May 2016, https://www.eurasianet.org/moldova-separatist-transnistria-region-reorienting-trade-russia-eu, accessed 16 September 2018.

achieve their desired impact. However, if peace agreements are framed as a tool to initiate transitional processes and to navigate the issues at stake without providing comprehensive solutions, implementation may be seen as something much more flexible.

History shows that some peace processes work far better when agreements are not fully implemented. The narrative of a shortfall in implementation resulting in potential failure of a peace process is not just conceptually flawed. It is also empirically wrong. Institutionalised contestation understood as an opportunity, therefore, rests on a new approach to implementation that focuses not on a 'the more, the better' way of thinking, but on safeguarding the process dimension. In peace process reality, different shapes may ensue: at times, it may be better for parties to agree on a clearly outlined process, as it happened in the Abyei case. Here, the subsequent process depends on the flexibility in implementation. Another option is to work with open-endedness, which will be discussed in the following.

Infinite Postponements and Open-Ended Processes

This second type of non-solutions shares some important characteristics with institutionalised contestation and may provide a necessary processual background for such constellations to take hold. Infinite postponements and open-ended processes also have unique elements in their own right: while institutionalised contestation tends to reproduce a given constellation of formalised political unsettlement, postponements and open-endedness can catalyse substantial transitions or can even transcend radically contested issues over time. Such an achievement depends on the contextual conditions and can by no means be predicted or guaranteed. What long-lasting postponements always provide, however, is 'breathing space' (Wise 2018: 37), which in itself is a crucial factor in de-escalation.

A considerable number of cases of infinite postponements and openness regarding process outcomes are status referenda foreseen by peace agreements (on referenda in peace processes, see Loizides [2014]). Postponements of such agreements appear on an astonishingly regular basis, for example in Bougainville, Papua New Guinea (Wallis 2013), in the Western Sahara (Porges 2019) or in Mindanao, southern Philippines, in the late 1990s (May 2001).

The Abyei case, just discussed as a manifestation of institutionalised contestation, also belongs to this category. Holding a referendum on the status of the region in parallel with the South Sudan independence

referendum was a tactic the warring parties were willing to settle upon in the broader framework of the talks on the CPA. Yet, both Sudan and South Sudan had already been fully aware that this referendum would become subject to a number of conditions that would be impossible to fulfil. Delineating Abyei by demarcating a border was unreflective of the multifaceted ideas about territory by people in and around the region (Johnson 2012: 647; Craze 2013a: 65–68). A settlement on who is eligible to vote in an eventual referendum, therefore, was—and still is—illusive.

For this reason, the enforcement of the referendum would likely trigger a relapse into violent conflict, something both parties are aware of and aim to avoid. A tacit agreement on non-implementation thus emerged, despite a procedural framework that has been unambiguously laid out. For sustainable non-implementation, the framework needs to remain in place: referring to a possible referendum is essential for both parties in their narrative of claiming sovereignty over the region. The discontent gets transferred to the level of practical details such as technocratic responsibilities and the eligibility to vote, which effectively disables the continuation along the agreed procedural lines.

Another status referendum shows how long-lasting deferrals chime with strategic power interests and can even result in structural changes in the formalised political unsettlement at play: the referendum on the status of the Kurdish region in Northern Iraq. After a process of normalisation after the foreign invasion in Iraq in March 2003, a widely held expectation was that the Kurdish region would eventually gain independence. Its strength in military and economic terms, the latter predominantly resulting from oil wealth, and the support of the Kurdish Peshmerga by international forces during the intervention contributed to this belief, which was also predominant within the region. However, despite creating an 'island of independence' in the decade after the regime of Saddam Hussein, a considerable number of regional and international powers—Turkey, Iran, Saudi Arabia, but also the USA—opposed a Kurdish state for strategic reasons (Stansfield 2003: 182).

The impasse was already evident when the legal foundations for the Iraqi transitional period were negotiated. The talks resulted in a trade-off: immediate independence was denied, and Article 58 of the Law of Administration for the Transitional Period deferred the question until the completion of the Iraqi constitution. In turn, the central state symbolically recognised the hardship the Kurds have had to face during the Saddam Hussein period (see Box 5.1).

Box 5.1: Law of Administration for the State of Iraq for the Transitional Period, 8 March 2004, Iraq, provided by PA-X, Peace Agreement Access Tool

Law of Administration for the State of Iraq for the Transitional Period

Article 58

(A) The Iraqi Transitional Government, and especially the Iraqi Property Claims Commission and other relevant bodies, shall act expeditiously to take measures to remedy the injustice caused by the previous regime's practices in altering the demographic character of certain regions, including Kirkuk, by deporting and expelling individuals from their places of residence, forcing migration in and out of the region, settling individuals alien to the region, depriving the inhabitants of work, and correcting nationality.

…

(B) The previous regime also manipulated and changed administrative boundaries for political ends. The Presidency Council of the Iraqi Transitional Government shall make recommendations to the National Assembly on remedying these unjust changes in the permanent constitution. In the event the Presidency Council is unable to agree unanimously on a set of recommendations, it shall unanimously appoint a neutral arbitrator to examine the issue and make recommendations. In the event the Presidency Council is unable to agree on an arbitrator, it shall request the Secretary General of the United Nations to appoint a distinguished international person to be the arbitrator.

(C) The permanent resolution of disputed territories, including Kirkuk, shall be deferred until after these measures are completed, a fair and transparent census has been conducted and the permanent constitution has been ratified This resolution shall be consistent with the principle of justice, taking into account the will of the people of those territories.

Indeed, the Iraqi constitution from 2005 in Article 140 defines a clearly outlined procedure for a 'referendum in Kirkuk and other disputed territories' on their status by the end of 2007 (see Box 5.2). This stipulation was a major political success for the Kurdish parties, which had already secured significant political influence on the national stage by taking over the presidency according to a national power-sharing arrangement. The post is held by the Patriotic Union of Kurdistan, PUK, since 2006, in exchange for the Kurdistan Democratic Party rivalling, KDP, holding the presidency in Iraqi Kurdistan.

Box 5.2: Constitution of Iraq, 15 October 2005, Iraq, provided by PA-X, Peace Agreement Access Tool

Constitution of Iraq

Article 140
First: The executive authority shall undertake the necessary steps to complete the implementation of the requirements of all subparagraphs of Article 58 of the Transitional Administrative Law.

Second: The responsibility placed upon the executive branch of the Iraqi Transitional Government stipulated in Article 58 of the Transitional Administrative Law shall extend and continue to the executive authority elected in accordance with this Constitution, provided that it accomplishes completely (normalization and census and concludes with a referendum in Kirkuk and other disputed territories to determine the will of their citizens), by a date not to exceed the 31st of December 2007.

The strong Kurdish involvement in national politics and the continuing armed campaigns against Islamist forces in Iraq caused a perpetual postponement of the referendum. The postponement reflected the mutual interest of most of the involved parties: Turkey and Iran had grave concerns against any precedent of Kurdish statehood, and the Western powers and their allies, as well as mainstream Iraqi politics, were more interested in stabilising Iraq and wiping out radical Islamist forces than splitting up the territory in an already tense geopolitical situation. Even Iraqi Kurdistan itself, despite its political proponents frequently

declaring their desire for independence, was well suited with the postponement, given the increasing political problems within the regional government, which exacerbated after 2013 (Collins 2017). Over a decade, the deferral seemed a smart choice for navigating the contested transitional process.

When the KDP-headed Kurdish regional government finally decided to run a unilateral, internationally not recognised independence referendum in September 2017, they were already aware that formal independence from Iraq was not on offer anymore. Neither the result—92.7% for independence—nor the outcome—a denial of independence, followed by a brief, one-day military campaign by Iraqi forces and a subsequent proposal by the Kurdish government to 'freeze' tensions[4]—came as a surprise. Even the end of the postponement process resulted in a flexible and open-ended situation.

Another compelling case of infinite postponement is the status question of the Brčko district in Bosnia and Herzegovina (Wise 2018: 36). Brčko, strategically located along the border to Croatia, effectively splits in half the Republika Srpska, one of the two so-called entities of Bosnia and Herzegovina. The other entity, the Croat-Bosnian Federation of Bosnia and Herzegovina, as well claims sovereignty rights over the district. The initial inter-entity boundary lines, as they had been negotiated in the course of the Dayton peace talks, would have divided the district into two, giving a considerable portion to the Federation, while leaving the Republika Srpska a unifying corridor.

However, this aspect of the territorial power-sharing proposal did not find the consent of the parties. As a compromise, the unusual suggestion to seek international arbitration according to UNCITRAL rules emerged in the negotiations (see Box 5.3, Annex 2 of the Dayton peace agreement). It remains unclear who came up with this proposal—it seemed to have predominantly served the interests of the international mediators. At the same time, there were reasonable doubts if the warring parties even understood the implications. In the end, nobody wanted to take public responsibility (Parish 2010: 47). The initially provided timeline was very short: proceedings should start 'without delay', and an award should be decided upon at the latest one year after Dayton entered into force.

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[4] Kurdish Regional Government, Statement from Kurdistan Regional Government, 25 October 2017, http://cabinet.gov.krd/a/d.aspx?s=040000&l=12&a=55938, accessed 18 September 2018.

Box 5.3: General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement), 21 November 1995, Dayton, OH, USA, provided by PA-X, Peace Agreement Access Tool

General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Peace Agreement)

Annex 2
AGREEMENT ON INTER-ENTITY BOUNDARY LINE AND RELATED ISSUES
…
Article V
Arbitration for the Brčko Area

1. The Parties agree to binding arbitration of the disputed portion of the Inter-Entity Boundary Line in the Brčko area indicated on the map attached at the Appendix.
2. No later than six months after the entry into force of this Agreement, the Federation shall appoint one arbitrator, and the Republika Srpska shall appoint one arbitrator. A third arbitrator shall be selected by agreement of the Parties' appointees within thirty days thereafter. If they do not agree, the third arbitrator shall be appointed by the President of the International Court of Justice. The third arbitrator shall serve as presiding officer of the arbitral tribunal.
3. Unless otherwise agreed by the Parties, the proceedings shall be conducted in accordance with the UNCITRAL rules. The arbitrators shall apply relevant legal and equitable principles.
4. Unless otherwise agreed, the area indicated in paragraph 1 above shall continue to be administered as currently.
5. The arbitrators shall issue their decision no later than one year from the entry into force of this Agreement. The decision shall be final and binding, and the Parties shall implement it without delay.

The arbitration process took much longer than anticipated: after three and a half years, a final award was issued. In total, the tribunal released three awards in the course of the proceedings (for more on the arbitration process and the original text of the awards, see Farrand 2011: 1–12).

The first award, issued on 14 February 1997, decided, against the claim of the Republika Srpska, on the installation of an international interim supervisory regime to safeguard the implementation of the Dayton agreement. This regime was to be led by a Deputy High Representative for Brčko with authority to 'promulgate binding regulations and orders in aid of the implementation program and local democratization',[5] effectively superseding all conflicting law. The decisions on the inter-entity boundaries and regarding final authority and sovereignty remained subject to further deliberations.

A year later, on 15 March 1998, the tribunal released a supplemental award, prolonging the interim supervision and highlighting the option to convert Brčko into a neutral district outside of the control of the entities. This is indeed what the final award, released on 5 March 1999, decided (see Schreuer 1999). According to the award, after an interim period of a condominium in which both entities had full sovereignty, Brčko had to be transferred to the status of a district in its own right directly under the constitutional umbrella of Bosnia and Herzegovina (see Box 5.4).

Box 5.4: Arbitral Tribunal for Dispute Over the Inter-Entity Boundary in Brčko Area, Final Award, 5 March 1999

Arbitral Tribunal for Dispute Over the Inter-Entity Boundary in Brčko Area, Final Award

II. Summary of Conclusions

…

9. Pursuant to the commitments made by BiH and both entities to "implement without delay" the Tribunal's decision, upon the effective date to be established by the Supervisor each entity shall be deemed to have delegated all of its powers of governance within the pre-war Brčko Opstina to a new institution, a new multi-ethnic democratic government to be known as "The Brčko District of Bosnia and Herzegovina" under the exclusive sovereignty of Bosnia and Herzegovina. The legal effect will be permanently to suspend all of the legal authority of both entities within the Opstina and to recreate it as a single administrative unit.

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[5]Brčko Arbitral Tribunal for Dispute Over the Inter-Entity Boundary in Brčko Area Award, 14 February 1997, VII.I.B.1.

The award was as unconventional as it was unexpected. It refused to accept the entity-based logic of the Dayton agreement. While coming as a shock to the entities, the decision was welcomed by international observers. Despite heavily relying on continuous international oversight, the award took a creative approach to mitigate a territorial problem 'too strategically important to all sides to incorporate within the polarised logic of the Dayton map' (Jeffrey 2006: 223). The establishment of the district was achieved rather smoothly. However, the Republika Srpska, while complying on the ground, refused to accept the redrawn inter-entity boundary lines. The combination of political repudiation with effective compliance enabled the Serb leadership to uphold their political default position without disturbing the transitions on the ground.

Brčko was reframed in the form of a discrete district with a very low level of formal power-sharing. It developed surprisingly well, especially economically (Bieber 2005), not the least caused by a substantial influx of international development money. Citizens were able to select between the citizenship of either the Federation or the Republika Srpska, a choice that offered an exceptional level of flexibility within Bosnia and Herzegovina, where inhabitants of the entities were usually not able to pick and choose their citizenship (although a considerable number of people in the district are still without citizenship at all, see Stjepanovič [2015]). In short, notwithstanding all remaining issues and the still considerable entanglement with the entity-based logic of regional politics, Brčko turned into a positive example of multi-ethnic coexistence in the widely perceived mess of post-Dayton Bosnia and Herzegovina.

The refusal of the Republika Srpska to recognise the redrawn boundaries forced the international interim supervisory regime to remain in place much longer than planned. This perpetuation was not necessarily against the strategic interest of the Serb leadership since it enabled political scapegoating and sustained the sovereignty claim over the district. The implications on the ground were negligible: the supervisory entities got underfinanced and understaffed over the years and lost their political weight. The Serb refusal hence has to be interpreted as a purely political endeavour.

It took over a decade until the political stance weakened. In 2009, after supportive signals by the Republika Srpska's parliament, the Peace Implementation Council suggested that the international supervision could be withdrawn. Such a withdrawal, however, never happened:

instead, the regime became formally suspended after a decision by the Office of the High Representative (OHR) on 31 August 2012. A suspension is another interesting decision in a succession of several layers of infinite postponements. Effectively, it enabled 'a compromise between countries which want to close OHR and those who argue that is still necessary given recent political tensions in the country' (Moore 2013: 158).

While the international supervisory regime de facto ceased its operations, it legally remained in force, providing a binding frame to the broader setting of Bosnia and Herzegovina's formalised political unsettlement. Possibly, the permanence of interim solutions and postponements has enabled the comparably favourable transitional process attached to the Brčko district. Brčko also demonstrates how fundamentally contested issues can be approached by taking them out of the day-to-day politics business of. Transferability is problematic, however, since the unprecedented international buy-in influenced the case substantially. At least, the external contribution did not prevent creative and pragmatic processes from happening.

What the Brčko case also reveals is the interrelation of infinite postponements and processes of creative openness to regional and global power constellations. The examples discussed above are all matters of considerable international concern. Strikingly, still—or perhaps even for this reason—open-endedness is internationally accepted as a transitional tool. Hitherto largely uncharted approaches are explored, such as utilising an arbitration process usually applied in commercial law for navigating a wicked, ethnopolitical territorial dispute (cf. Copeland 1999). Despite their interwovenness with power politics, practices of infinite postponements and open-endedness are easier to transfer and to re-scale compared with other practices of non-solutions. A tacit agreement, a necessary precondition to these processes, gets more likely when the number of involved actors remains limited.

Territorial Blurriness

As shown, postponements of status referenda and institutional discontent often deal with territorial issues in peace processes. These issues not only concern more or less clearly delineated regions or areas but unresolved boundary lines as well. The traditional approach, which especially international organisations adherent to the principles of international law have to pursue, is to establish an undisputed boundary line and

demarcate it. The rationale is straightforward: if the conflict parties can agree upon a border demarcation, a key trigger factor has vanished, and a relapse into violent conflict is less likely to occur. This is not necessarily the case. Established and demarcated borders as well may turn into a source of conflict, and borderlands, notwithstanding any agreement of boundary lines, often occur as 'potentially dangerous and disconnected' (Goodhand 2013: 248–251).

Borderland studies have convincingly shown that a contextual and historical perspective on borders is indispensable when exploring the spatial dimension of violent conflict. The case studies collected by Korf and Raeymaekers (2013) illustrate an astonishing variety of how borders and borderlands evolve, and the diverse modes of governance they bring about. Peace processes, having to abide by the liberal framework of international law, usually involve a push for ordering the territory and controlling state borders. The task is not straightforward: states are not always willing to settle on a boundary line. Such unwillingness is a concurring issue in a number of peace processes, ranging from Sudan/South Sudan to Kashmir and to the border between the non-recognised Transnistria and Moldova, where the city of Bender is contested. Furthermore, migrating people and communities living in the borderlands often 'have more permeable boundaries than states' (Fearon and Laitin 2000: 856).

Against this background, applied innovative approaches to territory have augmented in recent years. In the borderlands of Somalia, traditional clan-based *xeer* law has come in use to mitigate disputes along the border with Kenya (Menkhaus 2005). In particular in Somalia, where formal demarcation processes are virtually impossible at present and territorial disputes accumulate, a mixture of formal monitoring and the re-emerging *xeer* system has unfolded to regulate land rights. These regulations happen within Somalia, but also in overlapping regions, especially with Kenya and along the widely unmarked border with the Ethiopian Ogaden region and with Puntland (Burman et al. 2014: 20–21). Given the intricacy of the situation, states tend to rely on hybrid arrangements in border management. In particular, the Kenyan government partnered with 'coalitions of local nongovernmental organizations, traditional leaders, and other civic groups to manage and prevent armed conflict' (Menkhaus 2006: 104).

Flexible approaches blurring clear demarcation and control mechanisms also surfaced along the Sudanese–South Sudanese border. After

the signing of the CPA, both countries officially pursued a hard border approach based on the unprecise internal lines that were in place at the time of Sudanese independence in 1956. Both the United Nations mission UNMISS and the African Union are engaged in border demarcation. As discussed above, the delineation of the contested Abyei region was brought to international arbitration. Some progress has been made, with a good portion of the border and ten designated border crosses demarcated by mid-2018 (ICG 2018). Some areas—besides Abyei especially Heglig/Panthou, the Ilemi Triangle and Kafia Kingi—remain disputed (for a history of these disputes, see Schomerus et al. 2013 and Rolandsen 2013).

Box 5.5: Agreement Between Sudan and South Sudan on Border Issues, 27 September 2012, Addis Ababa, Ethiopia, provided by PA-X, Peace Agreement Access Tool

Agreement Between Sudan and South Sudan on Border Issues

Part VII
Transboundary Populations
14. Management of Transhumance

(1) The Parties shall regulate, protect and promote the livelihoods of border communities without prejudice to the rights of the host communities and in particular those of the nomadic and pastoral communities especially their seasonal customary right to cross, with their livestock, the international boundary between the Parties for access to pasture and water.
(2) The Parties may reach further agreements to facilitate the peaceful movement of nomadic and pastoral communities taking into consideration the primary interest of the host communities and the security implications of such movements.
(3) The Joint Border Commission shall adopt a comprehensive border management policy for the management of resources, including: rangelands, watersheds, stock routes and grazing areas.

Besides these residual disagreements, both countries consented to soften their stance for accommodating the livelihood interests of the people living in the borderlands (see Box 5.5). Any border arrangement, therefore, would need to enable easy crossing and resource sharing. These provisions have been respected in the presently rather elastic border management in Abyei, which is facilitated and supported by the United Nations mission UNISFA. In other areas, however, the experience of border demarcation has been problematic (Craze 2013b), especially since the devastating civil war in South Sudan has led to lengthy closings of the official crossing points.

The shortcomings aside, the Sudan–South Sudan border arrangement resonates a trend of accepting the peculiar characteristics and needs of borderlands. The seeds of flexibility are planted and are partly applied to accommodate traditional migration patterns. The Abyei case shows that blurring exclusivity claims on territory enables broader models of non-solution, such as institutionalising contestation and long-term postponements.

The two examples briefly discussed here further demonstrate the astonishing ability of state borders to exist in the contradiction of stickiness and permeability. Borders do not vanish if traditional approaches of border control fall short of delivering border security or if the territory itself remains contested. Hybrid forms of borderland governance tend to emerge with accommodation patterns exploiting the grey area between control and non-control and the overlapping spatial claims. In the perspective of state penetration and the strength of central authority, this is not necessarily good news. However, the institutional processes in which formalised political unsettlement is constantly renegotiated are always incomplete and in the process of rapid change (cf. Goodhand et al. 2017), effectively opening up loopholes for external engagement.

Pragmatic Sovereignty: Flexible Polities and Citizenships

The final type of creative non-solutions discussed here is also closely related to spatial claims. It concerns the normative and institutional framework of polities. What is discussed in the following under the caption of pragmatic sovereignty are various attempts to soften the internal sovereignty of the state. Such attempts can happen formally as well as informally and in various degrees of institutionalisation. Multiple citizenships and plurinational and flexible constructions of structural arrangements are the most common manifestations of this non-solution.

In contrast to what traditional approaches in political science would claim, pragmatic approaches towards sovereignty do not necessarily undermine state authority. Instead, the examples discussed here support John Agnew's (2005: 456) argument whereby political authority does not rest on 'absolute territoriality'. In particular, informal institutionalisations of flexible regimes of citizenship and the movement of people and goods are cornerstones in enabling transitional processes. As the example of Moldova and Transnistria is going to demonstrate, these regimes may also prevent process structures from breaking apart. Creativity and the pursuance of non-solutions can become a vital necessity.

One instance where pragmatic approaches to sovereignty are frequently utilised is autonomy processes. A pioneering example would almost have been the Bangsamoro autonomous region in the Southern Philippines' island of Mindanao. When the discussion on the Bangsamoro Basic Law, the legal framework for establishing the region, started in the Philippines' parliament, the idea was ventilated to include the Malaysian half-island of Sabah into a then multinational autonomy.[6] Historically, Sabah has close relations to the Muslim parts of Western Mindanao. Even though the suggestion was dismissed because Philippine Senators considered it as being overly complex and politically too controversial, the conceivableness of the option sheds light on the wide realm of actual possibilities of how contested sovereignty could be organised. Including Sabah in Bangsamoro would have been a highly interesting experiment, since it would have attempted to strengthen the weak authority of the central state in the region by sharing the sovereignty over the Bangsamoro region with another country.

In Abyei, as discussed above, people can choose to obtain dual citizenship of Sudan and South Sudan as members of the two states which are claiming the region, South Kordofan and Northern Bahr el-Ghazal. The free movement of the migrating populations remains guaranteed; the rights on land use are renegotiated among the communities on an annual basis. Recently, creative suggestions on how to transfer the area out of its current status of institutionalised contestation have been developed. In a proposal to the United Nations Security Council,

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[6] See *GMA News Online*, 'Sabah Under Bangsamoro Region? "Too Controversial" Says Angara, Zubiri', 8 February 2018, http://www.gmanetwork.com/news/news/nation/642693/sabah-under-bangsamoro-region-too-controversial-says-angara-zubiri/story/, accessed 14 September 2018.

Francis Deng ([2014](#)) suggested a combination of international supervision and localisation for Abyei that would have created a hybrid form of sovereignty: 'Abyei as an autonomous area under internationally supervised security arrangements in cooperation with the Governments of South Sudan and Sudan'. The hard border approach currently pursued by both countries did not leave room for this proposal, yet it has not been officially dismissed. When the heated contestation caused by the current South Sudanese Civil War declines, this long-term option, which transforms an almost per definition temporary state—international oversight—into a flexible, open-ended framework, might have a lot to contribute to the transitional process.

Dual citizenship is also one of the cornerstones of the Good Friday Agreement in Northern Ireland (see Box [5.6](#)). The agreement entitles all inhabitants of Northern Ireland to apply for either Irish or British or even dual citizenship. In doing so, the agreement aims to mitigate the fundamental contestation around identity issues. Given the rather strict understanding of citizenship in most European Union member countries, the approach alone has to be classified as a remarkable achievement.

Box 5.6: The Agreement Reached in the Multi-Party Negotiations (Good Friday Agreement or Belfast Agreement), 10 April 1998, Belfast, United Kingdom, provided by PA-X, Peace Agreement Access Tool

Agreement Between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland

Article 1
The two Governments:
…

(vi) recognise the birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland.

Another instance of pragmatic sovereignty is the astoundingly flexible relationship between Moldova and the internationally non-recognised entity of Transnistria, especially with respect to citizenship rights, border management, movement of people, community relations and trade. Transnistria, an entity of about 500,000 inhabitants and half the size of the French island of Corsica, broke away from Moldova—it had once been part of the Moldovan Soviet Socialist Republic—during the tumultuous dissolution of the Soviet Union. The violent break-up of the Transnistrian war, fought by a remaining Soviet army division on the Transnistrian side, lasted from March to July 1992. Several hundred people were killed in the fighting (for a brief historical overview, see Roper 2004).

Negotiations on post-war arrangements started soon after a ceasefire was signed. The OSCE took over the role as the chief mediator. However, the political arrangements contemplated in the negotiations were sobering. Mutual non-recognition and an effective freezing of the spatial diversion resulting from the violent conflict brought about the institutionalisation of an almost prototypical formalised political unsettlement. However, the 'normalisation' reached between the entities after considerable Russian facilitation (see Box 5.7) already saw some remarkably pragmatic stipulations. In what reads like a classic trade-off, Transnistria accepted the Moldovan claim of full sovereignty, while Moldova recognised the conditioned de facto sovereignty of Transnistria as a negotiating partner.

Box 5.7: The Moscow Memorandum, 8 May 1997, Moscow, Russia, provided by PA-X, Peace Agreement Access Tool

MEMORANDUM on the Bases for Normalization of Relations Between the Republic of Moldova and Transdniestria

The leadership of the Republic of Moldova and Transdniestria, hereinafter referred to as the Parties
…
Through the mediation of the Russian Federation, Ukraine and the OSCE Mission,
Have agreed to the following:

---

1. The Parties reaffirm their commitment not to resort to the use of force or the threat of force in their mutual relations. Any differences shall be resolved exclusively by peaceful means, through negotiations and consultations with the assistance and mediation of the Russian Federation and Ukraine, as guarantor States for the fulfillment of agreements achieved; of the OSCE and the assistance of the CIS [Commonwealth of Independent States].

2. The Parties shall continue the establishment between them of state-legal relations. The Document, defining these relations, the status of Transdniestria, shall be based on the principles of mutually agreed decisions, including the division and delegation of competencies, and mutually assured guarantees. The Parties will proceed to the elaboration of this document immediately after the signing of this Memorandum, giving consideration to all previously achieved principled agreements, including those achieved on 17 June 1996.

3. Transdniestria shall participate in the conduct of the foreign policy of the Republic of Moldova - a subject of international law - on questions touching its interests. Decision of such questions shall be taken by agreement of the Parties. Transdniestria has the right to unilaterally establish and maintain international contacts in the economic, scientific-technical and cultural spheres, and in other spheres by agreement of the Parties.

4. The Parties direct a request to the Russian Federation, Ukraine, and the OSCE to continue their mediating efforts for the achievement of a lasting and comprehensive normalization of relations between the Republic of Moldova and Transdniestria.

5. The Republic of Moldova and Transdniestria will act as mutual guarantors of the full and unconditional fulfillment of the agreements on relations between them.

    ….

11. The Parties shall build their relations in the framework of a common state within the borders of the Moldavian SSR as of January of the year 1990.

After this principled agreement, the officially 'frozen' formalised political unsettlement institutionalising the Transnistria conflict acquired some flexible features. Of utmost concern for the people living in the non-recognised entity is the question of movement. Transnistria offers passports, but these passports are not recognised by any other state, not even by Russia. Therefore, dual—or even triple—citizenship is common and accepted by all parties. The Transnistrian constitution allows for dual citizenship, and Russia and Moldova are issuing respective documents. Interestingly, a majority of Transnistrians opt for Moldovan citizenship, according to recent estimates over 60% of the population (Blakkisrud and Kolstø 2011: 198). Predominantly practical reasons account for this, as the closest international airport, and the one most commonly used by Transnistrians, is located near the Moldovan capital Chisinau.

Comparable flexibility is the close cooperation in football (see Walk 2016). Sheriff Tiraspol, the squad from the Transnistrian capital sponsored by the omnipresent Sheriff conglomerate, known for its ultramodern hypermarkets sharply contrasting with the post-Soviet reality surrounding them, frequently dominates the Moldovan football league in which it competes. Transnistria-born players are regularly included in the Moldovan national squad which, in turn, plays some of their home games in the Sheriff Stadium in Tiraspol. As Walk (ibid.) argues, these interlinkages result neither in additional confidence-building nor in increased tensions. What has evolved is a consensual agreement to fundamentally disagree but to pragmatically cooperate when necessary.

The frozen flexibility, as the Moldovan-Transnistrian formalised political unsettlement may be characterised, got severely disrupted by the European Union's effort to assemble its Eastern neighbourhood countries in a so-called Deep and Comprehensive Free Trade Area, DCFTA (cf. Beyer and Wolff 2016). Immediately after negotiations started in 2012, Russia countered with an attempt to expand the existing Russia-Belarus-Kazakhstan customs union. As a consequence of DCFTA assimilation, the EU forced Moldova to accept the full *acquis communautaire*. While providing a significant challenge for Moldovan exporters, this task was impossible for the Transnistrian industry, which lacked the legal status to even formally comply with the necessary standards and labels.

With almost 30% of Transnistrian exports targeting EU member countries, solving the issue of DCFTA compliance soon turned into a question of survival for Transnistria. Since the European Union had no interest in starving out the entity, which could have had devastating

cascading effects, the European Commission's representation started to work informally to circumvent the strict DCFTA regulations (Pospisil 2015, based on interviews conducted in Chisinau and Tiraspol). Whatever mixture of formal and informal procedures has been found, the results are impressive. In the aftermath of Moldova's DCFTA integration, Transnistria's exports into the European Union increased by about 5%, whereas exports to Russia declined by almost 8%.[7] This is a remarkable achievement in a process without any justifiable legal backing, given that Transnistrian authorities are officially labelled 'de facto authorities' by international actors. Not even a stamp gets official recognition outside Transnistria's borders.

One of the most officialised and bureaucratised entities on the planet, the European Union, is apparently willing to go a long way in order to evade its own procedural requirements when it comes to stabilising formalised political unsettlement. This compromise is creative non-solutions at play. Whereas the official narrative uses the clause 'de facto' to signalise non-recognition, it does the opposite: de facto recognition. The key ingredient to successfully navigate pragmatic sovereignty is not to undermine or even disable the claims from the opposing parties. The 'frozen' Transnistrian conflict is everything but frozen, yet it is still impossible to resolve. Careful navigation of an enduring transitional process is required, something which by now all relevant stakeholders, including the multilateral actors such as the OSCE, seem to have accepted. Even though the Ukraine crisis has resulted in a renewed stalemate in the official negotiation process, the Moldovan-Transnistrian formalised political unsettlement is a highly flexible context in which sovereignty and citizenship, two cornerstones of a polity commonly perceived as being essential, become negotiable to a remarkable extent.

Shared Characteristics of Creative Non-solutions

The presented collage of creative non-solutions displays a wide variety of practices. The examples demonstrate that non-solutions are an astonishingly regular feature of peace processes, despite the consistent call for conflict resolution. While the non-solving efforts are, of course,

[7] Eurasianet, 4 May 2016, 'Moldova: Separatist Transnistria Region Reorienting Trade from Russia to EU', https://eurasianet.org/moldova-separatist-transnistria-region-reorienting-trade-russia-eu, accessed 20 September 2018.

diverse and contextualised, some generalisations can be drawn which depict a broader story about the quality and content of non-solutions in post-war transitions:

Processual importance of non-implementation. In empirical peace research and policy practice, the emphasis on implementation is still a dominant and widely unquestioned knowledge: for peace to work, peace agreements need to be implemented. Whole research endeavours focus on peace agreement implementation. For example, the Peace Accord Matrix (PAM) programme at the Kroc Institute of the University of Notre Dame provides empirical implementation data on 34 CPAs.[8] PAM, a highly thought-provoking and reflective programme, adds several conceptual and empirical caveats to its approach. However, the overarching storyline remains: better implementation means better peace. The examples discussed above show, in contrast, that non-implementation, at times, may be much more supportive for a transitional process. Some strands of contemporary research acknowledge a process-oriented approach and argue for distinguishing between the implementation of provisions and the implementation of the institutional components of a peace deal (Lyons 2018). In the light of the cases highlighted here, I want to radicalise this argument: in formalised political unsettlement, implementation and non-implementation of signed agreements are of equal importance, equally valid ethically, and their respective impact solely dependent on context.

Fluid approaches to both sovereignty and citizenship. All four types of non-solutions utilise a flexible attitude towards sovereignty claims and citizenship. In the everyday of peace processes, even international actors, whose narratives often directly derive from core principles of international law, demonstrate remarkable flexibility when they want to keep a process going or have their strategic or tactical interests fulfilled. As the following chapter on disrelation will demonstrate, the exclusive linkage between sovereignty and territory often gets blurred in the everyday of peace processes. Commonly restricted to niche debates in politics and law on issues such as plurinationalism, plural constitutionalism and panarchy, flexibility towards sovereignty, territory and citizenship is a constant feature of post-conflict transitional processes.

[8] https://peaceaccords.nd.edu/, accessed 18 September 2018.

Strong international buy-in. What may be the most remarkable feature of some of the mentioned examples is the high level of international buy-in. Many creative non-solutions do not exist in hiding, or in small and remote areas of peace processes. In some instances, these practices deal with elements of considerable international concern. Generalisations are difficult, yet, in contrast to conventional claims in peace research (e.g. DeRouen et al. 2010), the high level of international buy-in does not unavoidably translate into a dogmatic approach to implementation.

Creative non-solutions are the procedural counterpart to what constructive ambiguity provides in negotiations. In a favourable political and structural context, they are an indispensable tool in pragmatic transitions. On a conceptual level, they are the manifest alternative to solution-based approaches in peacebuilding. Nonetheless, there is no reason to be naïve. Non-solutions are attached to the existing power constellation, and they play their part in formalising political unsettlement. Non-solutions always rest on trade-offs and may come along with substantial disadvantages. The level of creativity varies. Hence, in order to turn purely stabilising features into transitional tools, it is vital to uphold the claim for their processual character. If done in a smart way, non-solutions can foster pragmatic transitions and provide an entry point for external engagement.

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Moving Beyond the Conflict Setting: Disrelation

Taking up earlier observations of opting out of war, this chapter discusses approaches that contest the idea of a unique social contract. These approaches are about enabling the disrelation of communities or territories from violent conflict, but also from subsequent peacebuilding. The view taken on these practices is broad. Not all forms of disrelation discussed here overtly reject or work against the concept of a singular polity based on a social contract. Some occur on different societal layers, such as local peace processes. Other processes still rely on a single polity. However, all these forms provide an epistemological challenge to the vision of one peace process based on efforts of solution and settlement. Disrelation, therefore, is a vital part of pragmatic transitions in formalised political unsettlement.

From the outset, disrelation has to be distinguished from exclusion, which is a regular occurence in peace processes. While exclusion is the conceptual antipode of inclusion, both are relational processes. Exclusion is about keeping groups or communities out of negotiation or settlement processes to which they are related to—notwithstanding whether they want to actively take part or reject participation. Disrelation, in contrast, refers to the practices of groups that are sucked into conflict against their will or interest. Disrelation occurs in the context of peace processes and the subsequent formalisation of political unsettlement, which often produce wide-ranging institutional frameworks with substantial consequences for people that were not directly affected by the war.

In most instances, disrelation is an expression of explicit or implicit radical disagreement, with the state, with the condition of formalised political unsettlement, and, often, about the way states are dealing with it. These practices render 'notions of "democratisation" or "good governance" as inadequate to sorting out situations of fundamental and violent disagreement between groups over what the demos, polis and territory of the state should be' (Bell and Pospisil 2017). In some instances, such disagreement may occur as a simple non-understanding. The relational structure—the state or the polity in which the inclusion ought to take part—is not necessarily disputed, it is just one of several available options of institutionalisation. Liberal peacebuilding, firmly embedded in the idea of the *one* social contract, inevitably relates all different forms of political or social organisation. While peacebuilding's phase of contextual authority, exemplified by the focus on traditional leaders and local systems of governance, may suggest otherwise, liberal peacebuilding's fundamental task remains to bring all these systems in sync with the state's legal order. Disrelation rebuts such attempts. Instead, it relies on multiple or entirely separate modes of social or political organisation.

The everyday of peace processes generates several types of disrelation. Interestingly, they have some traction in the reality of violent conflict and its transformation. A commonly used type is the disrelation of territory resulting from a specific power balance or international interference. The controversially debated 'safe zones'-concept is one such example. In contemporary peacebuilding, safe zones are the most usual process of disrelation that can be commonly observed. Safe zones are, in most instances, results of specific power constellations that persuade parties to agree on sparing contested areas from further fighting. Such attempts may be interpreted as a radicalised version of institutionalised contestation since these zones are either ceded to a conflict party by temporary arrangements or taken out of hostilities by applying various forms of international control. Depending on context, this may or may not present a fundamental challenge to a given polity. The main overarching characteristic is that disrelation is almost always limited in time.

Disrelation occurs in active and passive forms. Active disrelation mainly describes attempts by communities affected by violent conflict to 'opt out' of war. As their response to this challenge, communities try to actively disrelate from a given conflict setting. Enormous political, legal and practical challenges need to be navigated to initiate such

a process. The conflict parties as well have to consent in some form to sustain these processes over a longer term. Ethnographical studies have displayed the amazing ability of communities to stay out of conflict in the most adverse surroundings (Hancock and Mitchell 2007; Anderson and Wallace 2013).

Passive disrelation, in turn, refers to processes passive from the perspective of those who get disrelated. Such attempts rely on societal avoidance, in the sense of 'flying under the radar'. As a conceptual background, the analysis engages with the constructs in international law that safeguard native, up until now non-contacted communities in several parts of the world. These constellations can be understood as a legally binding form of passive disrelation. Staying out of contact can provide an example worthwhile exploring on a larger scale since it is enforced and accepted by effectively all influential actors of liberal internationalism and, for instance, applied within the highly violent and unsettled context of the inner Amazonas. Ironically, liberal internationalists can be won to support disrelation, although it undermines liberalism's fundamental aim of crafting interrelated societies based on indispensable individual rights.

Finally, the increasingly prevalent practice of local peace processes is discussed as a practice of disrelation. While resting on at times long-lasting traditions, these processes have become more organised and better documented in recent years. Peace agreements in countries such as Yemen show the acceptance of the will of clan structures to remain out of the contestation between the main conflict parties. Peacebuilders have started to search for opportunities to scale up these processes and to build relations to a national political settlement—or formalised political unsettlement. The argument put forward here emphasises the particularities of these processes. Their success depends on the discernible aspect of disrelation. These processes use different vocabulary, follow different methods, and aim for specific effects. In a considerable number of instances, they work not despite but because they are not linked up with the national or regional level.

The first part of this chapter examines the real politics of disrelation, temporary arrangements based on balance-of-power calculations. The second part deals with the potential legal framework that might be used for enabling passive disrelation and safeguarding communities from becoming involved in violent conflict or transitional processes. While liberal internationalism is at unease with the vision of not being part of a

polity, international law still provides the instruments for making disrelation a legal possibility. The third part follows on with practices of active disrelation and investigates examples of communities who managed to stay unaffected by war. Lastly, the disrelating element of local peace processes and its broader implications are discussed in more detail.

Disrelation as a Rational Decision Based on Power Calculations

The most prominent and, arguably, most interesting example of disrelation based on a Realpolitik calculus is the decision of the Colombian state to unilaterally declare a demilitarised zone under de facto control of the FARC-EP guerrilla. Commonly referred to as 'Farclandia', the zone was established in early 1999 by the administration of Colombian president Andrés Pastrana as a goodwill gesture to catalyse peace talks that were ongoing in parallel.

For its spatial, political and legal dimensions, Farclandia was a remarkable construct. It was a mixture between a spatially delineated ceasefire—the violent conflict did continue outside of the zone—and informal autonomy. The considerable size of Farclandia attracted significant international attention and made the zone heavily contested politically. Farclandia consisted of five municipalities in the southern Colombian jungle around the region of El Caguán, encompassing approximately 42,000 km^2, comparable to the size of Switzerland. Declaring a demilitarised zone of such dimensions against the explicit will of the Colombian armed forces and major international partners, such as the USA, was an expression of an astonishing 'pragmatism of Colombian policy makers' (Esquirol 2001: 54) at that time.

A courageous legal trick by the Pastrana administration enabled the enactment of the zone. The Colombian law 418 (1997) established the opportunity of voluntarily withdrawing forces to commence a peace process. However, the withdrawal was clearly signposted as not being a retreat from legal authority. The establishment was also not based on a negotiated agreement but on a unilateral act of the Colombian presidency, in anticipation of possible negative consequences if the FARC-EP would have been able to claim belligerency rights based on this law (Esquirol 2001: 54). This was successfully prevented.

The formal government structure in the zone remained in place but was devolved to the level of the mayors of the municipalities. This compromise enabled both parties to claim authority. By transferring the control to the elected mayors, the central state could purport its unceasing oversight. At the same time, the mayors formed a Civilian Corps for Cohabitation that was not controlled by the public forces of the central state (Huertas Diaz et al. 2016: 75). It was the main vehicle in the daily negotiations with the FARC-EP. Therefore, the mayors impersonated a hybrid form of authority.

Disrelation may be an odd concept to discuss Farclandia: while the zone was disrelated from the control of the central state, the state never gave up its formal claim to territorial sovereignty. Furthermore, the zone was not about effectively disrelating in a firm sense but offered disengagement as a confidence-building measure for participation in subsequent negotiations. Consequently, the peace process initiated by Pastrana formally started with a declaration by both the Colombian government and the FARC-EP leadership on 7 January 1999 in San Vicente del Caguán, the largest town in the zone.[1] The conjunction of Farclandia with the ongoing peace process remained evident until the end: when the peace process broke down in early 2002, Farclandia was immediately taken back by the Colombian army. The end of the experiment meant a shift back in formal control to the situation before the establishment of the zone. Without heavy fighting, Colombian forces reoccupied the cities, and the guerrilla retreated into the forest.

When discussing power-based processes of negotiated disrelation, Farclandia stands out as a unique experiment in temporary spatial disrelation. In contrast to other examples discussed below, it was not designed for humanitarian reasons, but as a goodwill gesture, a process hook, without being formally agreed between the parties. For the purpose of pragmatic transitions, the factual hybridity the zone represented is a remarkable insight into the opportunities of disrelation. While not giving up its formal sovereignty claim to the territory, the Colombian state decided to concede de facto control to a non-recognised non-state armed group, without granting this group a formal status which would

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[1] 'Joint Declaration by the National Government and the Revolutionary Armed Forces of Colombia – People's Army: Establishment of the Roundtable for Dialogue', San Vicente del Caguán, 7 January 1999. Translation by PA-X, Peace Agreements Access Tool.

have been required for formal autonomy. The local government structures remained in place. They guaranteed the formal connectedness and navigated the everyday interaction between the parties in the region. Their legitimacy was predominantly local since they had been elected in the respective municipalities.

A comparable but structurally different variation of power-based disrelation are the so-called safe zones or 'demilitarised zones' (for an overview cf. Mitchell 2007). In contrast to Farclandia, these safe zones are created mainly for humanitarian reasons in largely hostile surroundings. In most cases, third parties are involved in negotiating and protecting these zones, as well as for providing internal security. The notable exception is an experiment in Sri Lanka, where the Sri Lankan armed forces established a security zone during the ultimate siege on the remaining LTTE strongholds in early 2009. Officially aimed at protecting refugees, the zone was eventually used to physically eliminate the LTTE leadership. The Sri Lankan army further used the zone to deliberately shell civilians (Salter 2015: 364–365). This abuse led to harsh international criticism (e.g. Keen 2013: 3)—against the Sri Lankan army, but also against the safe zone concept as such.

Internationally guaranteed safe zones have been a reoccurring feature in peace processes. Usually, international observers rate them and their achievements as inadequate. The first case where these zones were applied on a bigger scale was the UN Safe Zones (UNSZ) in Bosnia and Herzegovina. Established by two resolutions of the UN Security Council (UNSCR 819 for Srebrenica, UNSCR 824 for Sarajevo, Žepa, Goražde, Tuzla and Bihać), the UNSZ did set the standard for internationally safeguarded 'zones of humanitarian exception' (Elden 2006, referencing Giorgio Agamben). A closer look at the respective resolutions (see Box 6.1) shows how the UN Security Council constructed them: it was a de facto transfer of authority to the UN mission in the region, UNPROFOR, by reliance on Chapter VII and a formal multilateral takeover of the monopoly of force (see Article 7: 'consider immediately the adoption of any additional measures necessary with a view to its full implementation'). However, any precedent considering the future sovereignty status of the concerned territories was carefully avoided.

Box 6.1: United Nations Security Council Resolution 824 (1993)

Resolution 824 (1993), adopted by the Security Council at its 3208th meeting, on 6 May 1993

The Security Council,

…

Recalling the provisions of resolution 815 (1993) on the mandate of UNPROFOR and in that context acting under Chapter VII of the Charter,

1. *Welcomes* the report of the Mission of the Security Council established pursuant to resolution 819 (1993), and in particular its recommendations concerning safe areas;
2. *Demands* that any taking of territory by force cease immediately;
3. *Declares* that the capital city of the Republic of Bosnia and Herzegovina, Sarajevo, and other such threatened areas, in particular the towns of Tuzla, Zepa, Gorazde, Bihac, as well as Srebrenica, and their surroundings should be treated as safe areas by all the parties concerned and should be free from armed attacks and from any other hostile act;
4. *Further declares* that in these safe areas the following should be observed:
   (a) The immediate cessation of armed attacks or any hostile act against these safe areas, and the withdrawal of all Bosnian Serb military or paramilitary units from these towns to a distance wherefrom they cease to constitute a menace to their security and that of their inhabitants to be monitored by United Nations military observers;
   (b) Full respect by all parties of the rights of the United Nations Protection Force (UNPROFOR) and the international humanitarian agencies to free and unimpeded access to all safe-areas in the Republic of Bosnia and Herzegovina and full respect for the safety of the personnel engaged in these operations;
5. *Demands* to that end that all parties and others concerned cooperate fully with UNPROFOR and take any necessary measures to respect these safe areas;

6. *Requests* the Secretary-General to take appropriate measures with a view to monitoring the humanitarian situation in the safe areas and to that end, authorizes the strengthening of UNPROFOR by an additional 50 United Nations military observers, together with related equipment and logistical support; and in this connection, also demands that all parties and all others concerned cooperate fully and promptly with UNPROFOR;

7. *Declares* its readiness, in the event of the failure by any party to comply with the present resolution, to consider immediately the adoption of any additional measures necessary with a view to its full implementation, including to ensure respect for the safety of United Nations personnel;

8. *Declares* also that arrangements pursuant to the present resolution shall remain in force up until the provisions for the cessation of hostilities, separation of forces and supervision of heavy weaponry as envisaged in the peace plan for the Republic of Bosnia and Herzegovina, are implemented;

9. *Decides* to remain seized of the matter.

The outcome was disastrous: the safe zones turned into a slaughter-house when the multilateral forces failed to uphold their protection mandate (either they were not able to do so or did not want to, as it was later argued). The events confirmed that 'consent of the parties, when it came, tended to be hard-won and short-lived', as Kofi Annan (1998: 65) summed up the UN's Bosnian experience. Warring parties in ongoing violent conflict are hardly ever respecting legal restrictions when strategic advantages are at stake. Subsequent legal action—Sri Lanka had to face war crime allegations for its conduct in the aforementioned case—cannot shield from this behaviour.

Other examples not only rest on international involvement but also serve the interests of the involved conflict parties. The Operation Lifeline Sudan (OLS), which had a safe zone character, is such a case. The OLS may sound oddly placed here, as it was a strict humanitarian relief operation. Still, it created so-called corridors of tranquillity for the delivery of humanitarian aid, which were mutually accepted by the warring parties.

Agreeing on the OLS had advantages for both sides: the SPLA negotiated from a position of strength and used the international legitimacy gained from accepting these corridors to foster its further involvement at the international level (Akol 2005: 2). The Sudanese regime, in turn, used the pause for military regrouping and regaining internal political trust (Minear 1991: 96). Unsurprisingly, the OLS had to face considerable criticism since the parties consented on it for purely strategic reasons, which may have fuelled the conflict in the long term. Despite the related risk, however, the example demonstrates the structural possibility to gain party consent for processes of disrelation in the worst ongoing warfare.

The current handling of the safe zones concept remains within the confines of providing shelter (on this idea, see Yamashita 2004: 23), but it still has wider implications on a peace process as a whole. In May 2017, Russia, Iran and Turkey formally agreed on the establishment of so-called de-escalation areas in Syria in a memorandum signed in Astana (see Box 6.2). These areas are meant to be temporary and established for humanitarian reasons, but this attempt has further implications as well. In stark contrast to the cases just mentioned, the zones in Syria aim to 'create favorable conditions to advance political settlement of the conflict' (Article 1), based on a 'strong commitment to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic'. Hence, the Syrian de-escalation zones present a paradox mixture between confirming and restricting the Syrian sovereignty over the territory: in fact, the temporary restriction of state authority shall strategically strengthen state sovereignty.

Box 6.2: Memorandum on the creation of de-escalation areas in the Syrian Arab Republic, 4 July 2017, Astana, Kazakhstan, The Ministry of Foreign Affairs of the Russian Federation

Memorandum on the creation of de-escalation areas in the Syrian Arab Republic

The Islamic Republic of Iran, the Russian Federation and the Republic of Turkey as guarantors of the observance of the ceasefire regime in the Syrian Arab Republic (hereinafter referred to as "Guarantors"):
  – guided by the provisions of UNSC resolution 2254 (2015);
  – reaffirming their strong commitment to the sovereignty, independence, unity and territorial integrity of the Syrian Arab Republic;

– expressing their determination to decrease the level of military tensions and to provide for the security of civilians in the Syrian Arab Republic, have agreed on the following.

1. The following de-escalation areas shall be created with the aim to put a prompt end to violence, improve the humanitarian situation and create favorable conditions to advance political settlement of the conflict in the Syrian Arab Republic:
   – Idlib province and certain parts of the neighbouring provinces (Latakia, Hama and Aleppo provinces);
   – certain parts in the north of Homs province;
   – in eastern Ghouta;
   – certain parts of southern Syria (Deraa and Al-Quneitra provinces).

The creation of the de-escalation areas and security zones is a temporary measure, the duration of which will initially be 6 months and will be automatically extended on the basis of consensus of the Guarantors.

2. Within the lines of the de-escalation areas:
   – hostilities between the conflicting parties (the government of the Syrian Arab Republic and the armed opposition groups that have joined and will join the ceasefire regime) with the use of any kinds of weapons, including aerial assets, shall be ceased;
   – rapid, safe and unhindered humanitarian access shall be provided;
   – conditions to deliver medical aid to local population and to meet basic needs of civilians shall be created;
   – measures to restore basic infrastructure facilities, starting with water supply and electricity distribution networks, shall be taken;
   – conditions for the safe and voluntary return of refugees and internally displaced persons shall be created.

3. Along the lines of the de-escalation areas, security zones shall be established in order to prevent incidents and military confrontations between the conflicting parties.

4. The security zones shall include:
   – Checkpoints to ensure unhindered movement of unarmed civilians and delivery of humanitarian assistance as well as to facilitate economic activities;
   – Observation posts to ensure compliance with the provisions of the ceasefire regime.

The functioning of the checkpoints and observation posts as well as the administration of the security zones shall be ensured by the forces of the Guarantors by consensus. Third parties might be deployed, if necessary, by consensus of the Guarantors.

5. The Guarantors shall:
   – take all necessary measures to ensure the fulfillment by the conflicting parties of the ceasefire regime;
   – take all necessary measures to continue the fight against DAESH/ISIL, Nusra Front and all other individuals, groups, undertakings and entities associated with Al-Qaeda or DAESH/ISIL as designated by the UN Security Council within and outside the de-escalation areas;
   – continue efforts to include in the ceasefire regime armed opposition groups that have not yet joined the ceasefire regime.

6. The Guarantors shall in 2 weeks after signing the Memorandum form a Joint working group on de-escalation (hereinafter referred to as the "Joint Working Group") composed of their authorized representatives in order to delineate the lines of the de-escalation areas and security zones as well as to resolve other operational and technical issues related to the implementation of the Memorandum.

The Guarantors shall take steps to complete by 4 June 2017 the preparation of the maps of the de-escalation areas and security zones and to separate the armed opposition groups from the terrorist groups mentioned in para. 5 of the Memorandum.
The Joint Working Group shall prepare by the above-mentioned date the maps of the de-escalation areas and security zones to be agreed by consensus of the Guarantors as well as the draft Regulation of the Joint Working Group.

> The Joint Working Group shall report on its activities to the high-level international meetings on Syria held in Astana.
> The present Memorandum enters into force the next day after its signing.
> Done in Astana, 4 May 2017 in three copies in English, having equal legal force.
>
> Signatures
> Islamic Republic of Iran, Russian Federation, Republic of Turkey

Even though formal sovereignty is confirmed, international observers claimed that from 2015 onwards, Russia was trying to introduce a factual disrelation through these de-escalation areas. It established different international as well as semiprivate[2] providers of security which became responsible for the territorial sectors. The 2017 de-escalation areas, while limiting the sovereignty of the Syrian government, similarly restricted the armed opposition in their attempts to fight the government troops (Hinnebusch and Imady 2017). The result was perceived as highly problematic by the West. The government could effectively foster its legitimacy through temporarily restricting the national sovereignty claim on the de-escalation areas. It did so internationally through abiding by the contract, nationally by getting the opposition to agree on a de facto truce, albeit spatially limited, and locally by providing humanitarian relief.

Besides their implications for the Syrian peace process, it is telling that the concept of safe zones, initially focused on safeguarding humanitarian space by multilateral means, has now been actively taken up by non-liberal powers. They try to utilise the rhizomatic complex of military strategy and tactics, legitimacy claims, power interests and normative orientations for wider geostrategic interests. The initial attempt of creating

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[2] This concerns particularly private military companies such as the Russian firm 'Wagner', which apparently has close connections to the secret service of the Russian army.

internationally guaranteed protectorates for conflict-affected populations (Landgren 1995) has turned into an impenetrable set of policy aims that mainly survive not due to consent but through an armed presence on the ground. Military enforcement is the probably hardest option of formalising political unsettlement externally.

What are the implications of power-based disrelation on pragmatic transitions in formalised political unsettlement? At first glance, the disadvantages widely outplay the opportunities: the outcomes are mixed at best and disastrous in some places. The spatial disrelation is always time-limited, lacks a clear legal framework and seems largely dependent on substantial international involvement. Without tactical advantages for the warring parties based on their power calculations, these zones could hardly ever exist. Are these temporary disrelation processes, then, anything more than passing stages to formalised political unsettlement?

The Farclandia experiment reveals some distinct positive aspects. The Colombian demilitarised zone is the only example to date where such a process has been initiated without substantial international involvement. It achieved two things which are also ingrained in internationally guaranteed safe zones: first, these zones can give conflict parties recognition that is supportive for subsequent negotiations. This recognition is not necessarily legally legitimate, but it is still palpable. Hence, counterintuitively, these processes of disrelation inhere a certain inclusive character. Second, the establishment of such zones, temporary as they might be, can catalyse and perpetuate transition processes and, thus, initiate long-term processes outlasting the actual existence of the zones.

In spite of all imperfections and shortcomings, the examples demonstrate the ability of both warring parties and international actors to pragmatically override the limitations of international law and national authority if it seems feasible and necessary at a given point in time. When creating Farclandia, the Colombian government performed a remarkable legal stunt to establish the zone. The process was later subject to legal challenges. Nonetheless, it created a valuable precedent that shows the possibility of larger-scale disrelation given that there is appropriate political will and the willingness to pursue a pragmatic approach towards existing legal constraints.

Any safe zone or power-based disrelation is severely hampered if the geostrategic interests at stake are too strong. This is the substantial deficiency in the cases of Bosnia and Syria. External stakeholders can only

credibly protect these areas, and hence the concept as such, if they have no substantial interests of their own. Otherwise, in a situation of fluid multipolarity chances are that a competing actor enters the game, which would render the disrelation pointless. Multilateral engagement alone is not enough to safeguard against this behaviour, but it may help. International organisations such as the United Nations can play an important role, at least after a careful self-examination of their previous engagements. Offering protection without being able to guarantee it, however, will undermine transitional processes rather than support them.

In a number of instances, the spatial disrelation attached to safe zones was an essential precondition for the subsequent formalisation of political unsettlement. Often, the contingent institutionalisation of patchiness provides a feasible way forward at a particular point in the development of a conflict setting. Current conflict settings, such as in Syria or Libya, even suggest that patchiness might turn into a regular system characteristic of future formalised political unsettlement. At least in the short run, these zones may not just offer protection, but a pragmatic cut-off from the predominant lines of the ongoing fighting. An idealist standpoint would wish for an aspect of active disrelation, as it is discussed in the next part, to substantiate the process. However, active disrelation hardly ever works on a larger territorial scale. In these instances, safe zones have a particular contribution to offer.

A Framework for Passive Disrelation?

Arguably, the power-based occurrences of disrelation all share a particular element of inactiveness by the affected population. In contrast to the realist nature of these constellations, passive disrelation can also be conceptualised in a positive, if not utopian way. At least, it is worth undertaking the intellectual attempt to imagine a situation of consent between warring parties and external actors to leave communities untouched by the conflict and its implications. Such an occurrence is rather unheard of, but an option that should not be outrightly dismissed. The growing protection agenda in peace processes (Bellamy and Williams 2011) could provide a promising entry point for this undertaking.

Processes of passive disrelation are ongoing globally. These processes have generated a prospective political and legal framework which may offer if not transferability to the context of post-war transitions, then

at least a possibly innovative perspective. At present, about a hundred so-called peoples in isolation or in initial contact exist around the globe. Most of these peoples live in the Amazonas regions of South America, other groups inhabit the largely untouched mountainous forests in New Guinea. Over the last roughly 25 years, an international consensus emerged to avoid contacting these peoples, for ethical, but also for tangible reasons—the death toll resulting from contacts with the outside world proved to be extremely high (Gross 2015).[3]

In order to assess the implications of passive disrelation, it is necessary to examine the enacted framework for legally interacting with indigenous peoples in isolation and in initial contact. These peoples are dealt with by a creative combination of international regulations and national law. National legislation, especially in South America, derives from the international framework, but adds additional components. Two distinct legal regimes relate to peoples in isolation, from entirely different angles but both with significant implications: One stream is the protection of non-contact through the international biodiversity regime (Shelton 2014: 225). While sounding somewhat bizarre to legally conceptualise the protection of peoples as biodiversity, it is a logically consistent approach, since these peoples are deliberately kept outside the global framework of individually claimable legal rights.

The other stream of legally framing non-contact refers to human rights. The United Nations and other regional organisations, in particular the Inter-American Commission on Human Rights (IACHR 2013), invoke the human rights-based framework of self-determination for perpetuating non-contact and protecting the living environment of these peoples. In dogmatic legal terms, the approach is an oxymoron: individuals are stripped of their individual human rights based on the collective right of self-determination. The legal assumption rests on the perception of an imaginary will of these people of not being contacted, an assumption that is set unilaterally by outside actors (Shelton 2014: 228); hence the passive character of the ensuing disrelation.

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[3] See also *The Guardian*, 'Scientists must let world's most isolated tribes make own decisions', 8 July 2015, https://www.theguardian.com/environment/andes-to-the-amazon/2015/jul/07/scientists-worlds-most-isolated-tribes-decisions, accessed 13 September 2018.

Self-determination is interpreted in a way that legitimises to keep the non-contacted individuals ignorant of their own rights. Box 6.3, displaying Article 22 of the UN draft guidelines for indigenous peoples in isolation, demonstrates the underlying reasoning: because the right of self-determination is guaranteeing the traditional ways of living and social and political organisation, it is, in fact, also guaranteeing the other elements of the human rights catalogue. This specific human rights-based approach is transferred into national law as well, for example in Brazil, Peru and Ecuador. Ecuador knows the crime of 'ethnocide' when violating the self-determination rights of non-contacted peoples (Shelton 2014: 226).

Box 6.3: Draft Guidelines on the Protection of Indigenous Peoples in Voluntary Isolation and in Initial Contact of the Amazon Basin and El Chaco, United Nations, Human Rights Council, 30 June 2009

22. The right to self-determination means that their decision to remain isolated must be respected. This decision can be understood as the highest expression of the exercise of the right to self-determination, since it guarantees respect for their traditional ways of life and forms of political and social organization. Thus, respect for the right to self-determination guarantees respect for other human rights. Respecting their right to remain in isolation (an expression of the right to self-determination) and safeguarding this right through public policies and laws aimed at achieving this end are ways of protecting these peoples from any contact and, therefore, from possible violations of their human rights.

Understood in a more general sense, another form of passive disrelation is ignorance. Thinking of ignorance as a potential ingredient to transitional processes contradicts the claim of the importance of public awareness and buy-in commonly raised by peace activists. However, ignorance can serve the purpose of sustaining transitional processes by removing them from public scrutiny and narrow politicking. It could be called passive disrelation 'light'. In contrast to the legally substantive issue of

passive disrelation, actual experiences exist. One of these is the Mindanao peace process, which has always been subject to troublesome interferences from the broader political debates in the Philippines. Decades of peace talks on Mindanao, counter-intuitively, have shown that public ignorance, particularly on the main island of Luzon, has had a supporting effect on the process.[4]

If public mobilisation related to the Mindanao peace process happened in Manila, the capital city located a two-hour flight north of Davao, the capital city of southern Mindanao, the chances of fierce disapproval are high. The legal mobilisation around the Mindanao peace agreements was constantly undermining the autonomy project, in one case—the MOA-AD proposal which was rejected by the Supreme Court of the Philippines (on this case see Williams 2010)—very successfully. Ignorance towards Mindanao may, thus, paradoxically aid the post-war transition. In terms of national identity building, such ignorance presents a significant challenge. When it comes to pragmatic and creative opportunities for the now established Bangsamoro autonomous region, however, northern ignorance substantially reduces disturbances, particularly regarding the upcoming and hotly contested referendum which will decide which provinces are going to join the autonomy.

Passive disrelation and ignorance pose a fundamental challenge to the liberal political ontology: it is possible and at times advisable to exclude people from universal liberal practices or a particular polity. Liberal norms, mainly the extensive, but broadly accepted application of the self-determination principle, can be utilised to do the trick. Thereby, universal norms turn into a post-liberal, flexible instrument. The operation has significant implications for post-war transitional frameworks. The relational, inclusive element of liberalism is fundamentally challenged, and diverse, disrelated processes are enabled that may become feasible without the active participation of the affected population. At least in theory, an equally bold interpretation of a human rights-based passive disrelation could interfere in warfare as well. A human right of not being

[4]While there is no 'hard' empirical evidence backing this assessment as of yet, process tracing, especially of the MOA-AD debates and the discussions on establishing an autonomous region in Mindanao in the Filipino political discourse, suggests this interpretation. The assessment was further confirmed in several interviews with practitioners from the Office of the Presidential Adviser of the Peace Process (OPAPP) and the International Contact Group of the Mindanao peace process in 2014.

drawn into violent conflict is conceptually conceivable. Although this sounds as straightforward as it seems unrealistic, practical opportunities may arise in certain circumstances, especially when such attempts overlap with other spatial forms of delineation, as they are often provided by ceasefire agreements.

Without a doubt, severe limitations continue to prevail, and manifold challenges will hamper any attempt of passive disrelation. Concrete occurrences might resemble the safe zone model discussed above rather than the ideal-type figure of non-contacted peoples, i.e. non-involved communities. There is no way for passive disrelation to occur in the everyday of violent conflict and subsequent transition without being embedded in the predominant power structures. The legal framework needs to be accompanied by incentives for the belligerents, especially in the endgames of violent conflict when armed actors tend to neglect any compliance with international norms.

Regarding its chances, the likelihood of successful passive disrelation is moderate at best. The assessment made above points to three conditions that need to be fulfilled: a power balance between the warring parties that disincentivises engaging with the disrelated communities or territories, an applicable legal framework, which makes passive disrelation thinkable and possible to rationalise, and, probably, considerable external support. However, the most important contribution of passive disrelation is its conceptual message: the right to not getting involved can overturn the liberal claim of inclusion and relatedness.

ACTIVE DISRELATION

In contrast to the internationally or nationally supported attempts of temporary spatial disrelation, processes of active disrelation are driven by the efforts of the concerned population. Resembling the ancient idea of a sanctuary (Hancock and Mitchell 2007), active disrelation is mainly referring to attempts by communities to opt out of violent conflict. These attempts are often internationally supported, usually by civil society peace organisations. In a way, active disrelation bears a resemblance to the safe zone concept, but on a smaller scale and turned upside down: in most instances, the initiative is with the affected communities and state actors are rarely involved.

The best-known comparative research account done on active disrelation is Mary B. Anderson's and Marshall Wallace's 'Opting Out of

War' (Anderson and Wallace 2013). Based on thirteen case studies,[5] they present pathbreaking insights into the strategic options of active disrelation. After painting a realistic picture of the limited options of collective decision-making regarding the non-engagement in the violent conflict, Anderson and Wallace (ibid.: 25–28) assess that 'choosing a nonwar identity' and rejecting the claims of the violent actors are vital steps to set in motion a process of active disrelation. The narrative these processes utilise depends on the context—in some of the case studies, ethnopolitical or tribal identities were exploited to the end of 'opting out' (e.g. in Afghanistan, Mozambique or Colombia), in other cases identity politics were actively dismissed and replaced by overarching identity claims (e.g. in the Philippines, Kosovo or Sri Lanka).

Active disrelation has a particularly successful track record in areas with a high level of pre-existing peace and grass-roots activism such as the Philippines and Colombia. The experiences in the Philippines are widespread and, to a certain extent, groundbreaking (Garcia 1997). The so-called peace zone movement pioneered the establishment of peace communities throughout the Philippines since the 1980s. The movement responded to both the conflict of the central government with the communist New People's Army (NPA) and the separatist conflict carried by the two big Muslim guerrilla groups (MNLF and MILF) in the southern island of Mindanao. Actively disrelated peace communities appeared in various regions of the country, in the Cordilleras, in the Mountain Region of northern Luzon, and in Mindanao. The peace zone movement also achieved a certain level of national institutionalisation, with the Ortigas peace institute offering guidelines on how to establish and sustain peace communities.

Garcia (ibid.: 221) highlights the importance of publicly discussing and negotiating peace zones within the community. In most instances, the act of disrelation was triggered by a unilateral declaration of the communities to be 'off limits to war'. This declaration aimed at the recognition of the warring parties. The public character of the act was meant

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[5]These case studies are Afghanistan, Bosnia and Herzegovina, Burkina Faso Colombia, Fiji, India, Kosovo, Mozambique, Nigeria, Philippines, Rwanda, Sierra Leone and Rwanda. Case study reports are available online under https://www.cdacollaborative.org/publication/opting-out-of-war-strategies-to-prevent-violent-conflict/, accessed 11 September 2018.

to create a barrier against the further involvement of the belligerents by contesting their legitimacy: while a military occupation would not have been a tactical problem, any armed action against the will of the affected communities would have demolished the reputation of the warring parties which substantially rested on public support and societal interest. Public pressure, political networking and advocacy thus evolved as the main instruments of these communities.

The necessity to maintain public relations demonstrates the paradox of active disrelation: considerable engagement with a variety of stakeholders is necessary to keep the conflict at bay. Active disrelation in the Philippines, first and foremost, relied on effective public communication and relationship building. A strong activist component comes into play as well: local peace zones aimed to create spaces of dialogue and wanted to initiate amplifications at the national level.

The Colombian examples are comparable to those in the Philippines, but relied on substantial international involvement, especially from North American peace activists. The movement had a robust top-down component and was also driven by the goal to influence national politics. The Red Nacional de Iniciativas por la Paz y contra la Guerra (REDEPAZ) started with a national initiative to establish peace zones throughout the country in the mid-1990s (Mitchell and Ramirez 2009). A fair number of relatively successful, albeit mostly short-lived attempts resulted from this initiative. The stability and durability of the zones was largely dependent on the interests of the armed actors. For this reason, the strong normative vision had to be combined with a pragmatic, hands-on approach. Peace zones could be established most effectively where the respective territory was under the control of solely one armed group. Such dominance, on the one hand, guaranteed a relatively stable environment that was helpful for the effort. On the other hand, the presence of an armed group in the surroundings of the zones resulted in the group persistently interfering in the daily life of the communities (ibid.: 248).

Further, the Colombian peace zones were highly vulnerable to fluctuating political conditions. Most zones ran into immediate problems after Álvaro Uribe was elected as president and installed a hard-line repression policy towards the insurgent groups, backed by the USA and their so-called Plan Colombia. After the Colombian military was not willing to accept a tacit agreement on zones of active disrelation to the conflict, they immediately became unsustainable.

Despite the unfavourable conditions, the European Union still supported the idea and used it to portray itself as an alternative to US policies. In line with ongoing attempts to foster coherence in their development programmes, they initiated so-called laboratorios de paz. These laboratories were linked to the peace communities and attempted to incorporate their experiences into areas of comprehensive economic development (Moreno Leon 2008). The peace laboratories initiative targeted well-known arenas of historical anti-war struggle, especially in Magdalena Medio, and tried to connect them with localities where development cooperation projects were already running (Khittel and Pospisil 2006: 112–114).

The peace laboratories programme hardly qualifies as active disrelation anymore, since it rested on a full return of the related territories under the sovereignty of the Colombian state. Still, the laboratories constituted a separate space characterised by a certain blurriness of its territorial status, comparable to the safe zone examples discussed before. The vast financial resources put into the programme resulted in corresponding demands by the armed actors in the region: especially paramilitary groups soon tried to exploit the development zones to their advantage, which led to substantial difficulties in achieving the development results the donors were looking for.

The laboratories hence resorted to local interlocutors who facilitated between international development actors, the municipalities and the central state. The Catholic church, which is the only social organisation that has been able to maintain a presence in the whole of Colombia, took over this role. Despite a considerable input of means and effort by international actors, the laboratory programme probably would have failed entirely without this facilitation. International involvement was always a pivotal element of the Colombian peace community experience, but it was never able to guarantee the sustainability of the efforts. It all came down to the relationship of the communities—or the later peace laboratories—with the armed actors (see the empirical investigation by Mitchell and Ramirez 2009: 247). When these armed actors could not see clear gains for their cause, the communities were always at immediate risk of getting pulled back into the conflict setting.

A third example presents an entirely different route that active disrelation can take. In Wana, Pakistan, in early 2007, the local community entered negotiations with the Taliban to arrange their retreat from the area and to re-establish local government structures tied to the

central state (see Box 6.4). Due to its formal recognition of the official level of government, this episode is a borderline case of active disrelation and may fit better into the category of sub-state peace processes. Nevertheless, it has particularities that add a distinct facet to active disrelation: The Wana negotiations were a community-led process in which the community relied on formalised tit-for-tat negotiations with armed actors based on their comparative advantages to establish a zone disrelated from the violent conflict. The signed agreement underlines that the 'people of Ahmadzai Wazir Wana' did not act out of a position of weakness but were able to dictate terms to an armed actor internationally acknowledged as being highly capable and dangerous.

The agreement carefully balances power and legitimacy. While not being normative as such, it invokes unifying normative figures—such as God—and refers to ethical behaviour. This normative element exerts pressure on the Taliban. On a strategic level, organisations such as the Taliban would lose out without good and effectively working relations with the populations living in the territories in which they are operating. Not complying with the terms of this agreement, thus, could have caused them serious strategic harm.

Box 6.4: Ahmadzai Wazir Wana peace agreement, 15 April 2007, Pakistan, provided and translated by PA-X, Peace Agreement Access Tool

The commanders, respectables, religious scholars, and people of Ahmadzai Wazir Wana sub-division have agreed upon the following clauses of the peace agreement:

1. It will be a punishable crime to shelter or assist Uzbek or their allied fighters or any local or foreign troublemakers and terrorists, no matter wherever they are in the territory of the Wazir tribe, that is to demolish his house, a penalty of Rs. 1,000,000 in cash, and exile.
2. Whoever causes unrest, commits highway robbery, abduction, wrongful murder, or theft in the territory of Wazir tribe or creates hurdles against legitimate development activities and regional interest, would be liable to retribution by the tribe.
3. It will be the responsibility of the government and local administration to establish law and order, and ensure safety of electric,

telecommunication system, and the transportation on public roads. It will also be their responsibility to take immediate action against those government officials who exploit the general public and who adopt unethical and tyrannical methods (against them).

4. Since peace has been established in Wana, thanks to Allah, those government departments and their officials that had left Wana for want of security may immediately return to Wana and start their operations.

5. The leadership of the peace committee will be in hands of Mullah Nazir Ahmad and his assisting commanders Hakimullah, Meetha Khan, Malang and Abd-ul-Hannan.
   [50+ Signatories]

Some overarching patterns can be identified in the selected case studies. These patterns resonate with the available comparative research findings. Mitchell and Ramirez (2009) show that all cases of active disrelation rest on a complicated, but always lively collaboration with local government. Akin to the Farclandia experience, local government actors often serve as an interlocutor between the central state and the disrelated municipalities. Active disrelation, thus, must not be understood as a dogmatic challenge to the polity, but as a pragmatic enterprise. What makes these cases unique is that they never raise specific political demands towards the national level regarding their representation (such as, for example, autonomy).

In many cases, the communities do not just want to improve their living conditions but understand their actions as models for wider peace engagement. If such a general claim occurs depends on the respective communities. Mitchell's and Ramirez's (ibid) analysis identifies two types: either it is IDP communities in their new territories or communities on their own original territory. Taking into account the example from Pakistan, this typology needs to be expanded to the internal form of organisation of the communities, and the grade of their armament— whether these communities have an armed tradition (like in Pakistan) or not (like in the other cases). Community militancy significantly influences the strategies and tactics applied in navigating the disrelation.

The inclusionary processes within the communities are significant in all cases. 'Community cohesion', functioning governance and

community security structures, thus the ability of a community to make a difference to the living conditions in comparable places outside of the zone, evolves as a key factor in sustaining the efforts (Anderson and Wallace 2013: 35–41). Paradoxically, practices of active disrelation support and sustain inclusive and participatory processes within the disrelated communities.

Active disrelation is also pragmatic: when dealing with armed actors, the strategies rely on a flexible navigation between engagement and disengagement. The comparative analysis highlights that the involved communities do not have active stakes in the conflict. Mitchell and Ramirez (2009: 262) suggest that a surprisingly strong and clearly expressed 'popular will' was at play in the communities they were empirically examining. This popular will translated into political policing: sympathisers with armed groups were discouraged or removed from the communities, and the narratives used by the armed actors were silenced to demonstrate ignorance towards the ongoing conflict.

In direct negotiations, the communities either utilised preexisting networks or intermediaries, such as international partners, especially peace activists, or established trans-local structures, such as the clergy (Anderson and Wallace 2013: 68–79). In direct confrontations, the variety of applied tactics is considerable: they range from direct, at times armed confrontation and tricking (e.g. blocking roads towards the villages to increase the de facto costs of moving in for the armed actors) to hospitality and attempts of co-optation. Another option, often supported by international peace activists, is avoidance: non-communication, boycott, or physical avoidance. Demonstrating ignorance and indifference towards the political demands used in the conflict reduce the advantages any active engagement would have for the armed actors.

Communities also make use of legitimacy patterns to generate commitment from the conflict parties: the act of signing an agreement puts pressure on the signatories. It would force them to break clearly stipulated commitments if they were to decide on a change of policy towards the disrelated communities. Reneging on promises, in turn, would undermine their claim of being a legitimate and trustworthy actor— engaging with communities after a breach of an agreement lets them expect a hostile reception. Furthermore, peace communities, on occasion, use inclusionary hooks, especially references to humanitarian law

and human rights (Mitchell and Ramirez 2009: 263), in order to add an additional layer of international legitimacy.

Especially given its activist outfits, international peacebuilders were always fond of the idea to scale up active disrelation for the purpose of fostering or catalysing a national peace process. The European Union attempted this approach with their peace laboratory programme, as did the Philippine civil society when seeking to expand the peace zone movement. However, empirical insights on active disrelation show that all these attempts rest on specific experiences and special moments, trigger points, which aid the establishment of the communities. Relating active disrelation, therefore, might be a misguided strategy. Hardly ever, 'the conflict prevention strategies of these nonwar communities … translate into more comprehensive strategies to address the underlying schisms in the societies' (Anderson and Wallace 2013: 171).

Scaling up active disrelation through external support, for example by creating an informal, internationally supported trusteeship, would probably have to face serious doubts and distrust on the ground. Strong international presence and a takeover of structural governance roles by external actors may or may not be temporarily successful and lease processes of active disrelation a longer life. Often, these efforts tend to turn into an enforcement of liberal peace, with negative consequences for the affected population. Instead of fostering a transition, they then lead to processes getting stuck or undermining ongoing structural change.

Active disrelation is a small process. In contrast to safe zones or Farclandia, it is not a time-limited practice from the outset, but experience shows that these experiments cannot be sustained indefinitely. 'No zone will last forever without changes, and every zone faces questions of its permanence, expansion, contraction, collapse, adaptability, and institutionalization' (Allen Nan and Mitchell 1997: 256). Active disrelation is also not a large-scale process, neither in terms of the numbers of people involved nor in the sense of territory. Often, it does not contest claims of legal sovereignty but instead relies on stretching the boundaries of plurality in a given setting.

Inevitably, active disrelation remains a relative form of disrelation. Since the process needs to be negotiated and renegotiated almost permanently, and since the concerned communities usually are militarily weak, they have to consistently work on the consent of the conflicting parties. This perilous navigation bears similarities with the power brokerage

in safe zones or in Farclandia: the sustainability of disrelation is largely dependent on conflicting parties tacitly or actively agreeing on not touching them, mainly for reasons of international legitimacy and credibility.

Still, these genuine, local peace efforts transmit a strong message. If a clearly distinguishable 'local' peace is processed in the hybrid context of formalised political unsettlement, it is happening in active disrelation. A remarkable epistemological claim is embedded in these efforts, since they are structurally at odds with the conflict and the peace process: opting out is a manifest of rejecting the connecting, interrelating logic of the conflict setting. In the last instance, opting out discards the monopoly of understanding reality through the lens of the violent conflict—especially in subsequent transitional processes. The truth represented by active disrelation is that life is more important than conflict *and* peace. This insight is the main difference between active disrelation and so-called local peace processes.

Disrelation and the Local Peace

In contrast to active disrelation, which still aims to contribute to a broader peace project, so-called local peace processes do not engage in such an endeavour. While certainly not a process of disrelation in the typical sense, local peace processes, ongoing in many conflict contexts, have two characteristics that invite a further reflection. First, local peace processes are pursued by actors that are interrelated with, but most commonly peripheral to 'big' peace negotiations. The stakeholders are diverse, yet these processes have distinct characteristics, formats and outcomes. Second, local peace processes seem to stubbornly resist all attempts to scale them up or to function complementarily to the goal of a 'big' peace. Despite not done in disrelation, they remain disrelated.

What is a 'local peace process'? As has already been discussed in relation to formalised political unsettlement, there is no clear-cut spatial distinction between national and local peace processes. Fortunately, many internal violent conflicts since the end of the Cold War did not affect a whole country but remained confined to parts of it. In turn, all peace processes have different implications at different levels and are always local processes as well. In the following, local peace processes refer to subnational processes that predominantly involve non-state actors and deal with conflicts among them. These may be community conflicts related to the access to land and water or grazing rights. Such conflicts

may be spin-offs of bigger, regional or national conflicts and often concern the presence of armed groups and their behaviour in locally administered territories, such as in the tribal areas[6] in Pakistan.

The documentation of local peace processes has improved in recent years. They often follow many of the same rules as established peace processes, for instance to produce written and eventually signed peace agreements. External mediators or negotiators are frequently present; church actors play a particularly important role. For external actors, the motivation is mostly to trigger an inter-communal conflict settlement which would amplify to the wider conflict setting. Without a doubt, the practice of peacemaking through negotiations and written agreements had a trickling down effect on those settings. Local peace processes occur in almost all contexts and circumstances, yet the quality of their documentation varies. South Sudan and Yemen are two of the countries which have seen a number of well-documented processes over recent years.

Referring to a ground-breaking study by Mark Bradbury and colleagues at the Rift Valley Institute on 'Local Peace Processes in Sudan' (Bradbury et al. 2006), scholarship now commonly refers to subnational non-state processes as local peace processes. Despite their non-state character and their focus on local conflict settings, a number of these processes refers to and exchanges with state actors in various aspects. The state and state actors appear in three possible roles: as mediators in the process, as a party to the conflict, most likely not in the role of a national army, but in form of a specific actor with state ties such as the regional police forces in Pakistan or local militias formally reintegrated in the South Sudanese army, and as a guarantor of an agreed peace deal. Therefore, local peace processes do not have an entirely distinct non-state character, which complicates their definition. The distinguishing features of such processes are that the peace deal refers to a local conflict setting and the intended outcome remains restricted to the subnational level.

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[6] These tribally negotiated agreements in Pakistan mostly appear in the former Federally Administered Tribal Areas (FATA) bordering the Western frontier province, which, since 2011, is called Khyber Pakhtunkhwa. In May 2018, the FATA were dissolved and reintegrated into the Khyber Pakhtunkhwa province. The tribal structures and their strong role in negotiating peace with armed actors present in the region, however, remain intact.

Box 6.5: Gogrial Agreement (between Twic, Aweil East, Aweil South and Gogrial West Counties), 13 July 2013, South Sudan, provided by PA-X, Peace Agreement Access Tool (language and spelling as in original agreement)

Box Republic of South Sudan

Four counties of Warrap State and Northern Bahr el Ghazal States (being, Twic, Aweil East, Aweil South and Gogrial West)
Conflict Prevention and Mitigation Dialogue
Date: 12–13 July 2013
Venue: Gogrial West County Headquarters, Saturday 13 July 2013
Four countries joint position and action points/recommendations and resolutions:

1. The four counties positions acknowledged the importance of peace, stability and good relations based on amicable neighborliness. In this regards, the counties affirm their commitment to protect and preserve peaceful coexistence and vowed to stick to the principles of maintaining peace with neighbors and mutual security.
2. The four counties unanimously recommended the institution of arbitration body (Committee) to look into the issue of contested areas and help advice the counties on modalities for peaceful coexistence using historical facts and mediated by paramount chiefs.
3. The counties recommended the formation of joint courts to settle judicial matters that involve the four counties, which are not resolved by the committee.
4. The four counties affirmed their readiness to share common local resources including Toc-Chol, water points, fishing and grazing areas as well as guarantee the free movement of people and trade with less restrictions or unnecessary taxes.
5. Establishment of police posts in controversial or disputes prone areas.
6. The counties called on the chiefs, payam administrators and Commissioners to take the lead in investing in the culture of peaceful coexistence, cooperation and improve strong administrative relations through regular communication meetings.

7. The counties recommended the dissemination of the peace res-
   olutions and recommendations using community radios (e.g.
   Mayardit, Nhomlau FM etc.) as well religions institutions, gov-
   ernment institutions and places of social gatherings.
8. The counties called on the two governors of Warrap and NBeG
   states and religious leaders as well as civil society to support the
   implementation of these resolutions to relief communities from
   these problems.
9. The counties resolute that the crime of cattle theft/rustling
   should be met with punishment of both 3 years and equivalent
   of 5,000 SSP or 5 years all together in the event of failure to
   pay the above amount.
10. The Counties resolute that the crime of murder intentionally
    deserves death penalty while the semi homicide deserves com-
    pensation in form of blood price.
11. The sale of cattle and driving should be regulated and cattle
    camp should move during the day time unless the security
    necessitates.
12. The Counties resolute that any farmer who wants to go to Toc
    – Choi farming area should go through the local authorities
    seeking permission.
13. The Four County Commissioners will monitor and implement
    this resolution.

[30 signatories – paramount chiefs, chiefs, executive chiefs,
women and youth representatives; 4 witnesses – the four county
commissioners]

Subnational peace processes have peculiarities in comparison to national
peace processes, some of which can be revealed using peace agreements
data from the PA-X database. In order to discuss the most striking differ-
ences, insights from an exploratory study of three cases studies—South
Sudan, Yemen and Pakistan—are presented. The empirical investigation
analysed 108 agreements from these countries, which are available in

PA-X. 29 of these agreements address local conflict and are negotiated by local actors, 79 agreements are referring to the national level.

The results of the comparison show remarkable differences. This starts with length: local peace agreements are far shorter than national peace agreements (3.69 versus 16.65 pages on average). They also cover fewer topics. The actual content is different as well. Local peace agreements are largely issue-centred. Most of them deal with specific and limited episodes of armed conflict, such as an armed intrusion into a territory of another group. A notable exception, as shown by the Wana example from Pakistan discussed above, are agreements that try to implement an active disrelation from armed actors of national political relevance.

The most remarkable feature of subnational peace processes is the language they use. As the example in Box 6.5 shows, conflicts are addressed through an apparatus which, in international relations terminology, could be called classical realism. Methods are the unambiguous delineation of territory, reparations, taxes and possible retaliation. These characteristics are a common feature across the case studies and their sub-regions, which suggests a generalisable pattern of inter-communal and subnational negotiated conflict settlement. Reconciliation measures appear sporadically, but they are very rare, as are broader visions of peace like they are regularly laid out in agreements on the national and regional level.

The role of the state in subnational peace processes is multifaceted and ambiguous. The state never appears as a substantial partner, which arguably puts these processes in the disrelation category. Yet, the state is present. In some instances, such as in South Sudan, state agents, like the police, are referred to as having a role in supervising contested elements of the agreements, usually at territorial crossing points. In other contexts, such as in Pakistan and Yemen, the state becomes a subnational party to an agreement. Instead of getting communities to agree on the polity, state agents are required to negotiate their own entry into these community settings with such agreements. In these cases, Joel Migdal's state-in-society approach (Migdal 2001) has direct relevance: the state in the form of a local agent has to broker its political role via a peace settlement.

The surprising realpolitik of how local peace processes operate does not necessarily contradict the argument of the diversity and richness of local peace. But it raises doubts if these practices can be expansive and transferable, especially if a larger violent conflict interferes. The

peculiarities of local peace processes also demonstrate their distinct and relatively disrelated character. The normative implications reach beyond the effectiveness of the processes to end armed fighting in areas without state presence. These processes paint a patchy, messy, overlapping and also disrelated picture.

International peacebuilders habitually think about the possibilities to connect and interrelate these processes, by merging them, scaling them up or replicating them. Such thinking is misguided, for two reasons: first, most of these processes are anyhow related to other layers of political settlement or formalised political unsettlement, albeit in forms of social and political institutionalisations which may not be visible or recognisable from the outside. The conjunctive structures are most often informal. Second, based on how local peace agreements look like it can be presumed that a connection to state-led processes at the national level would effectively prevent them from happening. They work because they do not, at least not necessarily, comply with the political and legal framework which is in place nationally. Disrelation is a precondition of their existence.

The Role of Disrelation

Disrelation offers a pathway to reconsider transitional processes as a multi-layered and multifaceted enterprise. Practices of disrelation also pose a powerful, manifest and concrete critique of liberal peacebuilding. Disrelation, therefore, has a vital role to play in pragmatic transitions. While loci of political power continue to exist, pragmatic transitions are anything but a centralised process. Disrelation opens up this perspective.

Without a doubt, disrelation provides a huge conceptual and practical challenge for the international system and the established framework of international law. Some of the examples discussed above, such as Farclandia, may face fewer obstacles from the insight than from often considerable pressure applied by external actors. Disrelation, however, does not work against the established international legal framework. It rests on its ability to connect to existing legal institutions and relies on them to have sustainable success. At the same time, it stretches their boundaries.

The challenge to universal liberalism presented by some of the examples discussed here is still the sharpest compared to other modalities appearing in pragmatic transitions. If the universal rule of law as a

compulsory principle of social organisation cannot fully apply anymore, it becomes contingent and limited. Disrelation is essentially about enabling people to remain outside the liberal framework or to capitalise on the liberal framework in a pragmatic way to pursue their interests. It is liberal interventionism in reverse, paradoxically even if some of its occurrences rely on such interventions. In any case, processes of disrelation confirm the need for more fluid concepts of sovereignty and for plurinationalism.

Disrelation, in whatever form it might occur, does not present an opportunity in every context. Specific conditions have to be in place, some of which are not knowable beforehand, some of them are random. There is a striking similarity with the other approaches discussed in previous chapters: disrelation is not able to contribute to conflict resolution on a large scale. It is all about a temporary process. It is about disabling conflict by disrelating from it.

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Conclusions: Embracing Affirmation

The exploration into the often concealed practices of conflict *non*-resolution in peace processes has revealed a remarkable regularity of pragmatist approaches. Practices such as the provision of hooks, creative non-solutions and processes of disrelation are a persistent feature of post-war transitions. As in most other political areas, the everyday of peace processes does not play by the rulebook. When the accustomed formula fails, actors are willing to exploit all loopholes and opportunities that may arise. This investigation aimed to demonstrate the value of practices that relinquish to work towards conflict resolution and political settlement. It sought to refute the narrative that any activity not contributing to a planned outcome would be misguided. When the contextual conditions of complexity and nonlinearity are recognised and accepted—when affirmation is embraced—these outcome-based arguments are no longer valid.

The amazing frequency of existing pragmatism confirms that peacebuilding's affirmation of transitional conditions has already taken firm roots in the everyday of peace processes. Notwithstanding all theories, strategies and planning, the messy reality forces practitioners to constantly search for feasible alternatives. Lofty visions and ambitious peace process goals remain distant if they have not already lost any credibility. Process dynamics have taken over the initiative. As of yet, peacebuilding's conceptual thinking has abstained from coping with affirmation. Even most of the critical accounts disaggregating liberal peacebuilding have struggled to overcome the solution-based paradigm.

The lens of formalised political unsettlement is offering a contribution for achieving that. Formalised political unsettlement may be of limited use as an operationalised research concept applied in empirical investigations. Its ability to relate to both conceptual and contextual authority in peacebuilding and its anchoring in the current state of affirmation, however, put this lens in a unique position for the forthcoming reorientation. Formalised political unsettlement's main contribution is its perspective. It focuses on continuation in stagnancy, on the fluid elements that enable this continuation and on the hidden practices at work in these fluid elements. Formalised political unsettlement does not assess, it relentlessly moves.

In doing so, the formalised political unsettlement lens provides a theoretical background for pragmatic transitions. Engaging with a process and the on-the-ground realities, it sheds light upon the wide array of options available when engaging in pragmatic transitions in situations commonly perceived as stuck in enduring crisis. Without taking anything away from the disturbing character and disaster of violent conflict and the misfortune experienced by many living through formalised political unsettlement, the lens is rooted in an optimistic view. The manifest conditions provided by formalised political unsettlement are, of course, unsatisfying, risky and limiting. These conditions are nothing to aim for. However, formalised political unsettlement is a constellation which almost unavoidably occurs in post-war transitions and, as such, requires curiosity.

The assessment of failure and the continuation of failing, despite having deeply unsatisfactory side effects, can be a comfortable situation for both peacebuilding policy and scholarship. The current ontopolitical narrative accommodates the state of affirmation, which is a result of an overload of knowledge and nonlinear complexity. On the one hand, the focus of concepts like inclusion and resilience on impact and on-the-ground realities is indispensable in a situation where peacebuilding agency has vanished. The impact-led perspective offers relief from the normative pressures exerted by conceptual and contextual authority. On the other hand, the conceptual vagueness of inclusion and resilience opens a vast empty arena which invites to be filled politically.

There is reason behind this operation. Liberal peace approaches authorising peacebuilding by concept, despite the critique even in policy circles, still have a stronghold in the politics of liberal democracies. Responsible policy is required to incorporate these political demands. The current ontopolitical narratives of peacebuilding are an outcome of this compromise. Regrettably, critical scholarship often participates in

this political game and, thus, gets trapped in de facto fostering a debate on concepts and context in affirmation. Many accounts fail to avoid the pitfall of reproducing an affirmative discourse by employing a critical language. Affirmation sits well with critique. These debates are a figment of the past. Scholarship is undoubtedly committed to engaging in the ontopolitical game, but it will fall short of offering a meaningful contribution when it is only reactively reproducing arguments that have lost their historical relevance.

When compared to the insights from the century-long endeavour of peace studies, affirmation has one significant advantage. It is not a theoretical movement, but an empirical reality. Therefore, it will take roots and eventually capture the political discourse as well. A return of isolationist politics may be a consequence of affirmative thinking (e.g. King 2018: especially 107–109). While such a return cannot be outrightly neglected, institutionalist insights suggest that history will not repeat itself. Nonetheless, international peacebuilding engagement probably will continue, also in a state of affirmation within a wider global marketplace of political change. The number of players on this international economic and political marketplace is ever increasing, making intervention, in whatever form, more rather than less likely.

The request for handling the phenomenon of violent conflict, internally and externally, will remain part of the global political agenda for the foreseeable future. The lens of formalised political unsettlement, or whatever name will eventually stick for an approach that unsettles affirmation's accommodative quality in an active way, is able to speak to this agenda. Changing the perspective from building peace to pragmatically supporting transitional processes is the main related claim. Transferring practices of providing hooks, non-solution and disrelation from their obscure and shady image of being bad compromises or unfortunate quick fixes into opportunities can assist this aspiration.

Affirmation is evolving out of two interrelated elements: the ontological condition of complexity, which puts an end to linear cause–effect relationships, and the end of knowledge, which is a consequence of its unlimited disposability. Affirmation is not the inevitable end of peacebuilding agency, but it requires its transformation. As it has been shown by this investigation, the project of reconstructing agency in post-war transitions is a practical endeavour, resting on the reality of everyday practices that are pursued by actors involved in peace processes. Agency can solely be reconstructed by acting politically under the conditions of

uncertainty and unknowability. This reconstruction is an inherently pragmatic exercise. With that, one could argue, peace as a normative vision has reached its limit. The issue of normative visions, however, remains challenging.

Pragmatic Transitions in Formalised Political Unsettlement

Emphasising the priority of process over outcomes involves the risk of just continuing to move without any sense of direction or purpose. The loss of vision may have liberating effects, but it can result in disorientation as well. Pragmatism and process need to be balanced by principles. Principles, in turn, are tied to normative orientation and ethics, which again are embedded in individual and collective practices, decisions and cultures. However, the contradiction between the pragmatism of process and principled guidance is obfuscated by a fundamental condition of affirmation. Pragmatic transitions cannot be produced by autonomous human subjects (cf. Schmidt 2013). The following principled elements for pragmatic transitions are proposed in full awareness of these limitations.

Principles, institutions and process. The navigation of pragmatic transitions is always a balancing act. As the examples discussed in this book have shown, transitions are processes of institutionalisation. In contrast to habitual assumptions of the liberal statebuilding paradigm, institutions are not something rationally decided upon and deliberately created. Institutions are the product of manifold social interactions contextualised in a particular setting. North's (1991: 4) distinction between created and evolving institutions, while conceptually helpful, falls short of fully considering the implications of this insight. Even created institutions do not simply start working—they need to evolve as well.

The second element influencing the relationship of principles, institutions and processes concerns the main empirical claim put forward by formalised political unsettlement: settling conflict through top-down institutionalisation is not going to work. The cases which may look like success stories are more likely the outcome of existing institutional structures that enabled the settlement. Hence, John Gray's (2000: 183) understanding of institutions as a mode of navigation and mitigation

is of substantial practical importance: 'Rather than looking to an ideal community to deliver us from conflicts of interests and values, we should view political institutions as expedients whereby these conflicts can be contained'. Institutionalisation can deliver the formalisation of political unsettlement productively. Contributing to such a formalisation of unsettlement is not what peacebuilding initially was aiming for. Yet, this formalisation is not the endpoint, but the beginning of an enduring transformational process which, in the long term, may cross the bridge to normal politics.

There is a thin line between principled realism, which remains embedded in the liberal peacebuilding paradigm and is bound to remain stuck in affirmation's passivity, and principled pragmatism. Principled pragmatism uncovers the potential to act. Identifying and working with institutions focusing on the containment of violent conflict may sound like Cold War rhetoric. Despite the pragmatism undeniably related to the Cold War period, this is not the case. Containment in an era of absolute certainties and containment in a state of fluid multipolarity becoming manifest in a global marketplace of political change are two radically different ventures.

The diversity and multifaceted character of the practices discussed here, which are all, in one way or another, dealing with the containment of political contestation, exemplify this difference. There is no freezing or standstill, also in so-called frozen conflicts. Instead, relentless movement and remarkable creativity in navigating the existing constraints characterise the everyday of formalised political unsettlement. Even though 'working with the grain' (Levy 2014) has apologetic implications when referring to eye-level cooperation with oppressive regimes, the approach offers valuable insight. Working against the grain based on universal normative values does nothing but foster the accommodating character of affirmation. Courage and failure can go hand in hand and may mutually contribute to the complete loss of agency. Accepting the predominance of process is a precondition for reacquiring it.

Relational engagement as mutual learning. On the subjective level, the challenging navigation of principled pragmatism in transitional processes is supported by an approach of relational engagement. Relational engagement will not be able to transcend the divide between external and internal or between the local and the international. Nevertheless, it offers a bridge if it is recognised as the willingness to accept and live with

the contextual realities and engage in a joint enterprise. In affirmation, distance works towards accommodation, relational engagement towards the unsettling of this accommodation.

In divergence to contextual authority, relational engagement is not about knowledge-production and understanding context. It is about accepting the affirmation of this context and the conditions it creates, but without surrendering to them. There are obvious limitations to relational engagement: rejection and disrelation. When relational engagement is not welcomed, it cannot be sustained. Moreover, relational engagement advocates the commitment to mutual learning. In affirmation, no prescriptive knowledge is left to disburse. Mutual learning in affirmation is explorative and experimental; it rests on the accumulation of experience but not on the accumulation of knowledge.

Process management. It has been demonstrated that rationalising peacebuilding along solution-based outcomes and, thus, in categories of success and failure is both misguided and problematic. It is misguided because under the conditions of complexity and nonlinearity effects can no longer be related to specific actions. There is no way of knowing what causes something. As a consequence, responsibility vanishes. All efforts of becoming equipped to the task of dealing with complexity by generating data and acquiring context sensitivity have caused a systems overload. In these conditions, working towards solution-based outcomes becomes problematic. It produces failure, and constant failure results in disillusionment (Bell 2015). Disillusionment again may turn critical awareness into resignation and cynicism. In passive or accommodating affirmation, the collective and individual agency gets lost.

Pragmatic transitions differ from peacebuilding and conflict transformation. The processes of institutionalisation that pragmatic transitions are concerned with do not aim for resolution or settlement. Every real conflict settlement is, without a doubt, a fantastic opportunity to transform a no longer contested polity towards normal politics. For all the reasons mentioned above, though, conflict settlement cannot be the goal of a transitional process. This is not to argue against efforts of conflict mediation or reconciliation, which undoubtedly have a role to play as infrastructural hooks in pragmatic transitions. However, it is impossible

to assess their significance beforehand, and the options to evaluate their impact and effectiveness in hindsight are limited.

These remarks speak to a fiercely debated topic in peace and conflict studies. Does the emphasis on process propose a comeback of the approaches of stabilisation and conflict management, widely discredited by critical peace research? The argument against stabilisation, in the most profound way raised by Mac Ginty (2012), rests on comprehending the connection between peace and stabilisation as an antagonism. Countering the security-based logic whereby stabilisation would be a precondition of peace, Mac Ginty argues that stabilisation 'moves us away from the realm of emancipation towards the realm of control' (ibid.: 26). In the logic of modernity, this argument is striking. If peace is considered as something doable, a dispute on how peace should look like and what kind of peace should be aimed for makes perfect sense. According to this reasoning, conflict management and stabilisation are realist, pessimist and reactionary antagonists to peace as emancipation.

Johan Galtung's distinction between 'negative peace', which refers to stabilisation and conflict management, and 'positive peace', which would be emancipation, translated this reasoning into a well-known and widely used language (Galtung 1996: 3). Such a clear-cut, binary logic was always excessive and not helpful, neither for the academic debate nor for peacebuilding practice. In a state of affirmation, where what Galtung has called 'peace policies for the 21st century' are not realisable anymore, this distinction has lost any traction. Does the end of 'positive peace' imply that emancipation is futile in the state of affirmation? This very much depends on the perspective. Without engaging further in a question that deserves considerably more investigation, the activities, methods and approaches portrayed in this book arguably show a remarkable emancipatory character in their own right.

In the same way, stabilisation and conflict management can no longer be debunked as anti-peace enterprises. As said, nobody strives for formalised political unsettlement, yet in conditions of open violent conflict, people may be more than willing to accept this constellation if violent fighting can be terminated. A pragmatic transitionary approach does not argue *for* stabilisation and conflict management. Still, it is willing to accept and work with it if no other options are on the table. Ethical implications need to be taken into account as well when arguing against a dirty deal that may be able to formalise violent political unsettlement.

Is a dirty deal a bad deal if it succeeds to stimulate a post-war transition? However, this must not be read as an interventionist argument. The history of peace enforcement, especially of humanitarian interventions, is cruel and largely unsuccessful. History demonstrates that such efforts have instead been based on interests such as regime change and geopolitical design than on stabilisation. The latter appeared on the policy horizon as a mere fallback option.

Embracing affirmation. Reconstructing agency in a state of affirmation does not imply radical change. Without drawing on existing practices, methods and narratives, any recommendation would reconvert into naïve idealism. Affirmation makes concepts appear and function differently. Conflict management in affirmation diverges from conflict management in a sequenced rationality of peacebuilding. Embracing affirmation consequentially needs to reflect this difference. Reframing contemporary peacebuilding practice in the logic of pragmatic transitions is a vital step for reconstructing agency. The defects, mistakes and deficiencies of modern peacebuilding may then turn into cornerstones of transitionary practices.

Productively embracing peacebuilding's affirmation in policy practice hence is not about doing different things. It is about doing the *same* things differently. Also, it is about relying on elements that have been so far neglected rather than on habitual practices. The very same effort can be interpreted as a patch or as constructive engagement, as a temporary postponement or as an approach in its own right. Pursuing pragmatic transitions does not require reinventing the wheel. It is about turning the direction of travel upside down.

Utilising the international legal framework. Pathways of pragmatic transitions rely on a flexible relationship to existing legal frameworks. In some instances, processes of non-solution or disrelation (such as Colombia's Farclandia experiment) have engendered innovative legal instruments and constructions. In other constellations, the existing legal framework got stretched beyond its formal limits to enable a process that helps to foster a transition. Notably, the example of unrecognised states demonstrates the often paradoxical relationship between legality, illegality and, most importantly, informality in formalised

political unsettlement. Pragmatic transitions accept what works and what is potentially able to ensure their continuation. They also rest on fundamental legal principles and cornerstones of the international system as it evolves. Pragmatic transitions are not working in or towards anarchy.

The open-ended character of pragmatic transitions is required to bust open the closed circle of institutional stagnation. Defending the prevailing institutional framework of global institutionalism may be accommodating and contributing to a sense of rightfulness. Accepting permanent institutional change is a precondition of working in the current international environment. Embracing affirmation demands embracing constant change. Defence—a stance often heard when international organisations are debated nowadays (e.g. Allen 2007)—rarely is a good idea. Defending a multilateral framework is not going to support agency in a state of affirmation since the most likely result is circular self-referencing.

The return to politics. In affirmation, international peacebuilders have lost the guidance of universal norms which were buttressed by a stable and strong international institutional framework. Peacebuilding practitioners have lost conceptual guidance as well because there is no way to identify what works and what does not, and what the best applicable methods are in given circumstances. The loss of guidance, however, does not convert into an end of politics. On the contrary, it provides a political space that has hardly ever existed before.

Evidence-based policy-making, tool box-based methods and technocratisation were designed to keep politics out of the game and confined to the distinguished sphere of high politics. This operation never fully worked, since no workable route could guarantee to depoliticise interventions in their effects. In the light of the politicisation challenge, technocratic answers were prepared—for example, 'peace conflict impact assessments' (Bush and Opp 1999) or 'do no harm' (Anderson 1999). The continuous discouragement of practitioners to think and act politically was effective. Regaining agency in a state of affirmation, hence, requires re-learning political decision-making at all levels. Parties to a peace process are usually perfectly able to think and act politically. Politics is their business. Attempts to translate political concepts like liberal democracy into a technocratic exercise in such a context are a blunder of historical dimensions. In hindsight, discussions such as

'institutionalisation before liberalisation' (Paris 2004) should make one cringe and left ashamed by the arrogance of the task.

Decisions regarding interventions in situations of violent unsettlement or formalised political unsettlement have always been political too. Negating this fact contributed to the current state of affirmation in peacebuilding—although it is unlikely that political decision-making down to the project level would have prevented affirmation from occurring. In pragmatic transitions, the political game is on. Political processes concern, for example, decision-making regarding coalition building, fostering partnerships or practical emphasis. Considering the process perspective, thinking in terms of trade-offs and eschewing to try and solve problems may constitute particularly promising entry points. Risk and uncertainty are conditions that are here to stay. Risk aversion, therefore, is not a feasible option. Risk-taking, in turn, relies on individual and collective habits and normative preferences. In a sense, this is what it comes down to. Reconstructing agency is always a matter of reclaiming agency.

Peacebuilding Scholarship in a State of Affirmation

Where does this leave peacebuilding scholarship? Peacebuilding scholarship may well have reached the end of critique. The adverse effects of liberal practices have long been demonstrated, the lack of contextuality, contextual understanding and knowledge has long been assessed. Nowadays, peacebuilding policy has, at times, even overtaken its critics. Peacebuilders have not only accepted this appraisal. They have turned it into their own assessment and dared to start asking scholars for answers. So far, most of these answers focused on gathering further data, generating more knowledge and producing additional concepts. In doing so, scholarship contributed to aggravating affirmation instead of exploring options of working with it. Potentially valuable insights remain, but peacebuilding's knowledge paradigm as such—itself a consequence of the turn to contextual authority—has not much left to offer.

Affirmation and its consequences need to be better explored and understood. First, this need requires thorough participation in contemporary debates on the same issues in other policy fields. Peacebuilding, peace and conflict studies, and international relations all underwent their distinct developments, historical phases and passages. At no point in time, however, have they been disconnected from broader epistemes and related philosophical debates. The same applies to empirical research:

considering disciplines such as security, migration, environmental politics and comparable insights should be sufficiently available.

The second implication of better understanding peacebuilding's state of affirmation is a serious engagement with policy. Processes of knowledge production and decision-making are not yet sufficiently investigated, as is the relation between cornerstones such as high politics, national interest and multilateral requirements with policy practice. All too often, academic accounts deconstruct the positionality of policy practitioners, the concepts they work with, and their constant struggle with unfavourable surroundings. Peacebuilding policy has largely acknowledged these insights. In contrast, the perspectives of policy practitioners and especially their individual and collective handling of the sentiments, rationales and actions that affirmation produces remain a blind spot. The current opening for mutual learning between peacebuilding scholarship and policy practice is a rare chance that needs to be taken. However, expectations need to be realistic. Like in any other policy field, change will come incrementally and tension-ridden.

Finally, the core concept of peacebuilding, peace, is in dire need of thorough ontological scrutiny. The concept of peace was always entangled with normative overload and implicit universalism, which provoked some scholars to argue that peace should only be thought of as in plural (Dietrich and Sützl 2006). Addressing the right problem, the promise of such an effort remains questionable. Peace gets broken down to the level of individual or collective experiences akin to psychology, religion or even transrationality. The task of deconstructing peace as a universal enterprise is important, yet such accounts have not much to offer for post-war transitional processes.

Against this background, the further development of the recent debate on a pragmatic turn in peace and conflict studies is of considerable interest. A lot is left to explore. The ontopolitics of peace in a state of affirmation are not debated at current. Investigating contemporary ambiguous and impact-based concepts such as inclusion and resilience is just one of many possible options to address this issue. Is peace a helpful notion in a pragmatist framework? Peace contrasts the open-endedness of transitional processes and invites to revert to the question of what peace to aim for—a question which is pointless in a state of affirmation. Understanding the relationship of whatever is left of 'peace' to pragmatism, a transitional approach and formalised political unsettlement remains a conceptual challenge. In particular, the nature of pragmatic

transitions in a context of complexity needs to be further investigated. Its embeddedness in normative positions, procedural principles and pragmatism requires constant reflection.

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