

Reconciliation Perspective on West Papuan Political and Human Rights Problems

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The concept of “human rights” is fairly new in the world of ideas. Not surprisingly for a new idea, there is little agreement on what human rights are. People look to ancient wisdom literature for an exposition on the subject with minimal success. The Bible’s Old Testament talks in terms of shalom as God’s desire and plan for humankind. Shalom describes the idea of wholeness in all relationships, including the relationship of people to the earth. It is a beautiful vision, and one towards which believers desire to go.

Jesus further elaborates God’s plan, showing just how important it is for us to, in the prophet Micah’s words: “do justice, love mercy and walk humbly with your God.” Jesus shows us how it looks when someone behaves that way, and he preached against those who were unmerciful, unjust and arrogant.

But you will not find the Bible talking about rights. The Bible talks about righteousness, mercy, compassion, and justice, things expected as the duties of God’s people. It does not talk about rights. It wasn’t until the period we today call the Enlightenment when the idea that human beings had rights began to emerge. It went along with the idea of the rule of law. You can’t have rights without laws, since by definition it is law, natural, divine or humanly created, that creates rights and duties. So it was after the mid-1700’s when people began talking about human rights, just in time for the American and French revolutions, followed by the rise of nation states devoted to the rule of law rather than despots.

So we find the concept of human rights and the idea of the rule of law bound together. If you are ruled by a despot, you have no rights. If the ruler follows the law, you have the rights the law gives. In the last two hundred years these ideas have come together in the thing we call democracy. Rule of the people by the people. But only people with rights get to participate in ruling themselves. The United States was over 70 years old before slavery was abolished. Was it a democracy before then? Slaves had no rights. Women could not vote in America for over 50 more years. Was it a democracy before then?

The modern concept of human rights is not much older than the 52 year-old Universal Declaration of Human Rights. I don’t need to tell you that there is no universal agreement on what rights human beings have. Even where there is agreement on the outline, cultural and economic differences make for great disparity. Radically different views of the individual in east and west have resulted in great differences in the understanding of human rights.

The American Declaration of Independence said, in 1776: “WE hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain

unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness.” The document was signed by a number of slave owners. Their actual understanding was that persons of property had these rights, and that idea has been more honored than the literal reading of the text.

Nevertheless, most nations today agree that governments rule by law and that under law people have rights. Exactly what the rights are and how they are ensured varies. The American Declaration of Independence says this: “That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed. . . .” Generally speaking, the rich and powerful have more rights than other people. That has always been so and there is no sign of fundamental change coming any time soon. Rights are something that must be recognized by others and enforced by those wielding power, or they do not exist in any practical sense. People usually recognize the rights of those they fear, or hope to get something from, more quickly than the rights of those who have nothing to offer.

Politics is all about forming groups to achieve influence. Another way to say that is by becoming part of a powerful political group, your rights are more likely to be respected. That is one of the primary goals of political organizing. The keys are to either be feared, whether because you are violent or because you have power to deny benefits, or to seem like a source of benefits to those who cooperate. If you want your human rights to be respected you will need to have one of those things going for you, or have friends who do.

Just as an example, in America there is a big argument about gun ownership. Americans own an incredible number of firearms, and crimes committed with guns are frequent. There are many people who say the American people have a right to be free from the fear all these guns create, and they organize themselves politically to work against gun ownership. On the other side is the gun owners lobby, led by the American Rifle Association. Gun ownership is a traditional American right, and they want to preserve that right. The Declaration of Independence itself says: “. . . whenever any Form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it, and to institute new Government. . . .” Without guns you can’t do that very easily.

Until very recently the pro-gun lobby always won. The reason was that legislators feared them. They were organized and they voted. A legislator who went against them would probably lose the next election. So the rights of gun owners were recognized, and the rights of others to live in a society free from guns were not. All human rights ultimately come down to that kind of calculation.

My purpose here today is not to deny this very basic truth about human rights: that it doesn’t matter what we think human rights are, or ought to be, if others do not honor those rights, and those in authority do not enforce them. Instead, I want to take a look at human rights from the perspective of reconciliation. If our concern is to reconcile people to each other, how do we approach the subject of human rights?

A Reconciliation Perspective

The concept of “rights” means, almost by definition, a package of privileges which must be actively protected. Protected from what or whom? Americans have found that an active concern about rights does not necessarily lead to better inter-personal relationships. What happens instead is a careful sort of sparring in which we each try to protect our rights from usurpation by the other person. It seems as though we are constantly preparing for court. If I send you a letter, I keep a copy. If we make an agreement, we put it in writing. None of these things is bad in itself, but they are symptoms of a degree of care in relating which prevents comfort from developing.

In a rights-focused society there is a tendency not to extend grace when people infringe our rights. Driving in America feels much safer and more predictable to me than driving in Indonesia. People follow the rules. We really noticed that when we visited New Zealand a couple of months ago too. But since the rules are usually followed, I get much more upset driving in America than I do in Indonesia. People in America are constantly violating my rights. There we take turns, here everyone goes at once. So in Indonesia I never worry about whose turn it is, or whether I have the right to go first. We all just flow together. The object of good driving in America is to not make another driver adjust for you. In Indonesia the object is to all adjust for each other.

As we think about rights, keep these two very different ways of thinking in mind. To the western mind rights are like a fence. They keep us from invading each other’s space. I live in a way which does not violate your rights, and you live in a way that does not violate mine. The eastern view understands the need to flow together in harmony, and it is violation of that harmonious flow which is seen as a violation of rights. When people refuse to adjust for each other to make life flow, rights are violated.

One other difference in world view makes a big difference between east and west when we discuss human rights. The idea of causality as opposed to the idea of fate. In the west everything that happens has a cause, and someone is therefore responsible for every effect. If I suffer harm, someone is liable, and we can figure out who that is. In July you may have heard the news of a \$145 billion judgment against the tobacco companies. A jury decided that the tobacco companies were at fault for illnesses people developed after using tobacco, and had to pay for it. That way of thinking is very different from a world view which says that bad things happen to some people, and they should bear it as best they can. It is God’s will. A rights-focused society believes in cause and effect rather than fate.

Reconciliation is a word that means to bring people back together after a separation, usually due to conflict. The assumption is that there was a relationship, but that the relationship has been broken and is in need of repair. In the case of individuals who know each other it is a common experience to disagree, and to become more distant because of that disagreement. The process of becoming close again is reconciliation. As discussed above, if we say that human rights exist, we say that there is agreement among people about these rights. We have a relationship in which we mutually agree to acknowledge each other’s rights, or an authority over us declares the rights to

exist and enforces them.

If someone now denies these rights, or acts against them, we have a broken relationship, both personal and/or of the social contract we have with the enforcing authority. It is these broken relationships that need reconciliation. This is true in both east and west, although spoken of differently. In the west we focus on the violation of rights. In the east the focus would be on failure to give proper respect.

It is not useful to call every personal violation a violation of human rights, although they are in a technical sense. We usually reserve that label for big violations by someone we don't know personally, particularly if the violator is operating under color of some authority. If someone steals a shirt from my clothesline my security has been violated. But it is more useful to call what happened theft rather than a violation of my human rights. If the government takes my land and won't pay me for it, that is also theft, but we would probably call it a violation of human rights, particularly if my land was taken because of my minority status or because I am poor.

We also tend to use "violation of human rights" as a codeword for actions by a central government, or para-governmental entity, or for actions by groups trying to overthrow the current government. It tends to be a political term for bad actions by a group of which the speaker is not a part.

For our purposes here, we will use the term "violation of human rights" for any denial by any person of another's fundamental rights to life, liberty and security of person, the formulation of the Universal Declaration of Human Rights.¹ As we shall see, the reconciliation principles we discuss apply equally to individual and group situations.

Reconciliation Principles

Those of us who have worked in the field of victim-offender reconciliation have learned how to be very practical about reconciliation. When someone engages in harmful behavior which also violates the criminal law, they are an offender. The people they harm are the victims. Starting in the United States and then spreading fairly rapidly throughout the world, the victim-offender movement looked back to reconciliation methods used in pre-industrial societies. These societies could not afford to imprison offenders. Why should an offender live off of the innocent?

So pre-industrial societies developed methods for healing the separation caused by an offense. The idea was to make the victim as whole as possible, to let the offender take responsibility for what they had done, and to re-integrate both into the community. The Bible's Old Testament describes many such practices. Acceptance of responsibility and payment of restitution was the usual process. While everyone remembers "an eye for an eye and a tooth for a tooth," the more common biblical formula was money or other goods for a stolen sheep, or a personal injury.

¹ The Universal Declaration of Human Rights by the United Nations is available at <http://www.un.org/Overview/rights.html>.

Through long experience in bringing victims and offenders together for reconciliation, we have learned that three principles need to be satisfied in each case²:

1. The injustices committed must be acknowledged.
2. The equity between the parties must be restored.
3. Future intentions toward one another must be made clear.

When these three things are properly done, reconciliation begins to happen. These three things are not usually difficult, once the parties commit themselves to being constructive, and if they have someone to help them do a good job. In the case of a typical burglary, the offender describes exactly what they did. The victim asks any questions to clarify the story, then describes how they experienced the burglary, both facts and feelings. The offender paraphrases what they are hearing the victim say to demonstrate that they are understanding. When the victim is satisfied that the offender has understood and acknowledged the victim's feelings of injustice, they move to deciding what must be done to make things as right as possible between them. This usually means some plan for restitution. Finally, they are clear with each other about the future.

We have found that the people who go through this process are much better able to forgive and to move on in life, rather than being stopped by fear or hatred from developing. Many find what would usually be understood as reconciliation.

I described a burglary case, but we use the same process in assault cases, in drunk driving cases where someone has been killed, and many other serious violations. When the parties are committed to being constructive and go through the three steps, the process works. A reconciliation perspective on human rights will ask how we can facilitate such processes after human rights violations occur.

During the last twenty years newly emerging democracies have been using something called a truth and reconciliation commission to work at reconciliation issues. The South African version is finishing up now, and is the best known, but many other countries have made efforts in this direction. Daan Bronkhorst sums up the learnings from his study of this phenomenon in a book for Amnesty International³:

Clearly, the most important conclusion is that apparently there exists no model for the reconciliation process which would apply to all, or most countries. . . .There are too many differences in the character of the genesis and transformation phases. . . .there are certain

²Ruth-Heffelbower, Duane, *Conflict and Peacemaking Across Cultures: Training for Trainers*, Fresno: Fresno Pacific University, 1999. Concepts developed by Ron Claassen with Victim Offender Reconciliation Program of the Central Valley, Fresno, California.

³Bronkhorst, Dan. (1995) *Truth and Reconciliation: Obstacles and Opportunities for Human Rights*. Amsterdam: Amnesty International Dutch Section, pp. 150-151.

minimum requirements. . . .The first requirement, an essential component of reconciliation – is establishment of the truth. . . .The second requirement is that reconciliation must contribute to the strengthening of the rule of law. . . .The third requirement is that reconciliation be a democratic, verifiable process. . . .The fourth requirement is that victims be granted the right to compensation and reparation. . . .

These four requirements sound similar to the principles I described earlier, but there are important differences which I believe account in part for the less than satisfactory results achieved to date by most of these efforts around the world.

In my reconciliation work I have not found establishment of the objective truth to be helpful, partly because it is an unending, always exhausting, and never satisfying search. Each person sees events through their own filter, and has their own truth. What is important is for the parties to understand each other's truth, and to acknowledge that injustice was done. For the offender to describe their actions, not their motivations, is very helpful. Lack of information about what actually happened is a great block to healing.

The South African law required that those requesting amnesty tell the whole truth about their actions. Unfortunately, it was also necessary for the perpetrators to satisfy the commission that their actions were politically motivated. This led to all testimony of perpetrators being offered through a political filter which was less than satisfying to many victims. The testimony had to have an edge of justification to it. In our reconciliation work we have found that any effort at justification prevents the kind of acknowledgment of injustice that brings healing. Further, there was no requirement that the perpetrators understand or acknowledge the feelings of injustice held by their victims. While this happened in some cases, it was relatively rare to the extent I can tell.

Reconciliation strengthening the rule of law sounds much like restoring the equity and being clear about future intentions. Bronkhorst says further that it must specifically offer increased legal protection to the class of persons who were victims. Where the harm was done under color of legal authority, this would be necessary. Usually we find that injustice was done in violation of existing law by people who held themselves to be above or outside the law. That a new government or authority structure is demonstrating its commitment to the rule of law through a reconciliation process goes far towards satisfying this requirement.

Unfortunately, as Bronkhorst and others have noted, most national efforts at truth and reconciliation have not demonstrated strengthening of the rule of law, but instead have demonstrated just how tenuous the rule of law was in those countries. Limitations on evidence gathering, time limits, lack of funds for the commissions, as well as other devices to prevent their effective work, have often demonstrated that the old order was not fully off the stage.

Reconciliation as a democratic and verifiable process is a principle which applies in situations where large groups, or an entire society, are victims. In such cases the process is done by representatives, and it is important for everyone affected to see the actors as their representatives.

This is an area in which South Africa provides a model. Its use of the World Wide Web⁴ for dissemination of information on hearings and other activities certainly set a new standard in information sharing. Its report was published in book form, at a low price for S. Africa distribution, and as a searchable CD-ROM. The report was also offered in free searchable form on the WWW.

Compensation for victims is absolutely necessary for reconciliation, and no national-level commission offers an acceptable example. This is a particularly disappointing aspect of the S. Africa experience. In their case the enabling legislation set up a reparations fund, but no one harbored any illusions that it was adequate. Further, while the commission could grant amnesty to an offender at the conclusion of the hearing, it could only recommend a grant of compensation for the victims to the legislature. From the victim-offender experience the larger problem is that the offenders in no way participated in the reparations. It was simply tax money being redistributed. Worse, there was no victim participation in deciding what adequate reparations looked like. A request was made and the commission decided what to recommend.

We have found in working with victims and offenders that reconciliation comes when the offender acknowledges responsibility and does what they can to make things right with the victim. This means at least symbolic direct restitution. Without this aspect, the victim is required to cover the whole debt with grace. It is a rare victim who can do this. When the offender does his or her best to make things right, it is a rare victim who cannot provide the grace to cover the difference.

A reconciliation perspective on human rights will address these issues by providing the setting where injustices can be acknowledged, equity can be restored, and future intentions can be made clear. When these three things are done well, healing begins and reconciliation is allowed to happen.

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⁴<http://www.truth.org.za>