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RECONCILIATION IN THE TRANSFORMATION OF CONFLICT

AN ANALYSIS OF THE SOUTH AFRICAN EXPERIENCE AND IMPLICATIONS FOR ITS APPLICATION IN INTERNATIONAL CONFLICT RESOLUTION FROM A PEACE THEORETICAL PERSPECTIVE

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Nicole Hofman was born in 1979. Since 2000, she has been working in international development cooperation in Germany and abroad developing countries. Her various responsibilities included development communication, cooperation and project management for German development organisations (DED, CIM, GTZ, InWEnt) in Germany as well as in development countries ranging from Central America to South East Asia. She deepened her focus on conflict and crisis prevention by including issues of good governance, environment and health. She is currently working as an adviser for UNAIDS in Sudan. She is responsible for the strategic communication and documentation on the national and international level, working towards accounting for both the propensity of conflict as well as international standards. Nicole A. Hofmann holds both a Master of Arts in International Communication and a Master of International Relations from Macquarie University, Sydney; she has focused on political communication, multi-track diplomacy and peace development in development cooperation.

EXECUTIVE SUMMARY

When violence has ceased it is often assumed that from this very moment peace has been restored. Definitions of peace and war have influenced earlier peace building interventions which in turn constituted the simple act of putting the weapons down as sufficient. Only recently have attempts to incorporate wider angles of facilitating peace and development been utilised. Critical approaches enhancing the perception of peace are put forward by Peace Theory scholars such as Johan Galtung and actual lessons learned serve to counter prevailing criticsm from Realist perspectives on peace. This paper demonstrates a rationale and case for supporting a more promising as well as more realistic view of peace and conflict management offered by peace theoretical considerations and approaches.

Transformation of conflicts appears as preliminary requirement for lasting peace in the view of Peace Theory. Upholding this presumption, reconciliation is presented here as an essential process and likewise applicable method for transformation of conflict. The paper examines the advantages of reconciliation against Realist claims about power politics and international relations. After introducing the aim and outline of the paper, a theoretical framework will be established in the second chapter, acknowledging the Christian concept of reconciliation yet evolving towards modern interpretations within socio-political contexts.

Scrutinising the applicability of reconciliation for conflict transformation, the third chapter presents reconciliation in practice drawing on the South African expample. Along this case study is highlighted how transitional justice is measured to default standards, what contextual constraints shape structure, mandate and process of applied reconciliation and why success is clearly visible in terms of socio-political reach. The model of the South African Truth and Reconciliation Commission (TRC) also serves to elaborate the feasibility of institutionalising reconciliation in conflict transformation on international level. This paper stresses that conditions and design of the TRC resemble the setting of current international conflict transformation processes. Consequently chapter four discusses the specific impediments for applied peace theory in international context before the last chapter concludes the significance of applied reconciliation and non-retributive justice models for international conflict transformation.

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1. INTRODUCTION

When war or violence in general has ceased some theories of International Relations contemplate that a state of peace has been achieved. In Peace Theory, however, the absence of violence does not equal peace. Although guns have become silent, underlying issues of violent acts may not have vanished. United Nations Peacekeeping Missions in war-torn countries such as Angola have proven difficult when establishing peace by cease-fire with few attempts to turn to the causes of violent conflict. Without targeting the underlying causes of the conflict, there is convincing empirical proof that reoccurence of violence is very probable. Johan Galtung as one of the most influential authors of critical peace research therefore promotes transformation of conflicts by peaceful means as the only way to achieve a state of lasting peace.

In this context, reconciliation has recently gained significance in political studies and international relations introduced by Peace Theory respectively. Experiencing violence leaves deep scars in societies as well as in individuals. Potential peaceful future is overshadowed by the past inasmuch as victims carry anger and perpetrators feel guilt or fear that atrocities might be returned one day. Reconciliation therefore seeks to transform attitudes through a process of coping with feelings and re-establishing trust. Revealing truth about the past constitutes an essential element in reconciliation.

Various types of commissions have been set up to deal with the transformation from civil war or violence within oppressive systems to democratic societies and the possibility of lasting peace. However, sharp criticism questioning those procedures and their anticipated results has already led to discussing value sets of truth and reconciliation commissions even advocating abolishment. By focussing on the failures of those commissions the actual benefits are often undermined. The progress which has been made in conflict transformation due to applied reconciliation should be considered tremendous despite the fact that its tools certainly require further development.

Lifting a concept, which by all means prompts many associations but rarely expands outside ideas of christianity, faith and personal forgiving, onto a level of applied Peace Theory demonstrates the purpose of this paper. Therefore it becomes necessary to elaborate theoretical viewpoints and practical case applications in order to discuss opportunities and challenges of reconciliation for sustainable peace. Critical voices towards reconciliation processes have often based their arguments on thoughts of the school of Realism in International Relations Theory. In this context, the rather realistic observation that sustainable peace has not been achieved due to mere absence of violence, which is the sufficient status quo from Realist perspective, will need to be consolidated through academic findings and political reality promoting reconciliation as serious conflict transformation process.

The position argued in this paper is that Truth and Reconciliation Commissions emulating the South African model are an effective application of Peace Theory for the transformation of conflict at national as well as international level. Thus, the theoretical framework of Peace Theory with particular focus on Galtung's core concept of structural violence as well as the concept of reconciliation need to be established first. Thereafter the Truth and Reconciliation Commission in South Africa will be presented as case study in order to examine the application of reconciliation in practice. In the concluding paragraph, the applicability of such reconciliation processes in international conflicts will be scrutinised considering the evolution of international conflict as a term and reality.

2. THEORETICAL FRAMEWORK: PEACE THEORY AND THE CONCEPT OF RECONCILIATION

Before focussing on the contribution of Peace Theory for the perception of and therefore the exposure to conflict transformation, the shortcomings of widely accepted views deriving from Realism or Power Politics should be outlined as the rationale for emphasising a peace-theoretical perspective of peace. While Realism defends an idea of man as aggressive and caught in self-centred own interest, coinstantaneously it also seperates statesmen from their human nature including motives, preferences or intellectual as well as moral qualities (Morgenthau 1993: 5). It is presumed as a fact that the given order represents the natural order governed by logic and prudential laws (Ashley 1984: 225). The attempt to explain international politics in the realm of a static system with one universal objectivity ignores many facets of conflict and reduces competing interests to a sphere of quasi-facts which leaves little room for analysis of the situation let alone improving it. Even Neo-Realism has failed to elaborate an approriate theoretical framework that would allow for any other possibility than war as inevitable outcome of existing incompatible interests (Vasquez 1998: 183 – 213). Empirically there is evidence to the contrary and historically as humankind has advanced so has the concept of peace and its approaches.

Establishing a modern and appropriate theoretical framework creates choices of outcomes and challenges the view of peace as mere opposite of war. Contemporary voices point to the the *horrors of peace* which accompany decisions not to intervene in conflicts in order to maintain the Realism-state- of-peace in cases such as Rwanda and Darfur (Hitchens 2005). In the tenet of Peace Theory, ignoring local or national conflict with its impact on international security and peace is equally harmful as the use of force to enable peace.

One of the leading assumptions in Peace Theory is not to negate conflict but to uphold the distinction between conflict and violence. Conflict Theory has contributed to this awareness. As argued by Mitchell (1981) the perception of conflict is primarily subjective, that is to say that there can be more than one truth in a conflict. Further, Mitchell (1981: 3) describes conflict as "a relationship between two or more parties (individuals or groups) who have, or think they have, incompatible goals, needs and interests". In this sense incompatibility creates dissonance in relations but does not determine how conflict is then handled. Galtung (1998: 15, 26) stresses that violence deals with conflict in a way that assumes the purpose of conflict is to do harm, rather than acknowledging the fact that *human organisation* has developed a capacity to transform conflicts and resolve them through more constructive strategies.

In order to overcome conflict or make peacekeeping efforts effective, it is necessary to promote peace-building measures as well. In this context reconciliation appears to be crucial in the aftermath of violence. For a society consists then often of victims and perpetrators, peace-building in the form of reconciliation is necessitated to restore workable relations between the formerly oppressed and their oppressors (Lynch/ McGoldrick 2005: 50). Reconciliation does not claim to turn former enemies into friends but it seeks to create a new beginning with newly defined social relations. As Goldstein (2005: 143) has highlighted, social relations are crucial in Peace Theory. Intact social relations personally, at national level as well as within world society become the foundation for lasting peace. Breaking down social relations into aspects of human nature entails one of the major contributions of peace scholar Johan Galtung promoting understanding before acting accordingly.

2.1. UNDERSTANDING CONFLICT: GALTUNG'S TRIANGLE OF CONFLICT

In the discussion if strong inequalities render possible the escalation of conflict into violence, endorsing evidence can be found in conflicts which entail disadvantaged minority groups or unequal economic distribution. Despite wide acceptance of such inequalities as one of the major causes of violent conflict, the importance of understanding the root causes is often not sufficiently depicted albeit awareness that this appears to be essential in the process of conflict transformation.

In the view of peace scholars such as Johan Galtung (1996), violence already begins with cultural and structural repression. Direct violence marks the point in which discrimination and oppression are already visible behavior. Following Galtung, an analysis of the conflict situation has to reach beyond embracing

the invisible aspects as well. In this respect he refers to the *ABC- Triangle of Conflict* as illustrated below, which reflects the visible behaviour (B) on top and the hidden aspects attitudes (A) and contradictions (C) at the base (Galtung 1996: 70-80). Whereas realists are satisfied with the absence of violent behaviour, peace theorists turn the concept of peace into an active, positive approach and consider conflict more comprehensively. Based on Galtung's approach, Fisher et al. (2000: 12) explain the concept of positive peace as containing elements to deal with the attitudes and the contradictions in a conflict situation.

Attitudes and contradictions can hardly be examined seperately from each other. The latter determines the root causes of conflict which can either derive from or lead to certain attitudes. Therefore efficient conflict transformation has to embrace methods which are able to change those attitudes. Although successful peace-building must target all three aspects of conflicts, the process of reconciliation enabling change of attitudes has been neglected because of its perception as apolitical, too theological and unachievably idealistic. Galtung has developed a counter-approach by assigning concrete measures to every aspect of conflict causes allowing reconciliation to enter the political sphere as feasible method. He highlights *reconstruction* to address the behavioural aspects, *reconciliation* to change attitudes and *resolution* to overcome incompatibilities shaping the contradictions (Galtung 1998). Although conflict transformation relies on the combination of these methods, the role of reconciliation is depicted as substantial in this peace theoretical approach. In order to shed light on the marginalisation of reconciliation from other schools, a closer look at its historical origin and perception as a modern concept is needed.

Figure 1: own illustration based on Galtung 1996: 70-80.
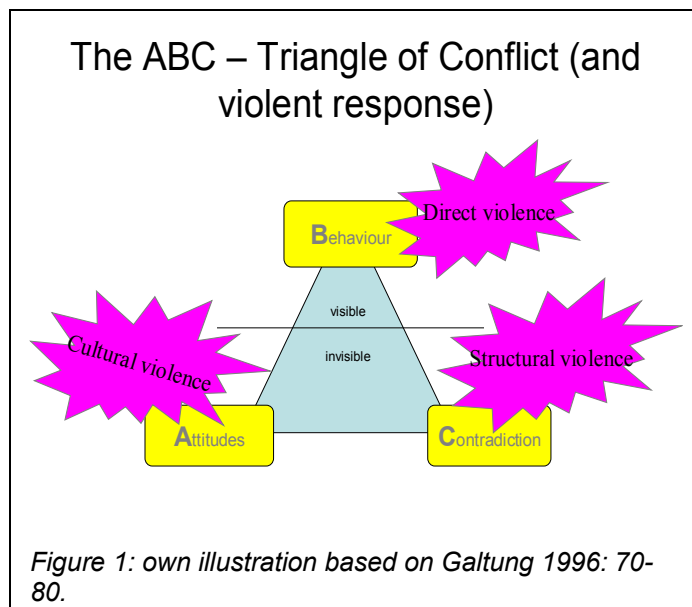
2.2. DEFINING RECONCILIATION: FROM RELIGIOUS VALUE TO BROADENED CONCEPT OF UNDERSTANDING AND CONFLICT MANAGEMENT

The concept of reconciliation is basically a spiritual concept often associated particularly with Christian religion. In this context, Ritschl (1900: 28) describes justification and reconciliation of sinners with God as the leading features of Christianity. Yet, he emphasises that human relations fall in this category as they occur in the world created by God - man is therefore part of the 'Kingdom of God' (Ritschl 1900: 30, 35). The sinner can restore his relation to God only through justification which consequently leads to forgiveness of sins and removal of guilt (Ritschl 1900: 40, 57).[1] In due course the sinner has achieved reconciliation. This is why the concepts of justification, forgiveness of sins and reconciliation are considered to be equivalent (Melanchton cited by Ritschl 1900: 72-73; Amesius cited by Ritschl 1900: 75). Reconciliation constitutes the final outcome of this process and enables the sinner to restore his original destiny (Ritschl 1900: 76).

In other words, the significance of reconciliation lies in the restoration of the relationship to God which is closely related to moral activity towards man. What is important in this conception is that committing a sin has to be perceived as a breach of the moral law and

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1 In this respect, Ritschl outlines the difference between Protestantism and Catholicism, in that the latter emphases punishment before forgiveness of sins is granted. The detailed distinctions, however, cannot be further presented in this paper, and need not to be for its purpose.

subsequently has to correspond with a feeling of guilt. Therefore only the believer might perceive his misdeeds as a breach of moral law, whereas a non-believer might not be aware of having committed a sin. As outlined by Ritschl (1900: 62) "the offender must have perceived and confessed his wrong" in order to receive forgiveness. Hence, only the believer is eligible for forgiveness of his sins and *pardon*. As a result the process of reconciliation is limited to the religious and confessing.

For the purpose of this paper a more modest conception of reconciliation is needed in order to become valid for contemporary societies. Dwyer's effort to craft a concept of *Reconciliation for Realists* provides an image that is clearly distinct from the religious conception (Dwyer 2003). In contrast to the religious perspective, Dwyer (2003: 101) distinguishes between reconciliation and forgiveness but does not exclude their potential combination. This takes from reconciliation the burden of creating a condition of universal harmony. More importantly reconciliation contains a process of making sense of past events evolving from two stages: a clear view of those events and a range of interpretations of them (Dwyer 2003: 100). Instead of finding the factual truth, reconciliation requires that past is explained and turns to awareness how to prevent such events in future. In this respect, the concept is looking forward and backward at the same time and calls for reconciliation in order to move on (Dwyer 2003: 93-94).

Although the concept of reconciliation seems to be successfully withdrawn from its religious meaning, the depiction of reconciliation from a Realist perspective is still not fully convincing. Defending the concept of reconciliation against the common line of Realist argumentation is however very desirable. As Realists argue for the use of violent solutions to conflict and acting on mere self-interest, then it becomes essential to bring forward arguments in the same line. Dwyer intends to do so by substituting the wish to restore the relation to God with the search for psychological peace and by further replacing the Christian moral law with commitment to international law (Dwyer 2003: 94). This certainly accounts for a more modern and secular image of reconciliation but does not quite match the underlying views of Realist Theory.

Dwyer for instance claims that normative ideals form the base of her conception of reconciliation (Dwyer 2003: 96), but proponents of power politics reject normative ideals over what they consider to be the factual truth. When Dwyer admits the fallibility of reconciliation on personal level but stressing this would not interfere with success on national level, her image connects, however, strongly with Realist perspectives of man and statesman. Much weaker appears her attempt to abandon the view of reconciliation as "*elimination* of tension between" allowing for 'creative management of' two or more beliefs, differing interpretations or incompatible sets of values (Dwyer 2003: 97-105). This seems to accommodate the tenets of Peace Theory rather than the Realism canon.One of the final arguments in Dwyer's advocacy for reconciliation holds the most convincing statement to enter realist discourse inasmuch as she stresses the existence of plural interests within the conflicting parties of which reconciliation appears to be equally likely to be the upmost important and, as a fact, might be the only feasable solution (Dwyer 2003: 108).

Reconciliation after violence plays an indispensable role in Peace Theory. Galtung (1998: 65) refers to reconciliation as "a theme with deep psychological, sociological, theological, philosophical and profoundly human roots - and nobody really knows how to do it." Thus, Peace Theory seems to acknowledge the importance of reconciliation, but also its complexity and implementation difficulties. Reconciliation has to take place in the distinguished context of each conflict but enabling dialogue is prmoted as enhancing conflict solution across individual contexts (Galtung 2000: 164). Open dialogue is a vital condition to disclose truth of the past which already has be identified as fundamental in order to achieve reconciliation. However, there could be many different truths deriving from personal experience or perception and all of them need to be accommodated.

According to Galtung (1998: 45) a *Truth & Reconciliation* model incorporates victims, perpetrators as well as the state inasmuch as it represents the institution responsible for the condition it offers to its citizen. Following Galtung (1998: 45), the model should be based on three pillars:

- Victim-Perpetrator: forgiveness for apology, restitution [and truth]
- Perpetrator-State: truth in return for amnesty
- State-Victim: restitution in return for closure

Galtung's model admits that the parties to the conflict usually exceed these categories in the reconciliation

process. In situations of violent conflict and war, particularly if lasting for several years or decades, the disparities of victims, perpetrators and the state become blurred. Often perpetrators are equally victims or the state appears as one of the main perpetrators. Therefore it is impossible to unambigiously assign parties to the conflict within this model but the model allows to derive three main objectives for transformation of conflict.

By including forgiveness, truth and restitution Peace Theory incorporates several aspects of reconciliation from the religious to the more modest conception and even Realist perspectives. The core assumptions of positive peace are also encompassed; Reconciliation is depicted as a dialogue in which "the parties can agree that the structure [and culture] was/is deficient and that their behaviour was an enactment of structural positions rather than anything more personal, then turning together against the common problem, the structural [and cultural] violence, should be possible" (Galtung 1998: 67). The aim of reconciliation seems to be the creation of 'joint forces' to approach future problems together.

In its significance for Peace Theory, reconciliation is also described as a product of closure and healing; "closure in the sense of not opening hostilities, healing in the sense of being rehabilitated" (Galtung 1998: 65). Particularly the healing approach is often contested as it implies a process on the personal level difficult to be institutionalised nor assessable regarding timeframe and succession. In order to be useful for a national facilitated process of reconciliation, the term healing should therefore rather be understood as outlined above in restoring social relations and in agreeing on a new political order.

The concept of reconciliation is considered extremely powerful in its capacity *to open a new chapter* but is also revealed as extremely vulnerable because any withholding of demanded aspects from victims, perpetrators or the state can sabotage the process (Galtung 1998: 70). Additionally it seems problematic in which order demands need to be approached. Whereas Galtung's approach focuses on simultaneous combination of truth and reconciliation, spiritual voices claim that there can be no reconciliation without truth and others suggest that "reconciliation is what makes the revelation of truth possible" (Van Roermund 2001: 179).

2.3. OVERHAULING A THEORETICAL FRAMEWORK FOR APPLIED RECONCILIATION

In the theoretical background of this paper we have seen that Peace Theory contributes essentially to peace-building approaches by firstly considering the root causes of conflict and secondly engaging in the transformation of conflict by tackling those causes. Summarising Galtung's fundamental findings it has been pointed out that conflict consists of the factors behaviour, attitudes and contradiction which have to be dealt with accordingly in the process of conflict transformation. In anticipation of changing attitudes, reconciliation is highlighted as one of the essential parts in this process.

The importance of reconciliation is derived from an evolving concept of reconciliation allowing the moral perception of forgiveness from religious definitions to enter as well as more modest perceptions in which the significance of explanation of the past is endorsed. Additionally the concept could be considered as the only feasible option to overcome conflict in the long run. Peace Theory incorporates these aspects of evolving definitions of reconciliation highlighting in Galtung's words forgiveness, truth and restitution. In addition Peace Theory amplifies the concept of reconciliation through highlighting positive future impacts. Among those impacts the capacity of reconciliation to join forces and restore social relations are named along with the opportunity to open a new conjoint chapter. Such definition provides a concept of reconciliation which can be probed as applied concept of conflict management aiming at conflict transformation and will be the underlying definition for this paper.

Approaching reconciliation in practice the application of Truth and Reconcilation Commissions has been the most common model. With variations in the set up, procedures and successes the following chapter will focus on a case study of the South African Truth and Reconcilation Commission to examine the procurement and the outcome of applied reconciliation.

The South African model is not only widely accepted as one of the most successful, it also seems to resemble the conditions of international conflict best. South Africa is by all means a heterogeneous society divided by race as well as along cultural and economic lines. The mere fact that eleven languages

plus several dialects are spoken in the country, illustrates the level of dividedness. No other reconciliation process is therefore more appropriate in order to be scrutinised as a case study for applicability of reconciliation in the transformation of conflict, respectively for further considerations about implementation in international conflict.

3. THE TRUTH AND RECONCILIATION COMMISSION IN SOUTH AFRICA

In the dawn of Apartheid, South Africa's transition to democracy became a process of negotiation between the illegitimate white minority government of the National Party (NP) and the oppositional party supported by the majority of black South Africans of various backgrounds, the African National Congress (ANC) as well as other minority groups that needed to be accommodated. The negotiated outcome was a new constitution in which all parties could claim more or less to have a share in. Although the circumstances that had led to this transitional process have been initiated to a certain extent by the international community, international organisations and foreign governments, Hamill (2003: 20) points out that the negotiation process as such was instigated domestically which has created "a real sense of ownership of the process and may have been more conducive to a lasting solution".

Drafting a constitution certainly invites to think about a shared future and due to this unifies former perpetrators and victims (Ackermann 1992: 70-71), but it neglects to deal with traumas of the past that are deeply inflicted in the South African society. In such transitional process after occurrence of human rights violations and atrocities as they took place under the Apartheid regime for decades, the cry for justice is omnipresent. On the other hand, there was also a gap in history to close which could only be done through facilitating truth to be revealed. In addition the negotiation process could only progress because the former oppressors were ensured that no harm was to be expected after the transition. Therefore the new constitution provided solution in the form of the so-called *Promotion of National Unity and Reconciliation Act* (*No. 34 of 1995*) which has determined structure and functions of the *Truth and Reconciliation Commission* (TRC) in detail (South African Government 1995).

3.1. STRUCTURE, MANDATE AND IMPACT OF THE TRC

The TRC consisted of three committees the *Human Rights Violations Committee* (HRCV), the *Reparations and Rehabilitation Committee* (RRC) and the *Amnesty Committee* (AC). The HRVC dealt with the testimony of victims or their families including verification and selection as not all 21,298 applicants could tell their stories at public hearings and live broadcasts on South African TV (Wilson 2001: 21). Cases would then be referred to the RRC which constituted by far the weakest committee suffering from little power. It was working merely on the basis of recommendations and without own budget (Wilson 2001: 22). Disbursement was never to meet any form of compensation in the economically stricken South Africa. Notwithstanding the fact that the financial situation did not allow a different approach to reparation claims, Wilson agrees with Galtung regarding the importance of restitution for the process of reconciliation. Until today this appears to be the perhaps strongest obstacle on the path to reconciliation. But to hold this criticism against the TRC ignores the limitations under which it was set up, politically and above all economically. Although the RRC can be seen as the least successful, it was also the least contested of the three committees.

Additionally the TRC incorporated the in other commission models separated legal procedure of amnesty in the form of a committee. Simpson's evaluation (1998: 1-3) of the TRC contends that the AC was not only unique to the South African case but also accounted for a creative response to the antagonism experienced in former truth commissions as for instance in Chile where general amnesty was granted to the Pinochet regime. Approaching conflicts with creativity has been consistently stressed throughout Peace Theory literature as the way to non-violent solutions. The TRC facilitated creativity by allowing individuals to apply for amnesty for their crimes given that they were politically motivated and a full disclosure of the event was provided (Vasquez 2000: 52-54). The amnesty hearings were also conducted in public and televised throughout the nation. Not only has that fuelled public debate, positively as well as negatively, and has thereby advanced the democratic progress of the country in a creative learning experience, it has also prevented society from collective amnesia by starting this process in line with Galtung's demand for transformation of conflict (Boraine 2000: 419). In addition to the public

testimony of the HRVC this is considered to be of pervasive impact for the participants as well as the society (Simpson 1998: 9).

In the light of reconciliation, public acknowledgement does not only add to factual knowledge but also restores human dignity to victims (Du Troit 2000: 132-136; Govier 2003: 79). By telling their story victims may not be able to prove their case beyond reasonable doubt, something that would have been required in court (Du Troit 2000: 133). Instead of having to cope with re-traumatising cross-examinations, victims can spell out their experience and feelings which is widely accepted as the first step in moral progress (Govier 2003: 71). In the context of Peace Theory this is a valid point, as Galtung (1998: 80) affirms "[j]ust telling what happened as it happened, […] is already reliving, revealing and relieving". In many cases this has helped people in their grief, in many others it has done little to change individual sets of attitudes (Hoffman and Reid 2000). However, personal healing could not have been the mandate of the TRC and although it influences the reconciliation of society, the TRC did not intend to force victims to forgive their perpetrators but to facilitate the opportunity to do so.

The most contested function of the TRC was the process of granting amnesty. As a result of quite substantial criticism, the AC faced allegations to trade off justice for reconciliation. Yet, what is often overlooked when demanding justice over amnesty is the aforementioned political context in which the transition was possible (Boraine 2000: 381). There can be no doubt that violent regimes are not willing to hand over their power peacefully if punishment is awaiting them. But does the hope for social stability justify compromising the rights of individual victims? Needless to say there would be no individual rights for victims without the previous compromise for social stability. However, in view of prevalence of democratic principles in future, the amnesty process contains the most political controversy. As Goldstein (2003: 347) has noted "we have learned that past hate, past revenge and the failure to investigate and bring some justice to victims has fuelled violence and death and misery".

On the other hand, the publicity of the AC could also be regarded as a form of punishment. Similar to the practice of exhibiting criminals on market squares in the Middle Ages, perpetrators were punished with public shame and possibly social exclusion. Further-

more, amnesty was at no stage guaranteed and a refusal meant that prosecution was still possible. Hence the fear of prosecution seemed to enhance the voluntary nature of the AC (Frost 1998: 158). The conditionality of amnesty is clearly illustrated in the number of cases which has been granted amnesty; out of 7000 applicants only 568 have received this status (Wilson 2001: 23). The TRC has facilitated a process which brought together justice and reconciliation therefore it was inevitable to adjust rules and procedures in order to embrace these distinct conceptions.and fit the circumstances. This has been clearly accomplished by the TRC and hence it was remarkably successful in achieving its goals above all lasting, albeit not positive peace.

3.2. SHORTCOMINGS OF THE TRC AND THEIR CONCEPTUAL PURPOSE

In a society that is shaped by both a *criminal regime* meaning that guilt can be clearly assigned to some individuals as well as a *regime of criminals* in which citizens are made complicit, it has proven difficult to prosecute individuals (Du Troit 2000: 126-128). The alternative approach in the form of the TRC has evidently revealed more than any court would have. During apartheid, records were often falsified and the perpetrators were the only witnesses. Moreover, in the case of South Africa, the legal apparatus was under discredit because it was conceived as part of the apartheid regime. Victims who had been mistreated in earlier attempts to give rise to justice would have never believed in the new impartiality overnight (Hoffman/Reid 2000). Although the TRC was established as an independent body, it was still accused of bias, mainly from representatives of the NP who allegedly tried to sabotage the process (Simpson 1998: 6). Considering the fact that white members were overrepresented in the TRC, such bias claims were returned by black South Africans likewise (Hoffman/Reid 2000).

Facing a myriad of challenges the TRC had to cope with constrains of historical, political, judicial and personal nature; due to which the TRC was never able to achieve final reconciliation in a sense that reconciliation is understood as a completed state. The TRC started a process which has created the condition for reconciliation including inclusive, public debate which has allowed truth to become known and to be dealt with. Reconciliation as a process is never complete. Tutu (1999: 221) has highlighted the need

for further reconciliation evolving from widely unaltered financial and living conditions despite the end of apartheid. Although the political oppression was withdrawn, the economic disadvantages have prevailed, resulting in a provocative situation in which reconciliation is required to balance the hostile attitudes. Nonetheless, the choice for restorative justice seems to be controversial throughout the literature. On the side of proponents, Tutu claims that in South Africa neither party could impose victory justice as they would still have to live together which requires more than just punishment (1999: 25). On the other hand, opponents argue that retributive justice can itself lead to reconciliation (Wilson 2001: 26, Gutmann/Thompson 2000). The TRC, in particular the AC, had to defend its role against the criticism that it would undermine the judiciary clashing with criminal law when overwriting decisions and granting amnesty.

The position argued here is that often the criticism is farfetched and sometimes even inappropriate. Farfetched seems the argument put forward by Simpson (1998). He claims that the process of granting amnesty has undermined the legitimacy of the rule- of-law in South Africa which he holds responsible for the increase of crime the country experiences since 1994. Firstly, it is arguable if the crime rate has really increased compared to the years before the end of apartheid. Crime outside the separated *White Zones* was generally not even reported, but it can be assumed that crime has naturally taken place in the poorer, primarily black areas. Secondly, it appears that prevailing inequalities reasons in the new South Africa for crime may not have been considerd sufficiently by the TRC but the process of truth and reconciliation has not prompted the situation as such. Missing the TRCs crucial elements, Jeffery's criticism addressing the TRC procedures such as allowing hearsay and testimony without oath (Jeffery 1999: 28, 37) seems rather inappropriate, as the TRC has designed these procedures on purpose. Omitting the facts about purpose or objectives in accepting hearsay in fact resembles ignorance of the TRC purpose altogether.

In order to find out the many truths that apartheid has created, the TRC appears as a reasonable and successful alternative to war tribunals and other truth commissions such as the Chilean model. The aim was to find a comprehensive, a common truth acceptable along the different ethnic lines (Boraine 2000: 390). Frankly, it would have been very idealist-

ic to believe that the TRC was ever to reveal the whole truth. It has, however, shed light on many horrible events, from different perspectives and enabled the TRC to trace perpetrators along the chain of orders. In the case of the Khotso House bombing in 1988, two amnesty-seeking police officers have admitted that the order came from the State President P. W. Botha (Frost 1998: 164); although legally there was no evidence to support the case and Botha himself refrained from TRC procedures, public acknowledgement has allowed for reconciliation and justice in a creative manner. Without the motivation to be granted amnesty, the two officers would have never disclosed this truth. Within the so-called prisoner dilemma, game theory illustrates that confessing may not be of greatest benefit. However, an applicant seeking amnesty may even exaggerate or falsify the truth in order to make it sound more dramatic and supportive for his case (Galtung 1998: 46).

Additionally it is often criticised that the TRC's mandate did not include the everyday harassments resulting from apartheid oppression. With its extraordinary approach of coming to terms with the past, the TRC focused on gross human rights violations; the disappearances, the torture and the killings. It has failed to acknowledge the 'daily pinpricks' and discrimination that were legal under Apartheid law (Tutu 1999: 14). Mamdani (2000: 59-60) recalls the *Group Areas Act* that has dispossessed and displaced thousands of black South Africans. He disagrees with the definition of gross violation according to the standards of Apartheid. Neglecting violations which had been allowed under Apartheid laws equals "ignoring everything that was distinctive about apartheid and its machinery of violence" (Mamdani 2000: 60). Mamdani claims rightfully that the truth is incomplete without these aspects, but he fails to admit that the mandate of the TRC was limited in scope and time. The TRC has allowed testimonies to portray in detail how they have experienced violence even beyond the case in charge. Another advantage of the TRC was to offer a short-term alternative whereas a process of individual court cases would have continued for decades (Jeffery 1999).

3.3. RECONCILIATION APPLIED – SUMMARISING THE SUCCESS OF THE TRC

Concerning the principles of retributive justice the TRC is by all means flawed: it circumvents legal prin-

ciples for truth, a truth that will never be complete; it offers acknowledgment but betrays the acknowledging for their formal justice. Moreover, it even promotes reconciliation without apology (Wilson 2001: 25). One could further argue that reconciliation is unfeasible in South Africa because there has never been a condition of working social relationships which could be restored. Against all these claims the TRC is generally acknowledged as a success. "This is because South Africa has embarked on a distinct path to justice" (Vasquez 2000: 52). A new, distinct path is always followed by mistrust, often feared and its shortcomings used to prove the whole wrong. Along with the criticism very little is admitted about the disadvantages of retributive justice. Galtung (1998: 43) emphasises failure of retributive justice in its deterrence function. Furthermore conflict situations are characterised by a lack of rule-of-law so that application of the same inefficient system of justice for transition seems inappropriate. Consequently prosecution adds very little to the transformation of conflicts because it only demonstrates law and determines a winner without explaining the past and creating an outlook for the future.

In its mission to provide restorative justice the TRC has succeeded in delivering truth and in facilitating forgiveness and has partially provided for restitution. In terms of truth the TRC allowed for personal acknowledgement and public dialogue. Regarding forgiveness the TRC was able to achieve a level of consciousness, creating joint forces and concentrating on a common future. Restutition of human dignity and social relations had been brought by truth and forgiveness, yet financial restitution has fallen short of expectations inherent in the concept of distributive justice. Whereas distributive justice contains restitution of economic conditions in order to create a just social situation which complies with Galtung's concept of curbing structural violence, restorative justice concentrates on reconciling procedures. Neglecting distributive justice was not a matter of choice but a question of feasibility in the South African case.

In conclusion the success of the TRC in terms of reconciliation according to Galtung's objectives truth, forgiveness and restitution is evident. Consequently it can be stated that a change of attitudes has taken place often even documented during public hearings, in media reports and equally in the literature examining the TRC and its impact to bring about truth and reconciliation. Another argument underpinning the success of the TRC is the achievement of sustainable peace albeit a state of positive peace has not

been reached until now. Despite the fact that economic inequalities still challenge sustainable peace in South Africa, this may serve as another argument for backing the application of reconciliation measures even if not all aspects of structural violence can be tackled coevally.

Unlike reconciliation, modern justice does not initiate a change of attitudes. In addition deterrence does not function effectively to prevent future atrocities. However, the future perspective constitutes the forward-looking aspect of conflict transformation and transcends the backward-looking analysis of the past. This has been successfully realised by the TRC at a domestic level. The international legal apparatus is even less successful in preventing violence or crime and power politics still repress democratic principles in the international system. In this context reconciliation might play an important role to transform international conflicts as well. Applying creative models such as the TRC in the transformation of international conflict would allow reconciliation to enter the sphere of international politics. In the light of Peace Theory reconciliation changes attitudes, which seems as important on the international level as on the national. The concluding chapter will therefore examine the pre-requisites for the application of reconciliation models at international level.

4. CONSIDERATIONS ABOUT THE APPLICABILITY OF RECONCILIATION IN INTERNATIONAL CONFLICTS

Albeit the TRC as most other truth commissions have been applied primarily for domestic transitional processes, similar procedures and characteristics could also be deployed to foster international conflict transformation. Characteristics of conflict are blurring increasingly, hence solutions and procedures to transform conflict should resemble the context rather than out-dated categories of national or international. This becomes particularly obvious when looking at incidents of violent conflict throughout the last decade and the amendments of definitions deriving from those observations. Current definitions of international conflict take into account that international conflicts in the 20th century have rarely been fought between nation states but rather among groups within one nation state which has, however, affected neighbouring states and/or demanded international intervention.

The Heidelberg Institute for International Conflict Research (HIIK no date) began in 1991 to record international conflicts also in the case of non-state involvement and stresses the occurrence of conflict in fragile or failed states which imposes a necessity to widen the definition of international conflict. Another angle of defining international conflict comprises the wish to create an autonomous nation state. The Conflict Research Consortium of the University of Colorado emphasises the application of the definition 'international conflict' for inter-group conflicts fighting for independence as well as increased political, social or economic power (Malek no date). The definition of international conflict should therefore include conflicts containing one or several of the following characteristics: (1) a lack of state power, (2) high possibilities of conflicts spilling over national borders, (3) strong international interest and respectively high probability of international intervention (4) the demand of creating an autonomous state or viciously new state order.

Several questions, however, need to be elaborated when contemplating the applicability of reconciliation procedures to transform conflict situations of international reach. Concepts concerning international peace are often contested by cultural and political arguments. This is to say that the international dimension of reconciliation depends on questions contemplating universal values, sovereignty of nation states and neglect of the existing international system. As utmost important pre-requisites for international application of reconciliation measures the questions of universality, legitimacy of external interventions and global authority need to be examined. Hence the following section will focus on these three challenges for reconciliation to be adopted in the transformation of international conflicts.

4.1. THE QUESTION OF UNIVERSALITY

Regardless of focusing on truth commissions or mediation processes in general, the concept of reconciliation as deriving from a Christian conception may not acquire the cultural sensitivity essential for a universal process. In this context, peace scholars have pointed out that South Africa is a diverse country which proves that different cultures often hold similar concepts that could be embraced (Galtung 1998: 53). The African concept of *ubuntu* is even called upon in the South African constitution as underlying

principle for the TRC. Although reconciliation is not explicitly inherent, the concept features interconnectedness of humans promoting friendliness, compassion and sense of humanity which resembles the concept of reconciliation in slightly differing words (Tutu 1999: 34-35).

Another example of the capacity to transcend the mere Christian conception can be identified in the Hindu and Buddhist idea of *karma*. Literally, this describes not only a spirit created through accumulation of every action a person undertakes but also highlights a shared responsibility of actions among mankind. The specific cultural or religious background certainly requires context-specific application of reconciliation measures in international conflict. Yet, a sense of reconciliation seems to be intrinsic across ethnic lines. Utilising a modest perception of reconciliation creates space for amending the concept to fit into every context, as neither reconciliation nor conflict transformation consist of a single concept, model or solution. Allowing a modest perceiption of reconciliation and identifying a specific set of measures for each individual context ensures universal acceptance of applied reconciliation in the transformation of international conflict.

4.2. THE QUESTION OF LEGITIMATE EXTERNAL INTERVENTION

In fact, many intergovernmental organisations are more or less successfully involved in reconciliation. The transitional process in El Salvador for instance was supervised by the United Nations. However, when the process reached a stage of implementing the recommendations from the truth commission, the externally initiated institution lacked credibility and enforcement mechanisms (Vasquez 2000: 55).

A more recent example of supra-national intervention seems to account for a more successful attempt of external assistance in reconciliation. After a period of stagnated communication between government and opposition in Nicaragua, which has resulted in tensions and violence throughout the country, the Organization of American States (2005) has sent a delegation seeking to transform the conflict through mediation. In this case, however, the Nicaraguan government has asked for support to stabilise the situation and to preserve peace. It seems that Boraine (2000: 385) makes a valid point in stating that "[i]t is always preferable to be invited, and even then one

should tiptoe into traumatised societies with great sensitivity."

But even if reconciliation measures are 'invited' the question of self-interest and bias remains. Independent commissions or third-party involvement are essentially required for reconciliation but they can only act effectively if they are accepted by all parties to the conflict. International institutions have the capacity to manage international conflict as a third-party but their efficiency depends on the will of the sovereign nation-states that seek reconciliation. Peace Theory approaches often neglect that the underlying assumption of a World Authority is consistently eroded by unilateral actions of nation-states. In reality, if interests are considered to be unnegotiable, obstacles to reconciliation unfold. The content of so-called unnegotiable interests often implies that attitudes are inextricably intertwined in the formation of those interests. Therefore, reconciliation has potential to impact positively on conflict transformation if the parties allow such processes to enter and agree on pursuing the respective measures.

4.3. THE QUESTION OF GLOBAL AUTHORITY

Another problem for the applicability of reconciliation internationally resembles the arguments put forward by the proponents of retributive justice against the TRC. In the context of international conflict, measures such as amnesty might not be in accordance to international law. Wilson (2001: 25) argues that "[i]nternational criminal law is highly ambivalent on the question of amnesty and the tension between national amnesties an international human rights treaties has a long history." Reconciliation is then not seen as complementing the progress, but undermining the law and competing with other authorities such as international tribunals.

In the case of former Yugoslavia it becomes evident how national conflict turns into international conflict: firstly because the different ethnic groups were demanding their own sovereign nation-state and secondly because international intervention was necessary to end the violence. But without doubt, ethnic tensions in the region have not been eradicated simply through the decision that the different groups create sovereign states. Fear and hatred still persist after those many years of violence the region had experienced. Several non-governmental organisations

from the newly established nation-states call for reconciliation in form of the South African model, but their demands have not been realised yet. Major resistance to the application of a TRC model descends from members of the war tribunal which has been established to prosecute responsible individuals. The appointed judges fear that a clash between the two separate processes would be inevitable (Boraine 2000: 387-388).

In order to enable international law to prevail, it seems of course undesirable to create an adversary commission, but for the sake of peace in the region it may be necessary to invest in reconciliation. Boraine (2000: 388-389) argues that a truth commission could be established as a complimentary procedure. He stresses that the tribunal which seeks to prosecute individuals cannot restore peace. There will be different truths that need to be accommodated before existing attitudes will change. Simply separating former enemies into neighbouring countries and leaving minority groups within the newly created nation-states is likely to reinforce violence and poses a security threat for the whole region. Boraine (2000: 389) believes that a truth commission inaugurated as a joint venture would allow the region to embark on a joint future.

Instead of regarding war tribunals adversary to truth commissions, the possibility of combining the two processes should be considered. Extending the mandate of war crime tribunals or even of the International Court of Justice both acting under the mandate of the United Nations so that reconciliation processes would be inherently included seems reasonable in order to gain new grounds for international peace. Extension of mandate may have to consider widening jurisdiction inasmuch as non-state actors would have to be able to bring cases forward and advisory opinion may expand its the role in form of an international ombudsman beyond its current UN agency advise function.

In the case of international conflicts involving crimes against humanity, prosecution of individuals may be intertwined in the international dispute, yet such cases fall under the jurisdiction of the International Criminal Court, a permanent international legal institution serving similar purpose as case-bound war tribunals such as for Rwanda or former Yugoslavia. Albeit coordination may be exerted through U.N. and particularly Security Council, the two international

courts are principally independent and not designed to foster mutual reinforcement of the international legal system. The current lack of enforcement mechanisms of internal law may seem to render useless efforts to install global justice mechanisms. It is of course arguable that reconciliation processes would be more successful than the discredited system of international law. However, facilitated reconciliation instead of mere punishment within an existing albeit reformed system of global transitional justice, may seem more attractive to those rejecting the idea of a *World Authority* embracing nation-states and non-state actors alike.

4.4. CONCLUDING REMARKS

As depicted throughout this paper the fallacy of securing peace without tackling the root causes of conflict derives from insufficient perceptions of peace by the school of Realism. Peace Theory and reconciliation measures in particular provide for a different understanding of peace and conflict and promote transitional justice models to transform conflicts instead of just ending violence temporarily. In the light of stressing human sophistication in reverting to multiple options for resolving conflicts, Peace Theory seeks to foster an approach of restoring social relations as the key in securing lasting peace. This has been emphasised in the theoretical framework drawing on Galtung's approach of understanding the causes of conflict and facilitating a change of attitudes through reconciliation. Hence reconciliation has been demonstrated as an evolving concept lifted from the confinements of religious connotations to a broader concept of conflict management.

Most commonly measures entailing reconciliation for conflict transformation have accompanied post-conflict situations in form of Truth and Reconciliation Commissions. As it has been pointed out applying the concept of reconciliation through measures such as commissions emphasises communication, dialogue and creativity which are the underlying principles of liberal democracy. In order to achieve lasting, positive peace it seems indispensable to apply such democratic principles. The South African TRC has contributed manigfold to sustaining peace by transforming attitudes on a wider social sphere. Without the illusion of having created the *Rainbow Nation* overnight, but with a sense of past achievements and future prospectives this example consolidates the enhancement of peaceful transformation of conflicts through reconciliation measures.

While the economic and political background have posed some weaknesses regarding economic retaliation the overall evaluation highlights the success of the TRC in terms of its complementing structure and mandate which has enabled creative conflict transformation, open dialogue and the disclosure of truth. The TRC has balanced the need for justice and reconciliation in an unprecedented model. Instead of legal prosecution of individuals where cases beyond doubt would have never been accepted, personal experiences have touched a whole nation creating understanding and empathy beyond the categories of perpetrator and victim. Suspending a legal system which carries its eminent share in the oppressive Apartheid system of the past is clearly a signal towards restoring justice rather than the abandonment of justice. Clearly the TRC could not incorporate every person nor every violation and without doubt has not achieved a state of accomplished reconciliation under the given timeframe. The success of the TRC lies in the process of reconciling a nation, the wide social impact and the creation of system enabling peace and democracy in South Africa.

In light of promoting transitional justice on the international level, the definitions of and conditions in international conflict blur with those of national conflicts. The significance of international reconciliation is also derived from the fact that national conflict barely remains a domestic issue. Fleeing refugees, political instability and economic crises spread over borders; therefore regional integration plays a major role in international reconciliation. It is suggested here, that the application of reconciliation could insert creative solutions to the transformation of international conflict. At national level and even more so with increasing complexity at international level, what determines the success of reconciliation measures is the appropriate adaptation of context analysis such as conflict devolution, its termination and post-conflict arrangements.

Understanding all parties to the conflict is the utmost significant factor for successful transitional justice measures including reconciliation. Universality appears therefore inherent in the concept and implementation of reconciliation in conflict transformation. Peaceful external intervention however relies on political will which may pose an obstacle for implementation but by no means undermines the benefits of facilitated reconciliation models for the transforma-

tion of international conflict as such. Equally the lack of global authority rather reinforces application of international reconciliation measures than contesting it. Therefore reconciliation seems verified in its applicability for conflict transformation on international level.

Finally it needs to be stressed that applying reconciliation in the form of commissions complements not abandons the rule-of-law. This concerns particularly the design of reconciliation commissions but by no means questions their existence. The positive impact of reconciliation measures does not contradict the need for effective legal institutions or prospering international law. Evaluating the concept of reconciliation, the case for democratic principles in conflict transformation consolidating peace and democracy has been conceded by empirical evidence. As Galtung (1998: 61) suggests "democracy trains people in non-violent conflict transformation." Additionally Clark and Nordstrom (2005: 251) observe that democracies are more likely to settle conflicts peacefully. The international community still lacks democratic approaches which impedes the implementation of effective reconciliation measures but confirms the anticipated benefits of applying transitional justice internationally.

Therefore the value of such models of applied reconciliation need to be taken to wider acceptance. In advocating and facilitating reconciliation measures the United Nations System and above all regional organisations such as EU, ASEAN etc. will need to play a leading role. Consequently further research into defining appropriate and relevant measures for the international context is necessary, bearing in mind that implementation needs incentives to create political will. The essential advantage of reconciliation in conflict transformation for the social and political sphere on national and international level has been clearly demonstrated. Yet, successful application of TRCs requires further commitment within the international system to prevail as approach to sustain positive peace.

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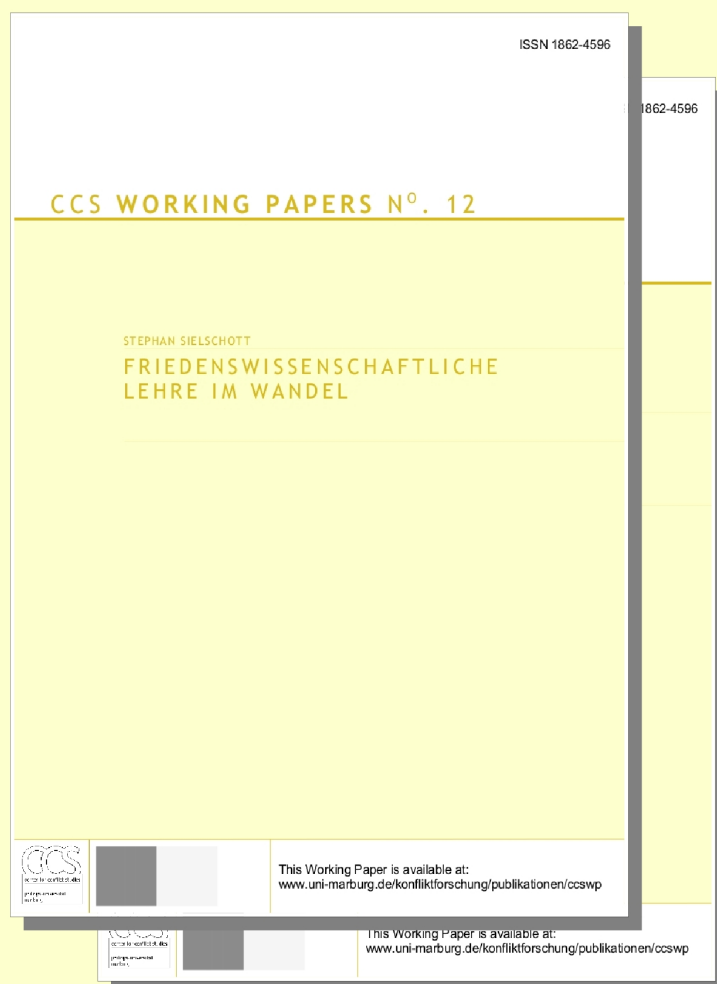Derzeit sind CCS **WORKING PAPERS** zu folgenden Themenbereichen in Vorbereitung:

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