CHAPTER 21

Peace Accords and Human Rights

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Introduction

Peace agreements and human rights are closely interwoven. About 70% of all peace agreements signed after 1990 refer to human rights or human rights-related issues. International practices of peacemaking and peacebuilding and multilaterally agreed peace processes that support operations such as peacekeeping, in particular, structurally rely on the human rights framework. The claim of the mutually reinforcing character of justice and peace developed into an internationally acclaimed policy agenda. Emerging norms such as the Responsibility to Protect (R2P) or human security refer to the human rights agenda of support for humanitarian interventions in ongoing armed conflict. As a consequence, human rights can nowadays be considered as one of the central normative backbones of negotiated peace settlements.

The multilateral success story of human rights-based approaches to peacemaking, however, is countered by critiques that argue that human

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rights function as an obstacle to—rather than a tool for—effective peacemaking. These critiques often refer to the questionable results of the human rights agenda in armed conflict. Human rights-based support for external armed intervention has contributed to a number of difficult and protracted situations. The examples of Libya, where the international armed intervention in 2011 was justified by the R2P norm, Iraq, where the UK government invoked a strong human rights agenda as a justification for regime change,[1] or, more recently and post facto, Afghanistan, where activists campaigned against the US withdrawal on human rights grounds, are cases in point.

Empirical evidence for the mainstreaming of human rights thinking and implementation in peace processes, whereby a thorough implementation of human rights would guarantee a more successful peace processes, is lacking. At the same time, human rights campaigns have contributed to the public rejection of comprehensive, carefully negotiated peace agreements. In Colombia in 2017, human rights advocates joined forces with hard-line politicians in their rejection of the peace accord struck between the government and the FARC, which was subsequently voted down in a referendum. The institutionalisation of international criminal law catalysed by the International Criminal Court (ICC), which is firmly embedded in human rights reasoning, has complicated peace processes by hampering the signing of a peace deal in Uganda (concerning the indictment of the leader of the Lord's Resistance Army, Joseph Kony) or by preventing international engagement with key players (for instance, the now ousted Omar al-Bashir in Sudan).

Human rights can be interpreted as a success story in providing the normative backbone of the indispensable justice-element in post-conflict transitions. At the same time, however, they may be understood as one of the spearheads of the international agenda of liberal peacemaking, which is nowadays widely criticised as having failed to achieve sustainable peace. These two interpretations demonstrate the normatively loaded contestation that human rights in peace accords often trigger. This chapter is not concerned with proving standpoints right or wrong. Instead, it takes stock of the empirical realities of how human rights are used in peace accords. In a second step, this chapter elaborates the main trade-offs between human rights-based justice claims and the transitional processes from armed conflict that are triggered by peace accords.

In doing so, this chapter, first, discusses the political and legal background of the relationship between peace accords and human rights along

the different roles the normative framework takes in peacemaking efforts. Second, this chapter provides empirical insights on the role of human rights in peace accords as well as trends and trajectories of their utilisation. For this purpose, it relies on empirical data offered by the PA-X peace agreements database. Finally, the chapter discusses some of the tensions human rights generate in peace processes, namely human rights-based challenges to transitional justice and human rights-based challenges to power-sharing frameworks.

No Justice, No Peace—Revisited

The narrative that any peace accord must be firmly rooted in justice and, especially, in human rights has strong international traction. The United Nations has developed an extensive apparatus for sustaining this discourse. This apparatus works by declarations and assessments, by mandating of UN missions or missions by other regional organisations, and by the proliferation of human rights institutions. Regional organisations such as the African Union with the African Charter on Human and Peoples' Rights and the accompanying institutional structures have proliferated the narrative further. Human rights advocates and INGOs such as Human Rights Watch, which played an essential and partly disruptive role in contexts as different as Bosnia Herzegovina and Colombia, have become a vocal player in peace processes in recent years.

When assessing the role of human rights in the negotiation of peace agreements and in post-conflict transitions in general, three perspectives stand out: (1) the understanding of human rights violations as a root cause of armed conflict, because conflict parties might use the (perceived) denial of rights as a justification for the armed uprising, (2) the attempt to employ human rights law as a legal tool for legally regulating the consequences of armed conflict and post-conflict transitions, and (3) the interest of anchoring human rights as a form of global liberal governance. Peace processes and the often-related reconfiguration of a polity in a constitutional process, thus, are strong influenced by international human rights law.[2]

The assumption of the denial of human rights as a root cause of armed conflict is deeply embedded in the fundamental principles of liberal governance. This perspective holds that a peaceful polity rests on the indispensable implementation of human rights in its legal foundations. In turn, such liberal reasoning suggests that if a society is trapped in

violent conflict, human rights implementation must have failed. Empirical research has not been able to substantiate a causal effect of human rights violations on triggering armed conflict. Moreover, attempts to translate other tangible root causes (like the withholding of political rights) into a human rights framework have been undertaken based on the empirical claim that repressive states are more prone to armed conflict.[3]

Conceptual reasoning has also been used to sustain the nexus between war and the denial of human rights. Mary Kaldor's 'new wars' hypothesis lays out deliberate human rights violations on a large scale as one of the new wars' key characteristics.[4] Christine Bell argues that human rights language can be applied 'for articulating the state's role in the root causes of the conflict'.[5] Irrespective of their potential structural role, it is widely undisputed that armed conflict unavoidably results in gross human rights violations.[6] Human rights-concerns thus need to be addressed when negotiating the conditions of ending armed violence and a possible framework for post-conflict transitions.

This requirement already points to the second perspective; the ability of human rights law to legally structure and regulate contexts of ongoing armed conflict and the often-violent post-conflict transitions. In doing so, human rights law runs in parallel with International Humanitarian Law (IHL), to an extent that even the UN General Assembly has framed one of its main resolutions concerning IHL in a human rights language ('Respect for Human Rights in Armed Conflicts', A/RES/2444, 19 December 1968). Nevertheless, the relationship is not straightforward. Noam Lubell, in an article for the International Committee of the Red Cross (ICRC), has argued that, while human rights law and IHL share many goals, 'they remain separate creatures'.[7] Especially the so-called humanitarian principles such as neutrality and impartiality, as they are enshrined in IHL, fundamentally contradict human rights law. After all, human rights can never be neutral against alleged perpetrators.

At the level of actual peace negotiations, human rights language can provide standards on which conflict parties might agree relatively easily due to strong international leverage. 'Human rights law thus assisted in presenting face-to-face negotiations as a neutral and moral option, rather than a radical new experiment'.[8] Applied in this way, human rights offer a pragmatic opportunity for actors to regain respectability. Commitments to human rights are even one of the major pathways to win international legitimacy since they represent a 'standard of civilization' which sets a benchmark for the behaviour of actors.[9] The high prevalence of

human rights provisions in peace processes since 1990 is a consequence of these mechanisms. Yet, in order to be successful, the enforceability of human rights law needs to remain conditional and relative. When human rights turn into a threat for conflict actors, they almost certainly become contested and rejected. The purchase of human rights in peace negotiations rests in their pragmatic applicability which, however, at times contradicts the claim of universality inherent to international human rights law.

Finally, justice debates in peace negotiations can be seen as an opportunity to promote the international human rights agenda as a cornerstone of global liberal governance. Some human rights advocates attempt to use peace negotiations as a crucial opportunity to do so. Such negotiations offer a promising pathway for standard setting in the interest of global norm proliferation.[10] This logic seems straightforward at first glance, but it has two major disadvantages. First, a dogmatic approach to human rights may shrink mediation space and could even undermine the pragmatic applicability of human rights, one of the strengths the framework can offer in peace negotiations. Dogmatism thus turns human rights into another contested political project in a context characterised by fundamental political contestation. More radical parts of the human rights community might see such a political project as worth pursuing. However, it might well hinder the utilisation of human rights in peacemaking and could undermine its potential to reduce ongoing atrocities effectively.

Second, a dogmatic application weakens the human rights agenda in general. Its utilisation for openly interventionist concepts such as the Responsibility to Protect (R2P) has raised criticism of human rights being hypocritical and a justification for so-called 'humanitarian interventions' by an opportunistic yet opaque 'international community'.[11] In a historical context where humanitarian interventions have passed their prime and are heavily contested because of their normative implications,[12] linking peacemaking with global norm proliferation is likely to have negative consequences for both aims. It also contrasts with the empirical reality of an already existing healthy linkage between human rights and peace accords.

Human Rights Provisions in Peace Agreements

Peace agreements consistently refer to human rights across time and context. About 70% of all publicly available peace agreements signed since 1990 refer to human rights or contain human rights-related provisions. For a more thorough assessment of the particularities of human rights references in peace accords, the following part of this chapter analyses data provided by the PA-X peace agreements database produced and maintained by the University of Edinburgh.[13] The database consists of about 1600 peace agreements signed over the period from 1990 to the present day.[14] Since the agreements are coded along 12 major categories and 220 sub-categories—about 10% of the codes contain direct references to human rights. A comparative analysis, thus, reveals useful insights.[15]

Some of the most powerful patterns can be revealed by simple descriptive statistics. Figure 21.1 displays the percentage of human rights-related stipulations in peace agreements since 1990. The references remain stable across time until 2015. Surprisingly, in contrast to what one might expect, ceasefire agreements do not substantially diverge from this trend, which is mainly due to references to humanitarian issues with human rights implications. The trend within ceasefires, however, is more volatile compared to other peace agreements, mainly because the total number of ceasefire agreements is lower and the trajectory hence less stable. Overall, the high threshold shows that human rights are widely acknowledged as an indispensable prerequisite in peace negotiations and post-conflict transitions.

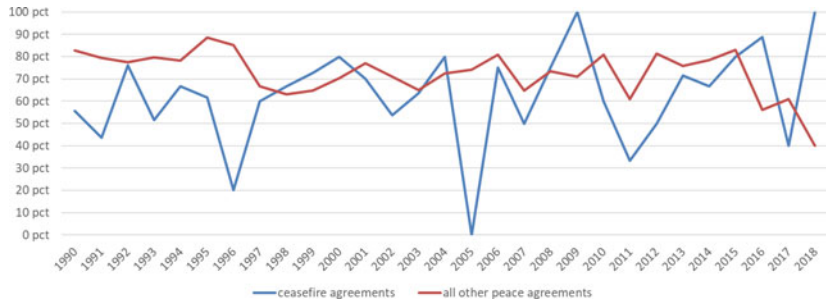

Fig. 21.1 Human rights references in peace agreements and ceasefire agreements, 1990–2018

Their usefulness in negotiations is due to their ability to provide an internationally recognised language for addressing contested issues without necessarily favouring the stronger party (Fig. 21.1).[16]

When looking at peace agreements (red lines in Figures), some significant drops in the percentage of human rights-related stipulations require further inquiry. The drop in the mid-1990s (1994–1998) is caused by the end of human rights-heavy peace processes in Central America, especially in Guatemala and Mexico, and the end of the peace negotiations in Bosnia Herzegovina which had produced a large number of agreements with references to human rights. Instead, peace agreements with the direct involvement of Russia, which commonly were weak on human rights, had been signed thereafter, especially in Moldova/Transnistria, Chechnya, Tajikistan and Georgia/Abkhazia. The agreements in the post-Soviet sphere lower the percentage.

Even more substantial is the significant decrease of references to human rights after 2015, from (including ceasefire agreements) 82% in 2015 to 50% in 2018. Part of the explanation might be an inconsistency of the data in recent years: the total number of signed peace agreements available in the PA-X database declines from 46 in 2015 to 24 in 2018. Therefore, with more agreements, many of them very short and often time-limited ceasefires, becoming available in upcoming years, the sharp drop might see a correction. But the numbers still suggest a tectonic shift: from 2015 to 2016 alone the percentage of peace agreements containing human rights provisions dropped by 20% (from 83 to 63%) while the total number of available agreements remains comparable (46–41). It appears that the global transformation towards a postliberal world order, which, inter alia, is signified by the disengagement of global liberal powers such as the US from peacemaking efforts in Syria, Yemen, or Libya, trickles down to the character of peace agreements. With the rise of states like Russia, Iran and Turkey especially in peacemaking efforts in the Middle East and North Africa (MENA) region, the role of human rights seems to fade.

The inconsistencies in the historical trajectory point to regional peculiarities in how human rights are addressed in peacemaking efforts. These differences also reflect broader trends in international politics. Table 21.1 lists the percentage of peace agreements containing human rights-related provisions across world regions. Peace agreements in the Americas contain the highest percentage of human rights provisions, confirming the influential role of the vibrant human rights community in the peace processes

Table 21.1 Regional patterns of human rights references in peace agreements

Region	*Percentage of peace agreements referring to human rights issues (%)*
The Americas	80
Africa	78
MENA	76
Europe	69
South Asia	69
Central Asia	68
Southeast Asia	60
Pacific	55

in Central America and, especially, in Colombia. The high numbers for Africa and the Middle East/North Africa (MENA) region can be explained by the high degree of international involvement many of the peace processes in these regions experience.

The comparably low portion of European peace agreements referring to human rights (68%), surprises at first glance. The empirical data provides a clear explanation: peace processes with substantial Russian involvement, such as in the Caucasus and the protracted conflicts in Eastern Europe, do not invoke human rights as regularly as other peace processes do. Less surprising is the low proportion of human rights references in Southeast Asia (58%). Traditionally, the region has been at the forefront of criticising or even denying the global human rights paradigm by referring to 'Asian values'.[17] In the realpolitik of peacebuilding, South Asia and Southeast Asia are the strongholds of what has been termed 'illiberal peacemaking' or 'authoritarian conflict management',[18] attempts to negotiate and implement peace that reject liberal international involvement and instead rely on principles of sovereignty and power-balancing. Sri Lanka and Myanmar are striking examples of this trend.[19]

These discrepancies also become visible when looking at individual peace processes. Figure 21.2 highlights some major peace processes since 1990 with respect to the *prevalence* of human rights provisions—the percentage of peace agreements explicitly referring to human rights—and *comprehensiveness*—how many different human rights-related issues are addressed in these agreements.[20] The level of comprehensiveness is high across contexts. Most peace processes deal with several different human rights issues and rarely remain at a level of only superficial references. Such comprehensiveness, however, does not necessarily confirm a high

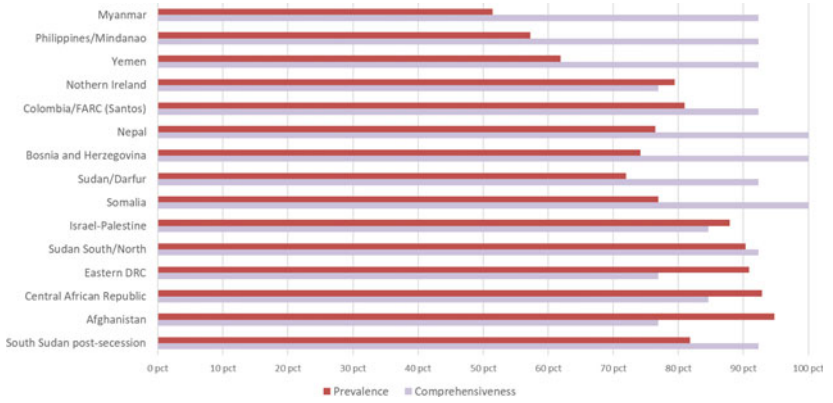

Fig. 21.2 Peace processes addressing human rights

acceptance of human rights: often, agreements refer to prevalent issues because of the need to address these issues and the capacity the human rights language provides to address them in a mutually acceptable way (e.g. citizenship rights or questions of mobility and access, see below).

Regarding the prevalence of human rights provisions, the individual peace processes confirm the regional trends shown above, especially the comparably strong utilisation of human rights in peace processes in sub-Saharan Africa, such as in South Sudan, Sudan, DRC or the Central African Republic. At the same time, most of these cases demonstrate that a strong commitment to human rights does not necessarily guarantee a successful and non-violent transformation of an ongoing armed conflict.

Issues and Institutions

The list of human rights-related issues addressed in peace agreements (see Fig. 21.3) confirms that human rights are predominantly applied either as a general reference for gaining international legitimacy or as a tool to support post-conflict transitions in key areas (such as the reform of the security sector or supporting civil society and free media). Concrete, hands-on topics such as provisions regarding mobility and access, media and communication, or issues regarding protection are among the most used categories. References to human rights institutions, in contrast, are rare.

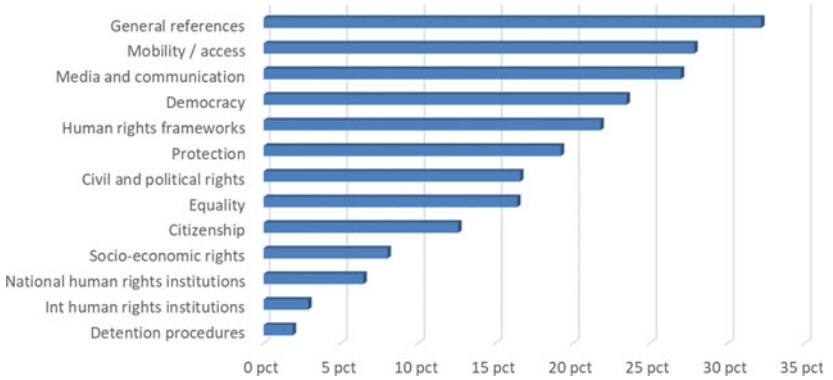

Fig. 21.3 Types of human rights provisions in peace agreements

Three types of human rights provisions can be distinguished: (1) stipulations addressing specific human rights-related concerns, with or without an explicit reference to human rights as a legal framework; (2) references to specific elements of human rights, mostly to use them for triggering specific reforms in transformational processes; and (3) efforts of implementing human rights institutionally.

In the utilisation of human rights for addressing concerns, general references to human rights and concrete commitments to issues such as mobility or protection often intertwine. For example, the Libyan Political Agreement, signed in Skhirat, Morocco, in December 2015, states

> *Until the decision on their disbanding and integration has been implemented and the status of their members has been settled, all armed formations shall commit themselves to the provisions of the Libyan legislations in force, international humanitarian law and the international human rights law, especially with regards to the protection of civilians and the provision of safe passage and freedom of movement for them.* (Libyan Political Agreement, 17 Dec 2015, Art 42)

This stipulation is typical for agreements negotiated in situations of ongoing armed conflict. In such emergency situations, negotiating parties and external actors aim to utilise human rights as a tool to implement safe passage agreements for relief, humanitarian agencies or Internally Displaced Person (IDP) populations, or even to settle on a (often spatially

limited) truce. Co-references to IHL, for example to the humanitarian principles regarding the delivery of emergency relief, are common.[21]

Provisions invoking certain elements of human rights as a pathway for subsequent transformational change are diverse. If aiming to bring about structural change, such stipulations are usually embedded in a broader roadmap. The South Sudanese 'Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan' (R-ARCSS), signed in Addis Ababa, Ethiopia, in September 2018, refers to human rights as a preliminary '*parameter of permanent constitution*'. The stipulation reads like a compact catalogue of contextualised civil rights: '*The Permanent Constitution-making Process shall be based on the principles of: … Respecting ethnic and regional diversity and communal rights, including the right of communities to preserve their history, develop their language, promote their culture and expression of their identities*' (R-ARCSS, 12 Sept 2018, Art 6.2.5).

Only in rare instances are these provisions able to guarantee the implementation of such rights in a meaningful and thorough way. Nevertheless, they offer concerned individuals, communities and ethnopolitical groups something to relate to and to hold the main brokers of the South Sudanese political power play to account. If nothing else, the stipulations, in a positive sense, work as a potentially unsettling troublemaker possibly enabling stakeholders to claim specific rights in the course of a transformational process.

Finally, references to human rights institutions are mainly concerned with monitoring the implementation of human rights-related provisions. Observation schemes can include either national or multilateral institutions or both. The Nepalese Comprehensive Peace Accord (CPA) between the Nepalese government and the Maoist insurgents provides a prototypical example. When outlining the implementation procedures, the CPA refers to UN agencies—'*Both parties agree to give continuity to the task of monitoring provisions related to human rights mentioned in this agreement by the United Nations Office of the High Commissioner for Human Rights, Nepal*' (CPA, Nepal, 21 Nov 2006, Art 9.1)—as well as to the National Human Rights Commission for essentially the same task: '*The National Human Rights Commission will also carry out works related to the monitoring of human rights as mentioned in this agreement in addition to its duties as determined by law. In the course of implementing its duties, the Commission can receive the help of national and international human rights organizations after carrying out necessary coordination with*

them' (CPA, Nepal, 21 Nov 2006, Art 9.4). The assignment of parallel responsibilities suggests that, in such cases, the international level works as a safety net for national frameworks, which still have to rely on a volatile institutional framework.

Virtually all references to international human rights institutions relate to monitoring tasks in the context of civilian protection, transitional justice or broader processes of political transition. The role of international human rights or criminal courts, in contrast, is marginal. Only three agreements, from Congo, Uganda and the Central African Republic, refer to the International Criminal Court (ICC) as having a potential role in post-conflict transitional justice processes. Such ignorance may be one indicator that human rights in their role as one of the main instruments of global liberal governance have indeed reached their 'endtimes'.[22]

Tensions Between Peace Agreements and Human Rights

Earlier sections in this chapter have already pointed to the substantial tensions a human rights-based approach in peacemaking can entail. In post-conflict transitions, these tensions mainly become apparent in the areas of transitional justice and post-conflict power-sharing.

The field of transitional justice developed as a human rights-based intervention to disturb the power bargaining in peace negotiations. Proponents were motivated by confronting the views of the belligerents with victim's perspectives.[23] Doing justice to them is essential for any sustainable post-conflict transition, it is argued. Furthermore, post-conflict periods in internal armed conflict were seen by some as an opportunity to implement the global human rights agenda nationally and regionally. Ruti G. Teitel, one of the activists at the forefront of the international transitional justice agenda, for instance, claims that the 'most vigorous enforcement of human rights law occurs in transitional periods'.[24]

The concrete tensions that arise between a human rights-focused application of transitional justice and the pragmatic compromises peacemaking often demands have been hotly debated. 'Targeting violators of human rights and bringing them to justice is essential. Accusation, however, comes more easily than making peace. 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'.[25] Pragmatic voices within

the transitional justice field criticised the human rights dogmatism because of its blindness regarding opportunities and timing,[26] others interpreted its goals as 'irreconcilable'.[27]

What evolves are fundamentally different perspectives. 'The practical dilemmas actors face in peacebuilding can be quite different from those involved in the instauration of democratic citizenship and the transformation of an abusive state security apparatus'.[28] In discussing this challenge, Christine Bell has warned against the expansion of the transitional justice agenda to turn into a comprehensive wish list for manifold rights claims and democracy.[29] This suggestion remains valid a decade later.

The tensions between human rights and power-sharing arrangements in peace processes are fiercely disputed as well. Akin to transitional justice, a peacebuilding perspective wants to recognise human rights objections to power-sharing formula not as a principled problem, but as an issue of timing and tactics. The contestation concerns consociational arrangements post-conflict, where political and legal structures and the right of political representation become tied to often ethnically defined group identities. Since every identity-based definition of rights implies processes of exclusion along the same lines, these arrangements necessarily clash with the fundamental human rights principle of equality and non-discrimination.

Discussions on the relationship between human rights and power-sharing arrangements in recent years also involve courts and court decisions which substantially challenge institutional frameworks that evolved in peacemaking efforts.[30] Regarding Bosnia and Herzegovina, the case of Sejdić and Finci versus Bosnia Herzegovina before the European Court of Human Rights catalysed the debate. The applicants, supported by human rights advocacy groups such as Human Rights Watch, claimed a violation of their civil and political rights by the post-conflict framework laid out in the Dayton Peace Agreement and the Bosnian constitution it comprised. Sejdić and Finci, a Rom and a Jew, stated to be violated in their civil and political rights since the Dayton framework relates political representation and public sector employment opportunities to the membership of one of the three so-called constituent peoples (Bosniacs, Croats and Serbs).

In its decision from December 2009, the court ruled in favour of the applicants with just one dissenting opinion. The ruling has been heavily criticised by academic advocates of post-conflict power-sharing arrangements and by peacebuilding practitioners and diplomats.[31] The dissenting opinion by Judge Bonello criticised the judgement as well, stating that the

court would behave like an 'uninvited guest'[32] ruling on a peace agreement involving many actors over which the court could not legitimately claim to have jurisdiction.

Such an opinion fails to consider that power-sharing arrangements are meant to be interim arrangements facilitating the transition to normal politics.[33] Like in Bosnia and Herzegovina, however, these interim arrangements tend to stick and become a permanent feature of enduring transitions, a formalised political unsettlement.[34] Under these circumstances, the argument of timing, which effectively translates into postponing thorough human rights implementation to later stages, does not have traction. It is, thus, difficult to imagine how courts and other institutions tasked with the implementation of *universal* rights can act with modesty. Modesty is not a feature of human rights. Making human rights implementation dependent on context implies to effectively terminate their universal project.[35]

Conclusion

The unresolvable tensions between peacemaking and human rights require us to focus on the practical gains offered by the utilisation of human rights in peacemaking. Such utilisation is always incomplete and full of limitations with respect to institutionalisation and the universal claims inherent to human rights. References to human rights, as hollow and weak as they often might seem, can enable stakeholders to put pressure on the state and its agents as well as on armed non-state actors to comply with transitional procedures.[36] As war gives way to a post-conflict transformation process, human rights can support the political and legal institutionalisation of a polity.[37] For example: a human rights commission, even if seen as a non-costly add-on to a peace agreement, may attain a surprisingly important role in the subsequent political process. Whereas a meaningful implementation of human rights-related stipulations cannot be guaranteed, they provide often crucial opportunities. Implementing human rights in peace accords, therefore, is mainly about opening optional pathways for change.

Human rights claims can disturb political bargaining and restrict the political space available in peace deals. It needs to be kept in mind that human rights are there to do so. Limiting political space by legal means is their *raison d'être*. The challenge, therefore, is how to navigate the clash of visions and to guarantee that the 'implementation of human rights

commitments [is] to be supported in more politically aware ways'.[38] Such a politically aware way needs to reject the dogmatism and the dominance inherent in both peacemaking and human rights and to make the logics of both visions subordinate to a principled pragmatic way of transition. Human rights can also regain importance as a tool providing principles for pragmatist approaches.

Ultimately, the clash of visions between human rights and peacemaking does not need to be overcome. The danger of interventions by international legal institutions like the ECHR or the ICC is their power to overshoot by turning a potentially helpful disruption into an effective closure of the political space in which peace accords are made. This danger, however, lies beyond the immediate reality of peace negotiations. It is the concrete implications of the institutionalisation of global liberal governance that enforces an unhealthy uniformity to peace processes, which comes along with the risk of damaging them by the disability to adapt to their contextualities. Against this background, the current structural decline of global liberal governance may not be bad news. Instead, this decline might even support peacemaking by leaving justice issues, with the capacity to derail peace, unaddressed.

Database

PA-X, Peace Agreements Database, Political Settlements Research Programme, University of Edinburgh, www.peaceagreements.org/.

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Notes

1. Thomas Cushman (2005) 'The Human Rights Case for the War in Iraq: A Consequentialist View', in Richard Ashby Wilson, ed., *Human Rights in the 'War on Terror'* (Cambridge: Cambridge University Press), pp. 78–107. Human rights groups advocated against the invocation of human rights to justify the invasion of Iraq, see: HRW—Human Rights Watch (2004) 'War

in Iraq: Not a Humanitarian Intervention', online commentary, 25 January 2004, https://www.hrw.org/news/2004/01/25/war-iraq-not-humanitarian-intervention [last accessed on 21 December 2019].

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3. Oskar N. T. Thoms and James Ron (2007) 'Do Human Rights Violations Cause Internal Conflict?', *Human Rights Quarterly* 29(3): 674–705. The authors also argue against a linear causality between human rights abuses and conflict likeliness because of the importance of contextual factors.
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12. Beate Jahn (2012) 'Humanitarian Intervention—What's in a Name?', *International Politics* 49(1): 36–58.
13. The database is open access and available under, www.peaceagreements.org.
14. The PA-X codebook defines peace agreements as 'formal, publicly-available documents, produced after discussion with conflict protagonists and mutually agreed to by some or all of them, addressing conflict with a view to ending it' (Bell et al. 2018: 1). For this analysis, only peace agreements referring to national or international peace processes have been used. Agreements confined to processes at the local level have been excluded from the analysis to ensure comparability.
15. The decision of PA-X to render all provisions related to the free movement of people, including the right of return, and the access of humanitarian relief as human rights-related issues might be unconventional but still legitimate. It reflects a broad interpretation of human rights, and breadth has to be kept in mind also in all quantitative assessments of the prevalence of human rights provisions in peace agreements based on PA-X.
16. Philipp Kastner (2015) *Legal Normativity in the Resolution of Internal Armed Conflict* (Cambridge, MA: Cambridge University Press).
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19. Stefano Ruzza (2015) 'There are Two Sides to Every COIN: Of Economic and Military Means in Myanmar's Comprehensive Approach to Illiberal Peacebuilding', *European Journal of East Asian Studies* 14(1): 76–97.
20. These issues refer to the 13 human rights-related categories in the PA-X database, namely general references to human rights and the rule of law, equality, democracy, protection, human rights frameworks, civilian and political rights, socio-economic rights, national human rights institutions, regional or international human rights

institutions, mobility and access, detention procedures, media and communication and citizenship.

21. On the complex interrelation between international human rights law and humanitarian law see Christine Chinkin and Mary Kaldor (2017) *International Law and New Wars* (Cambridge: Cambridge University Press), pp. 265–281.
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25. Anonymous (1996) 'Human Rights in Peace Negotiations', *Human Rights Quarterly* 18(2): 249–258, p. 258.
26. Christine Bell (2009) 'Transitional Justice, Interdisciplinarity and the State of the "Field" or "Non-Field"', *International Journal of Transitional Justice* 3(1): 5–27.
27. Bronwyn Anne Leebaw (2008) 'The Irreconcilable Goals of Transitional Justice', *Human Rights Quarterly* 30(1): 95–118.
28. Paige Arthur (2009) 'How Transitions Reshaped Human Rights: A Conceptual History of Transitional Justice', *Human Rights Quarterly* 31(2): 321–367, p. 360.
29. Bell (2009) op. cit., pp. 25–26.
30. Richard H. Pildes (2008) 'Ethnic Identity and Democratic Institutions: A Dynamic Perspective', in Sujit Choudhry, ed., *Constitutional Design for Divided Societies: Integration or Accommodation?* (Oxford: Oxford University Press), pp. 173–201 and Sapiano (2019), op. cit.
31. For example, see, Christopher McCrudden and Brendan O'Leary (2013) 'Courts and Consociations, or How Human Rights Courts May De-stabilize Power-sharing Settlements', *European Journal of International Law* 24(2): 477–501.
32. ECHR—European Court of Human Rights. Grand Chamber (2009) *Case of Sejdić and Finci v. Bosnia and Herzegovina*. Judgement. Strasbourg, 22 December 2009, p. 54.
33. This is also confirmed by advocates such as McCrudden and O'Leary (2013), op. cit., p. 484.

34. Christine Bell and Jan Pospisil (2017) 'Navigating Inclusion in Transitions from Conflict: The Formalised Political Unsettlement', *Journal of International Development* 29(5): 576–593.
35. For a different view on this matter see Jack Donnelly (2007) 'The Relative Universality of Human Rights', *Human Rights Quarterly* 29(2): 281–306, who interprets the human rights' universality claim per se as relative.
36. Bell (2008), op. cit., p. 54.
37. Jan Pospisil (2019) *Peace in Political Unsettlement: Beyond Solving Conflict* (Cham: Palgrave Macmillan), pp. 116–117.
38. Christine Bell (2017) *Navigating Inclusion in Peace Settlements: Human Rights and the Creation of the Common Good* (London: The British Academy), p. 58.