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The Victims Catharsis: A Battle of Peace versus Justice

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ABSTRACT

“The quest for justice for yesterday’s victims of atrocities should not be pursued in such a manner that it makes today’s living the dead of tomorrow” The international community has long since debated over the peace versus justice conundrum without coming to any definitive conclusion. It has turned the war between the oppressors and the oppressed into a never-ending cycle of victims turning into perpetrators and giving rise to yet more classes of victims. The pursuit of countries to resolve this conflict has also been an incessant chain of either sacrificing peace to deliver justice to the victims or paying the price of justice in order to obtain peace. This multifaceted puzzle between the peace first or justice first approach adopted by peace negotiators has largely ignored the grim realities of the victims living and surviving through the perpetrator’s atrocities. Although this paper does not intend to provide a concrete solution for this debate that has been unsettled amongst the scholars for decades; it attempts to throw light on a nuanced approach for satisfactorily gauging the actual impact of this from the victim’s perspective. It endeavours to highlight the harsh reality of the dichotomy that exists between the meaning of peace and justice for a country against the actual needs of its people. And finally, it explores the Columbian model of ‘pardon for peace’ that emphasizes holding violators accountable through a justice mechanism in order to facilitate victim catharsis and obtain a balance between justice for the victims and peace for the nation.

Keywords: *Armed Conflict, Atrocities, Conflict Resolution, Forgiveness laws, Justice, Peace, Perpetrators, Victims*

I. INTRODUCTION

A country is what it stands for, when standing for something is the most difficult. This generally happens during times of conflict when the character of a country is determined. Whether it rises stronger than before supported by the pillars of natural justice or if it falls prey to the whimsical notions of power and authority. At the end of the Second world war, in

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the wake of the holocaust, as the heinous nature of atrocities committed by the Nazi Regime scandalized states across the globe, the world collectively pledged “never again”³. Even a fleeting glance at this history throws light on the blood and sweat of the representatives of nations in the form of peace negotiators who took upon themselves the task of fulfilling this promise. That of a future consisting of a delicate balance between the demands for justice on one hand, and the aim of resolving the conflict peacefully with minimal damage on the other. The story of the great leaders of the world. However, every coin has two sides and it is imperative to take into consideration the stories that a million other voices have to tell.

That of every man who has been forced into living like a savage, for the sake of the survival of his family merely because they belong to a certain ethnicity. Of every woman who has had her child ripped from her arms and killed in front of her eyes. Of every young girl who has been sold into slavery and been subjected to a lifestyle that is but a disgrace to living. Of every young boy who has been forced to be a child soldier who has unleashed death on innocents. Of every mouth that has starved because someone in the position of power chose to abuse it, every head that lost their shelter because the power hungry are not familiar with the term ‘enough’, and every act of atrocity, torture and violation of human rights committed against the civilian population. A story of the victims, by the victims and for the victims.

It throws into stark light the harsh reality of the dichotomy that exists between the meaning of peace and justice for a country against the actual needs of its people. It questions whether the justice that a country seeks to right the wrong that has been committed against its people is also the justice that is sought by the people who are the victims? It examines whether the peace that the nation is pursuing, is also the peace that will pacify the population for the grave harm that they have suffered? It inquires whether the restoration of the country by availing international instruments of peace and justice will also restore the dignity of the populace that has already been lost?

And more often than not, the answers to these questions are in the negative. Peace of a country is often prioritized over justice, often placed instead of justice altogether. And most times, this happens at the instance of the transgressor. When the leader of the nation himself is the initiator of such atrocities against the most fundamental human rights, justice for the people becomes a luxury. Even in the international arena, it is thought better to trade justice for peace to avoid further conflict and death. Consequently, the victims are either forced back into living under the very perpetrator who organized the commission of the offences or, have

³M. Cherif Bassiouni, *Justice and Peace*, 35. *Case W. Res. J. Int'l L.* 191 (2003)

to live with the knowledge that their offender gets to enjoy an early retirement in the form of an exile for peace deal. It is not unusual in a political stage to see the metamorphosis of yesterday's war monger into today's peace broker⁴. When justice is rendered as a mere bargaining chip in the pursuit of peace, de facto impunity gradually turns into the rule of law.

Mass atrocities, death and an altogether rampage of human rights was a common sight throughout the 20th century. With perpetrators in the form of hostile governments and world leaders, the world witnessed humongous violation of international law in totality. From the Rwandan Genocide in Africa to the war crimes of Sierra Leone, the development of the torture policy by Pinochet in Chile to the extra judicial armed conflict in the guerrilla war in Columbia and the abundance of mass violations of all kinds throughout Cambodia and Yugoslavia. This presented multifarious challenges to the international law community pertaining to the urgent need for wanting justice for the victims and reconciliation for the county without giving way to impunity of the transgressors.

The peace versus justice conundrum is as old as the concept of state itself and is still an ongoing debate for the international community at large. It is indeed a living dilemma and a lot of literature already exists exploring numerous aspects of this theme. This debate revolves around the moral and ethical by- products that are a natural result of the notions of peace and justice. Hidden under this shroud of chaos, lie the practical questions of whether for the pursuit of justice, one has to forsake peace and whether in achieving the goal of peace, the price one pays is of justice. It questions the fundamentals of humanitarian law in asking whether it is legitimate, morally and ethically, to allow conflict accompanied by various atrocities to continue merely at the possibility of delivering justice to the victims? And likewise, whether it is acceptable to choose peace even at the chance of justice not simply being delayed but denied altogether?

This paper does not intend to answer this question which scholars of the international community have puzzled over. Neither does it seek to provide a solid solution to this problem. Rather, the present paper, by juxtaposing some diverging views pertaining to this conundrum, argues that it is imperative to consider a more nuanced approach for satisfactorily gauging the actual impact of this from the victim's perspective. It endeavours to highlight one facet of this multidimensional debate by elaborating on the dichotomy between the concepts of peace and justice as perceived by the states against the viewpoint of the victims who have suffered at the hands of this internationally developing community time

⁴Michael P. Scharf, *The United States and the International Criminal Courts: National Security and International Law* 180. (Sarah B Sewall & Carl Kaysen)

and time again. And finally, this paper aims to explore the available middle ground in an attempt to resolve this dilemma for the benefit of those who continue to suffer at the hands of those in power.

II. A HISTORY OF THIS DICHOTOMY:

The aftermath of the World Wars has shaped and reshaped the position of nations from an economic standpoint, but has more importantly changed the perception of nations along with their inter-relationships. Societies have evolved to believe and stand by the principles of “Justness, Fairness and Reasonableness”. The intervention during or after an “armed conflict” is often in two ways- either peace or justice. There has been a long-standing dichotomy that has been believed to have been in existence with regard to the “peace versus justice” debate. International “peace-making” as well as “peace-mediating” organisations have had an illustrious history of overlooking the victim’s interests. Since the dawn of humankind, communities have been thinking and rethinking the relationship that exists between peace and justice.

After the advent of a systemic international criminal law and the establishment of the International Criminal Court, there has been remarkable difference in the judicial understanding. Although, the popular opinion does govern that the judicial pronouncements supersede peace negotiations. The tensions between making peace and promoting justice and accountability has led to an extensive amount of scrutiny on this subject matter. The dubious and narrow understanding of peace and justice has been a root problem of this ongoing debate. The conflict on whether justice undermines peace negotiations or peace undermines judicial pronouncements is what this paper seeks to explore.

The legality of amnesties⁵ under international criminal law has evolved considerably alongside the principles of human rights, transitional justice approaches, and international criminal law itself. Atrocity crimes now include genocide, ethnic cleansing, crimes against humanity, and war crimes, are all considered under international law, entailing obligations under customary international law.

Any manner of armed conflict has the most brutal and lasting impact on the victims and the survivors. As a matter of fact, life is never the same for most of these victims. The understanding of peace and justice is very different for most of these victims and survivors. It is often observed that most of these peace negotiations are barely for the betterment of the

⁵M. Cherif Bassiouni, *International Crimes: Jus Cogens and Obligatio Erga Omnes*, 59 *Law and Contemporary Problems* 63-74 (Fall 1996)

victim. Merely holding the perpetrators liable and awarding any kind of punitive sanction is not these victims' idea of justice. Making a "peace – offering" and delivering a "fair judgement" never seems to be peaceful and fair enough. For a long time, making compromises on justice with powerful perpetrators of mass atrocities has been an integral part of peace negotiations ending conflicts. Negotiating "peace" is not remotely a "just" mechanism. International justice mechanisms also connect with domestic processes, which are perceived as more credible and legitimate.

The purpose of any punitive sanction is to deter any other individual from committing such atrocities against another individual or group of individuals. More often than not, it is believed that justice is important in fostering peace and stability. But, the grim reality of the aftermath of most of these peace negotiations is that the victims continue to live a life of restraint. The inclusivity of justice issues in peace agreements is often an issue that is conveniently avoided by international organisations as well as leaders of nations. After the democratic transition has taken over the globe and the awareness of the importance and relevance of the basic human rights, there has been a consistent uproar by the "victim community".

The tension between peace makers and justice practitioners have always seemed to have reached crossroads while deciding upon the issue of how much compromise is acceptable. More often than not, it is observed that the most primary reason for resolving this issue is ending violence quickly. The international community has developed and grown to believe certain notions of both justice and peace. While advocating for justice, the primary concern that is raised is that of accountability of not only the judicial mechanism but also the responsibility of the nations concerned. On the other hand, most peacemakers arguably state that the aftermath of justice is never peaceful.

The primary objective of peace negotiations as well as judicial intervention is to prioritize ending the conflict. It is popularly believed that amnesty as a mechanism trades justice for peace. This paper aims to find a middle path that would ensure that peace and justice work hand in hand. International law in itself safeguards the discovery of the truth, a fair trial, the associated criminal liability, a chance of redressal for the victims and lastly, the prosecution of international crimes. Deterrence in the minds of the perpetrators plays a vital role in the larger scheme of things with regard to international criminal law. The grim reality of the victim living and surviving through the perpetrators atrocities is hardly taken into consideration.

III. PEACE: A COMPROMISE OR A STRATEGY

“Putting peace first means prioritizing the end of the conflict”

The quest for perpetual peace has long been part of the politics of the world. Peace and security are the notions also embodied in the UN charter and considered desirable by all nations. However, peace and the search for peace is riddled with ethical and moral obstacles.

Peace, by many sociologists has been categorised in two ways, the first being negative peace and the second being positive peace. The traditional definition of negative peace states that there is an absolute absence of violence. Whereas, on the other hand, positive peace establishes the need to have affirmative elements such as reconciliation. One of the primary purposes of peace is for it to be sustainable and long term. The promotion of impunity has faced a variety of obstacles in the arena of international conflict resolution. Although, impunity may achieve negative peace but it has been believed that it is not a sustainable option. There is a pressing need for organisations to change their outlook towards peace building.

Peace-makers are of the firm belief that the definition of retributive justice as perceived by many jurists is extremely narrow, as it merely highlights the relevance of deterrence and punishment. The inclusion of “reconciliation”, as an effective mechanism in this retributive justice, will act as a catalyst in peace building. This paper seeks to bring to light the complex intertwined relationship that exists between peace and justice. Merging the two modes will not be a viable option, as each of them have their own pros and cons. Although, widening the scope of peace as well as justice respectively, keeping in mind the interest of the victims will ensure a holistic understanding of this contradiction that exists. An amalgamation of retributive justice and restorative peace is the way forward. The relevance of breaking the cycle of impunity, by having a victim-centric approach, that primarily focuses on seeking the complete and absolute truth will widen the scope.

The option of providing for a peace arrangement is also popularly known as the ‘Napoleonic Option’ among the peace negotiators. It arises from the fact that Napoleon Bonaparte, the French Emperor was offered a peace deal to relinquish his powers in return for a safe haven for him in St. Helena’s in 1815 at Waterloo rather than face a trial and possibly an execution thereafter.

Advocates of peace-making often claim that the justice system in place often undermines peace as a whole. As a matter of fact, peace negotiations are often either ridiculed or their importance is not taken into cognizance while delivering a judgement. The dichotomy that

exists between peace versus justice debate is often perceived as completely false. Peace as well as justice are two extremely necessary mediums while ascertaining a fair and diplomatic conclusion to an armed conflict.

Taking for instance the initiative by President Bush of the United States in agreement with President Hosni Mubarak of Egypt in 2003, of calling off the invasion of Iraq on the condition that the then leader Saddam Hussein accompanied by his top lieutenants should relinquish all power and agree to the exile for peace treaty. This offer was wrong in multiple moral and ethical ways and had Hussein actually taken it up and received sanctuary in return for all the havoc he created, it would have been a disgrace to the ideals on which the international justice mechanism works. This peace for exile agreement like many others, completely undermines the notion of justice and defeats the purpose of firstly, having an international court with a jurisdiction to look into such matters of grave violation. And secondly, it would have undermined the very convention that gave birth to the concept of having a humanitarian law to punish those who commit atrocities against other humans and impose a duty to prosecute such offenders on the states.

On the contrary, the charges that are levelled against peace negotiators and peace promoting agencies is such that they choose not to put the victims' interest first but the nation's position. This compromise has been validly challenged by these victims on many occasions on international platforms. The identity of these victims is merely restricted to the lasting impact that the perpetrator had on them. A common outcome that is taken from these "peacemaking" agencies is such that the perpetrators are often left either scot-free or are relocated.

Oftentimes, the only way that is perceived or voluntarily selected by world leaders to resolve long standing conflict is by prioritizing peace over other principles of natural justice. During times of conflict, whether in the form of civil war or non-international armed conflict resultant of hostile governments, there exists large scale death, violence and violations of all human rights by way of torture and degrading human behaviour that is beyond even the imagination of a prudent man. In such times, peace negotiators seek to undertake such methods that shall put an end to the ongoing massacre as well as avoid violence in the future. And this often comes in the form of agreements that, while securing peace for the country, fail to provide the sanctity of peace to the victims of mass violations who have until then lost most of their rights to the oppressors and as a result of the peace deal, also end up losing their remaining dignity. The victims are but a lost voice in the arrangements of exile for peace deals.

The approach of putting peace entails that pursuing the idea of justice prolongs the torture and the atrocities that the victims have to face on a daily basis. The urgency that is felt by most negotiators of peace is to end violence and to work towards making the lives of these victims better. Ceasing the violence completely is of utmost importance in situations of armed conflict.

IV. THE QUESTIONABLE NEUTRALITY OF JUSTICE

The traditional understanding of justice makes reference to the ideal of “*Fiat Justitia pereat mundus*” which translates to ‘let justice be done, though the world perish’⁶. Philosopher Immanuel Kant’s widely quoted prescription “*justice must be done even should the heavens fall*” also goes to putting the delivery of justice over everything else. This pursuit of justice, though backed by the duty of states to prosecute under the Geneva convention, many times fails to take into account the suffering of the victims. And most times, peace negotiators tend to negotiate away justice in exchange for peace if it will resolve the conflict at hand.

The approach wherein justice is given predominance over peace, is a mode that is widely accepted. It is often a mechanism that the victims rely on. The faith over the judiciary and international justice system is still very prominent. While this approach does seek peace, it primarily suggests the quick peace should not come at the cost of the pursuit of justice. As a matter of fact, majoritarian opinion governs that justice is a long-term concrete approach unlike peace.

Victims frequently demand a retributive approach towards perpetrators due to the grave nature of human rights violations⁷. Parties to a conflict who have disproportionately suffered crimes at the hand of the perpetrators generally support the justice-first approach, as do individual victims. In addition to this, many states, particularly those who helped found the ICC and who have ratified the Rome Statute, tend to promote a justice-first approach to peace-making. Numerous international non-governmental organizations (NGOs) are dedicated to promoting justice for crimes committed and to preparing for future prosecutions or other justice mechanisms, and even more NGOs not directly involved have taken a firm stance that justice should be an inextricable part of peace-making

Governments of societies in situations of internal armed conflict have often used amnesty as a policy tool to negotiate peace with those accused of committing international crimes, thus trading justice for peace. Yet, amnesties granted to those accused of international crimes are

⁶Bartomiej Krzan, International Criminal Court Facing the Peace vs. Justice Dilemma, 2 ICJ, 81-88 (2016)

⁷Chandra Lekha Sriram, Confronting Past Human Rights Violations: Justice Vs. Peace In Times Of Transition 6-7 (2004)

unlawful under international law and exemplify one feature of the “peace versus justice” dilemma.

It is imperative that the perpetrators who have violated the very essence of what it means to be a human, be brought to justice by adhering to the judicial mechanism available at the international level. One of the classic illustrations that emphasizes the necessity for this is the exploitation of the Armenians by the Turks. During world war one, Turkish Officials who massacred over one million Armenians were, instead of being prosecuted and punished for their crimes, given international amnesty with the objective of resolving the present conflict and evading future loss in order to obtain peace. The actual repercussions of this seemingly brilliant act of resolving conflict were felt during the Nazi Regime about twenty years later when their actions of mass extermination and torture for an entire race of humans came to light. The birth of this policy of torture advocated by Adolf Hitler was based on the scot-free fate of the Turks as he propagated to his followers that ‘who after all is today speaking about the destruction of Armenians?’”

The failure of delivering justice to the Armenian victims for the sake of peace became a gateway for the death, humiliation and torture of the millions of Jews who lost their lives. One community of victims replaced another when justice was traded for peace. As rightly said by the former UN Investigative Commission for Yugoslavia Cherif Bassiouni, “if peace is not intended to be a brief interlude between conflicts then it must be accompanied by justice”.

When a peace deal is made, or amnesty or de facto impunity is granted to an individual who has committed grave breaches of the most basic fundamental rights that all humans are entitled to simply by reason of their being humans, it sets the wrong kind of precedent for the future offenders. Even more so, when that individual is a world leader with a massive number of followers who have blindly placed their faith in him. It makes a statement to the future criminals that they cannot just commit heinous crimes, but also get away with them.

For the victims of these offences, the provision of de facto impunity is the ultimate form of hypocrisy. While they struggle with dealing with the aftermath of the offences committed, simultaneously, they are expected to live with the knowledge that their offender has been allowed to get away with it with due permission of the international community. These offenders are seen to be above the very law that dictates the world order. When the international community willingly accepts putting peace before justice, and when this happens at the instance of the very transgressor who has committed these breaches in the first

place, the belief of the common man in the legal system ceases to exist.

Pursuing accountability and justice through prosecution at the international or national level seeks to individualize guilt in order to prevent collective accusations that imply an entire population was responsible for the conflict. Criminal trials play an important role in expressing 'public denunciation of criminal behaviour, providing a direct form of accountability for perpetrators, and ensuring a measure of justice for victims either through reparations or the satisfaction of seeing perpetrators being held to account'. This is of the essence as ending impunity through accountability signals a firm break in the cycle of impunity, helping to build trust in the new government as distinct from the crimes of the past.⁸ This helps to build legitimacy in the new government, which in turn can aid long-term stability in attaining peace.

Justice and accountability are vital elements that aid in achieving long-lasting peace due to their deterrent effect⁹. Holding individuals accountable for atrocity crimes committed makes it clear that these types of acts will not be tolerated, thus seeking to prevent further atrocities as the ultimate goal.

One of the most potent charges that are levelled against those who advocate justice instead of peace is such that the destabilising effect of risk involved by the victims is very high. While advocating for justice, those accused of atrocity crimes will be emboldened to fight for survival, leading to an escalation of violence and a prolongation of conflict. Additionally, pointing to the ICC's refusal to withdraw indictment, critics assert that pushing for trials is only likely to undermine attempts to negotiate peace agreements to intractable conflicts, as it provides little incentive for guilty leaders to lay down their arms.

The advocates of international criminal justice claim that there is a moral and legal duty to prosecute the perpetrators of the gravest international crimes as defined by international law and that acting on this duty is necessary to deter the recurrence of those crimes and consolidate peace that can be achieved as a result of the aftermath of an armed conflict. Pragmatic critics warn of the potentially destabilizing consequences of insisting on prosecution when negotiation is the most viable means of political change and those accused of criminal violence still retain significant power.

⁸Gloppen, Siri, *Social Rights Litigation as Transformation: South African Perspectives*. (2005)

⁹MARTHA MINOW, *BETWEEN VENGEANCE AND FORGIVENESS: SOUTH AFRICA'S TRUTH AND RECONCILIATION COMMISSION*, (2007)

V. MIDDLE GROUND: THE COLUMBIAN MODEL OF FORGIVENESS LAWS

The concept of “*pardon for peace*” is an amalgamation of the accepted principles of international law, guaranteeing prosecution of offences, a mechanism for discovering the truth, a fair trial for the offender and consequently a redressal mechanism for the victims along with the promise of non- repetition of that offence. The process of peace arrangement that was adopted by Columbia to attain post conflict peace came in the form of a forgiveness law proposal. This peace arrangement between the Colombian government and the Revolutionary forces of Columbia also known as the People’s army provides an exemplary instance of a middle ground for obtaining the dual goals of peace as well as justice¹⁰.

The pardon for peace is but forgiveness for the crimes committed, not a substitute for its punishment. Contrary to impunity, forgiveness carries with it an imputation of guilt and does not provide immunity to the transgressor. The proposal of forgiveness differs from peace for exile deals in a manner that the perpetrator is proved to be guilty of the offences committed by him, with an aim to provide some form of justice to the victims. At the same time, providing a pardon for peace ensures that the perpetrator is given another chance to rehabilitate and presents an opportunity for peaceful co- existence between the offender and the victim.

The philosophy behind this principle was discussed at length by the US supreme court¹¹ and emphasized the clear distinction between granting a pardon and an amnesty. While a pardon is an act of grace that once bestowed exempts the individual from further consequences of the crime¹², amnesty provides immunity to the perpetrator from domestic prosecution. A pardon while remitting punishment also condones the disruption of peace by the perpetrator. It requires prosecution and proof of guilt and merely acts as a nullifier to the punishment or any other legal consequence of the crime committed. On the other hand, amnesty overlooks the offence in its entirety and instead provides sanctuary to the offender from any legal consequence for his actions.

This enables a balance between the justice first and peace first approach, both of which require foregoing the other. It enables the victims to obtain satisfaction of the prosecution and proved guilt of the perpetrator, while at the same time offering the nation as a whole a second chance of sorts for existing peacefully.

¹⁰Juan C. Portilla, A Forgiveness Law: The Path to Solve the Peace Versus Justice Dilemma, 35 B.C.J.L. & Soc. Just. 193, 194-95 (2015)

¹¹*Burdick v. United States*, 236 U.S. 79, 85 (1915)

¹²*United States v. Wilson*, 7 Pet. 150 (1833)

The forgiveness law is primarily based on the moral values of mercy, grace, forgiveness, accountability and non-repetition. These values are also intrinsic in the religious and spiritual teachings that illuminate forgiveness being one of the tenets of many of the world's great religions¹³. All forms of mainstream religious scriptures available preach the values of forgiveness and reparation. They teach the propagators and followers that grace and forgiveness must walk hand in hand if there is to be a just and peaceful world. The logical reasoning of this is also that the feeling of revenge among the victims that demands justice would merely result in a role reversal where the victim becomes the perpetrator on his path of vengeance and the vicious cycle of oppression, horror, degradation and torture would continue to imprison and demoralize one class of victims after the other. Therefore, it is forgiveness that comes after the admission of guilt that leads the way to a world that is as just as possible without sacrificing peace and which results in repentance that eventually gives way to peace.

Although it is also widely propounded by proponents of international law that the state must be lawful rather than merciful, yet it is also true that this model of the law of forgiveness is the closest one can get in achieving the perfect balance of peace and justice. This principle is also based on the common law as well as civil law system which also provide for a mechanism of pardoning based on similar moral lines once the culpability and guilt of the individual has been satisfactorily established. It also derives from the international law system in the sense that the right to reparation has been considered of dual dimension consisting of firstly, duty to provide for redress in the form of restitution, compensation, rehabilitation and satisfaction; and secondly, as a procedural instrument for securing substantive redress by the UN Human rights bodies¹⁴.

Forgiveness law that fulfils these principles can be said to be in compliance with the international legal order as well its jus cogens norms and provides ample opportunity for the transition of society from conflict to peace, keeping in account the fundamentals of justice for the victims.

VI. TO MAKE PEACE WITH THE VICTIMS' IDEA OF JUSTICE IS A LONG-TERM SOLUTION:

The right to truth is a complex element within the spectrum of peace as well as justice. It is an important factor both for those pushing for immediate peace regardless of justice, and those pushing for justice to achieve peace. Truth is an integral part of establishing peace for the

¹³ John R. Knight & Gordon P. Hugenberg, *On Forgiveness*, 100 S. MED.J. 420, 420 (2007)

¹⁴Office of the U.N. High Comm'r for Human Rights, *Rule-of-Law Tools for Post Conflict States: Reparations Programmes*, at 6, U.N. Doc. HR/PUB/08/1 (2008)

victims who have faced the wrath by their perpetrators. Although the truth might have various versions, and they might not be entirely white or black, knowing the truth is of utmost relevance. More often than not, the truth by the victims will be the reality that they lived through, while the truth by the perpetrators will be actions leading up to cause the said atrocities.

The procedure of re-establishing peace post-conflict without pursuing justice often avoids dealing with the victims' needs and giving a society a sense of closure. A key element of pursuing justice post-conflict entails establishing the said truth as well as punishing those directly responsible for the human suffering, offering redress to the victims and allowing for reconciliation

The efforts to 'repair victims' and bring about a sense of normalcy are an essential element of transitional justice, and that compensations programs contributing to justice are a form of recognition that recognizes that 'citizens owe to those whose fundamental rights have been violated. Recognizing victims and providing them legally ordered restitution prosecutions also provide victims a venue to heal.

The question of victims' rights becomes problematic when viewing amnesties through the lens of gender¹⁵, as the procedure for peace involving impunity often result in a process of 'men with guns forgiving other men with guns for atrocities carried out against women'

VII. CONCLUSION:

The objective is to drift away from peace versus justice to justice with peace, so as to create a holistic transitional package that contributes to rebuilding democracy and peace. Moreover, it is of the essence to realise that justice cannot be solely retributive if the goal is to establish peace in a sustainable and comprehensive manner, keeping in mind the interests of the victim. A victim-centred approach¹⁶ is necessary, as victim reconciliation is vital in resolving the primary issues of an armed conflict. By recognizing the pain and misery of the victims, establishing the truth, the identity of the perpetrators, and providing damages, we allow for reconciliation and provide a sense of closure to the victims, reducing the chances of them feeling that justice was not served and thus reducing the chances of conflict re-emerging. Ensuring that the light at the end of the tunnel for these victims is the way forward for a peaceful and just global community.

¹⁵De Jonge Oudraat, Chantal and others, *A Man's World: Exploring the Role of Women In Countering Terrorism and Violent Extremism*, 2016

¹⁶ Katerina Mansour and Laura Riches, *Peace versus Justice: A False Dichotomy*, 2007