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# **PAX et BELLUM Journal**

**Spring 2014**

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**Sarah Agnew**

**The Microdynamics of Conflict Outbreak:**

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Box 514, SE-75120 Uppsala, Sweden

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## Welcoming Words

It is my pleasure to welcome the birth of the student-driven *Pax et Bellum Journal*, adding to the flora of journals concerned with peace issues, peace research and peace education. Its arrival is timely as many of the older and established journals, notably *Journal of Peace Research* and *Journal of Conflict Resolution* have more than five decades of successful contributions to the field of peace research. Lately we have also seen additions of journals like *Peacebuilding* (now in its third year) or *Peacebuilding and Development* (in its ninth year), to name a few. Journal tends to develop particular niches. The world of scholarship as well as real life changes and adds new issues. Thus, there are continuous needs for new publications with particular ambitions. *Pax et Bellum Journal* can find its rightful place in this flowerbed of journals by being open to different methodological approaches (reflecting well-argued case studies, as well as comparative and statistical analyses). Also, it may be able to cover contemporary issues that require scrutiny. For instance, there are needs of studies tracing the developments from causes of conflict to post-settlement dynamics. Other spectra stretch from actors to victims of conflict; or from the interplay of external involvement to intra-party dynamics. It is also my hope that *Pax et Bellum Journal* will offer space for analyses that deals with macro-trends (globalization, international organizations, climatic factors) as well the micro-dynamics of negotiations and mediation. The future will tell what will be the sustainable niche of *Pax et Bellum Journal*. For now, let us celebrate that it exists!

Welcome and good luck!

*Peter Wallensteen*

Professor, Peace and Conflict Research

Uppsala University, University of Notre Dame

## **Peace and Conflict Studies and Dag Hammarskjöld's Legacy**

AN INTRODUCTION BY HENNING MELBER<sup>1</sup>

**F**our small pearls to start a chain with is a nice beginning. Those who took this initiative at Pax et Bellum must be applauded. As the saying goes, 'the early bird catches the worm', and with regard to scholarly ambitions and endeavors one cannot really begin early enough to collect experiences by being exposed. Hence to provide a forum for presenting some of the work in progress to a wider audience for debate is a good initiative — congratulations.

Peace and Conflict Studies mark a wide field, especially if peace is understood as more than the absence of war. It leaves room for many different approaches and reflections. Those aspects compiled in this first edition range from the Philippines and South Africa to Kosovo and the (mainly fruitless) mediation process to find a solution for occupied Palestine. The messages are mixed in terms of success and/or failure of initiatives and/or the degree of violence and its prevention. That is the nature of Peace and Conflict Studies — in most cases these focus on specific subject matters because there prevails no lasting and sustainable peace.

Chronologically, the four case studies explore the escalation of local violence in the South African province of Natal since the late 1980s between the African National Congress (ANC) and the Inkatha Freedom Party, bordering to forms of civil war; the victimization of civilians in Kosovo (1998-1999) and the effects of the internationalization of the conflict over Kosovo in former Yugoslavia; the failed peace negotiations between the government of Israel and the Palestinian Liberation Organisation (PLO) at the Camp David Summit in 2000; and the role of so-called external spoilers in the case of the Moro National Liberation Front (MNLF) as regards the negotiations between the government of the Philippines and the Moro Islamic Liberation Front (MILF) in late 2012.

As those four different, specific foci document over almost a quarter of a century in different parts of our world, conflict and mediation are a worldwide phenomenon. Neither have they started in the late 1980s, nor will they end in our times. One of those, who relentlessly was trying to find negotiated solutions for situations of violent conflict and sacrificed his life in search for such solutions in the midst of the Congo crisis in September 1961 has been the second Secretary-General of the United Nations, Dag Hammarskjöld. The Foundation in his name was established a few months after his untimely death and has its secretariat in Uppsala. Since there is an obvious link between the Foundation's activities and those of the DPCR at Uppsala University, and also well established forms of cooperation with Pax et Bellum, this is an opportunity to recall the Hammarskjöld principles and his legacy.

From his first years in office as UN Secretary-General (he was appointed in April 1953) Dag Hammarskjöld gained recognition as a mediator guided by integrity, who was suspicious of any justification of expediency. He strongly believed in dialogue based on mutual respect and the

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<sup>1</sup> Senior Advisor/Director emeritus of The Dag Hammarskjöld Foundation and Honorary Member of Pax et Bellum.

search for common ground but resisted the temptation to opt for any easy pseudo-solution not based on fundamental human values. These days we might call it the recognition of otherness in a world of diversity. But at the same time he also felt strongly that otherness does not prevent negotiating parties from finding a shared basis for a sustainable future for mankind.

Already at the beginning of his terms in office, Hammarskjöld used his “Introduction to the Eighth Annual Report” of the United Nations (which he presented on 15 July 1953 as his first one) to identify two fundamental trends in human society as his credo: the one directed “towards wider social justice and equality for individuals”, the other “towards equality and justice between nations, politically but also in the economic and social sense.” As he continued: “International equality and justice were prerequisites of the domestic social development of all the peoples of the world and, together, they are the decisive factors if we are able to build a world of peace and freedom.” And he reiterated: “The search for peaceful settlements, for collective security and for ultimate disarmament ... has to be based upon an orderly and steady advance towards higher living standards for all peoples.”

Hammarskjöld was aware of the dialectics and inter-relationship between peace, security and human rights, as his address to the American Jewish Committee in New York on 10 April 1957 testifies: “We know that the question of peace and the question of human rights are closely related. Without recognition of human rights we shall never have peace, and it is only within the framework of peace that human rights can be fully developed.” This should serve also as a reminder for our efforts today: There is no lasting peace possible without justice and well being for as many people as possible. It therefore should not come as a surprise that we live not really in much more peaceful times today than we did when Dag Hammarskjöld was in charge of the world body tasked with global governance matters.

Hammarskjöld had formulated his ideals, which as a legacy remain valid until today, only a few months into his office on 14 September 1953 in an address at the American Association for the United Nations: “As individuals and as groups we can put our influence to the best of our understanding and ability on the side of what we believe is right and true. We can help in the movement toward those ends that inspire our lives and are shared by all men of good will — in terms very close to those of the Charter of the United Nations — peace and freedom for all, in a world of equal rights for all.”

As Rowan Williams, the former Anglican Archbishop of Canterbury stated in the autumn 2012 issue of the *Cambridge Humanities Review*: “Hammarskjöld was one of the most significant moral influences in international politics in the decades immediately after the war”, who “almost single-handedly shaped the vision for international co-operation and crisis management that we struggle to realise and, however reluctantly, take for granted across a great deal of the globe. (...) Hammarskjöld ... told us, as loudly and clearly as he could, that the vision of a world in which interests converge was a necessary exercise of the imagination. We need a good many more today to echo him.”

Students and more advanced scholars in peace and conflict studies alike would be well equipped to familiarize with the values and diplomacy of people of Hammarskjöld's caliber and walk in

their footsteps. Not that their efforts were always successful. But where they failed, others would have failed too. Hence it is encouraging to witness that students at the DPCR today take initiatives to test their abilities to analyze, judge and draw conclusions with the aim to present some modest contributions towards more peace or at least less violence and injustice. That such endeavors have a meaning and relevance — also in other contexts — can be best illustrated with regard to the reflections presented on the civilian victimization in the Kosovo (1998-1999).

Following the recent turmoil in the Ukraine and the subsequent intervention of Russia through the occupation of the Crimea, we are reminded that the risks for war are not really past, even in parts of central Europe. The article rightly so stresses the relevance also of international intervention, which as an impact might change the balance of power. So far, we could witness a form of Russian “land grab”, which did not resort to massive physical terror against a civilian population, and the measured responses by those condemning the intervention as a violation of international law show that there is an awareness that in a precarious situation too quick (over-) reaction might only do harm instead of reducing the damage. It certainly is also not only by coincidence that the Kosovo is a reference point in the arguments of the Russian government seeking justification, despite its rather limited value, bordering to a comparison between apples and pears.

Finally, the current events unfolding in the Ukraine and their geo-strategic and –political dimensions remind us in a painfully drastic way, that we have not come much closer to securing peace and stability in our world. While the Cold War era is an epoch of the past, global governance remains still confronted with disputes fueled by geostrategic interests and an appetite for hegemony. Peace and conflict studies as analyses contributing at best to a better understanding, maybe even a solution or prevention in some cases, are a noble effort transcending scholarly exercises. They can have at times very practical value — if not in contributing to a better world, then at least in preventing a world which might be worse. Explorations like those promoted by students at the DPCR under the umbrella of Pax et Bellum cannot do harm but only stand a chance to create benefits — if not for a wider world, then at least for those engaged in such an activity and their future potential role in serving a human course.



## Appetite for Control: Civilian Victimization in Kosovo, 1998-1999

SARAH AGNEW

*Department of Peace and Conflict Research, Uppsala University*

### Abstract

*This paper seeks to analyse why strategies of civilian victimization are used in conflicts when there is such a strong normative and legal prohibition against its use. The analysis looks at civilian victimization as a rational strategy used to control a changing conflict landscape. This paper focuses on two theories purporting civilian victimization to be a means of changing the balance of power by the Yugoslav forces during the Kosovo War 1998-1999. The paper argues that the increase in civilian victimisation occurred when territorial annexation was in play, as well as in response to international intervention. Thus, these findings highlight the potential disastrous consequences for the civilian population should these power dynamics be in play.*

### Introduction

The use of civilian victimisation in an armed conflict is a puzzling phenomenon. Not only is there is a strong normative belief that violence against civilians is morally repugnant, it is also prohibited by international law.<sup>2</sup> It can be strategically counter-productive by hardening an adversary's will to resist (Downes 2006, 152-153) and may have political costs by alienating civilians caught in the fighting (Humphreys and Weinstein 2006). Yet civilian victimisation continues to be an unfortunate and common aspect in many armed conflicts. This begs the question as to why, when there are such costs involved, actors still revert to the use of such a counterproductive and irrational strategy at all.

The focus of this article is on theories purporting violence against civilians to be a rational decision, used in an attempt to control a changing conflict landscape (Kalyvas 2006). This paper therefore analyses *why* the increased use of civilian victimisation would be used to alter this conflict environment. This is done through two different theoretical lenses: firstly, through Alexander Downes' theory (2006) that presents the violence as a means to obtain territorial control and eliminate potential "fifth columns"; and secondly, in accordance with Reed Wood et al. (2012), who examine the use of civilian victimisation following international intervention as a means to change the balance of power in a conflict environment.

This research question will then be applied to the 1998-1999 Kosovo War, a case known for its atrocious use of civilian victimisation. It will focus on the use of such violence by Yugoslav forces against the Kosovar Albanian civilian population in a conflict where an estimated 10,000 Kosovar Albanians were killed by Yugoslav forces, over 1.5 million were forcibly expelled from their homes, and at least 1,200 cities towns and villages were damaged or destroyed (US Report 1999, 7-8).

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<sup>2</sup> See the 1949 Geneva Conventions, Additional Protocols, and customary international principle of *jus ad bellum*.

### Theory 1: Annexation Model

Downes (2006) poses the question of why, given the moral stigma attached to the targeting of civilians, governmental actors use military strategies aimed at attacking the civilian population. Downes argues that although civilian victimisation is considered inefficient and irrational, it can be a beneficial tactic when leaders believe that it will advance their strategic aim for a victory or hold over territory. Its use is therefore a “calculated risk” rather than an “irrational gamble” (2006, 169-170). Downes formulates two logistical frameworks for why states target civilians: firstly, as a desperation logic to win at all costs; and secondly, from the will for territorial annexation. This paper focuses on the latter.

#### *Annexation Logic*

Territories are rarely uninhabited, and populations that share their nationality with an actor’s adversary can represent a threat to any territorial claims this actor makes (Downes 2006, 154). As a result of this threat, actors can become incentivised to coerce these populations into submission, or to evict them from the territory altogether. The likelihood of civilian victimisation therefore increases when either enemy non-combatants inhabit the territory the belligerent wishes to annex, or hostilities arise between ethnically mixed groups that claim the territory as their homeland (Downes 2006, 154-155, 167).

Downes (2008, 36) argues that there are strategic advantages to the specific targeting of civilians as it disposes of “fifth columns,” namely the threat that the non-combatant population will sympathise with the enemy due to a shared nationality/identity. Furthermore, eliminating this threat not only deprives the enemy of material and manpower, it also deters future revolts and removes any temptation to save “national brethren” trapped behind enemy lines (Downes 2006, 154). As a result, civilian victimisation is often used as an early tactic since civilians are easily accessible; in eliminating such threats the gains are instant (Downes 2006, 168). The focus, however, is on terrorising a population into flight rather than coercing the enemy to quit. This can also lead to a form of cleansing when belligerents conclude that the population represents a security threat, such as in the 1992-1995 Bosnia conflict where the Muslim population were terrorised out of the territory (Downes 2008, 180). Civilian victimisation therefore has the ability to improve a belligerent’s position by removing any threat posed by a population that shares its identity with the adversary. It therefore increases its ability to control and annex the territory and thus represents a rational and potential beneficial strategy.

*H1: Where there is an intention for territorial annexation, governments will increase the use of civilian victimisation in an ethnically intermingled territory to eliminate potential “fifth columns.”*

### Theory 2: Exogenous Influence

Moreover, Wood et al. (2012) expands upon existing research linking the use of civilian victimisation to alterations in the conflict environment, whereby actors target civilians as a means of reshaping a changing conflict landscape to their advantage. An actor’s choice of warfare is adopted in accordance with its capabilities (such as resources and military capability) as this influences its ability to control a territory or population (2012, 647). Consequently, any shift in capabilities and power will thus influence the war strategies used (Lockyer 2010, 98). Belligerents often use violence to shift the balance of control in their favour, and civilian victimisation is one

way to control and shape the population's behaviour while disrupting an adversary's control (2012, 648).

#### *Compliance and Deterrence*

As a general rule, however, actors have incentives to attract and maintain civilian support in order to promote collaboration and deter defection. Two mechanisms caused by the shift in capabilities that incentivise actors to resort to civilian victimisation are, firstly, when civilian compliance decreases and prevents nonviolent resource acquisition from the population (here civilian victimisation is more likely in areas of enemy support or where disloyalty is expected). Secondly, actors are incentivised to eliminate any perceived threats that exist behind enemy lines when there is an inability to police the population and distinguish between supporters and enemy collaborators (Wood et al. 2012, 650-651).

#### *Exogenous Factors*

Moreover, changes in a belligerent's capabilities are not solely related to domestic factors. Foreign intervention also affects the balance of power by altering the distribution of capabilities between belligerents (Wood et al. 2012, 652-653). Empirical findings demonstrate that, while foreign intervention reduces levels of civilian victimisation by the supported group, it increases civilian victimisation by the weakened adversary (657). Consequently, intervention on the side of a rebel group may shift the balance of power between it and the state, coercing the government into using violent tactics against civilians to counteract or compensate for these power shifts and reshape the conflict environment in its favour (648, 653). Therefore, in response to a shift in power created by foreign intervention, civilian victimisation can be seen as a means to control the conflict environment in the belligerent's favour.

*H2: Where international intervention shifts power away from the government in favour of the rebel group, this increases the use of civilian victimisation by the government.*

#### **Research Design**

This paper focuses on the increase in civilian victimisation (dependent variable) by the Yugoslav forces against the Kosovar Albanian civilian population in Kosovo between 1998 and 1999. To test Downes' theory, this paper examines whether the Yugoslav forces had the aim of territorial annexation in Kosovo (independent variable) and if the levels of civilian victimisation increased as a result of territorial gain. In accordance with Downes' theory, when there is an intention for territorial annexation, civilian victimisation should increase as a means to eliminate the threat of "fifth columns." Regarding the second hypothesis, this paper examines whether foreign intervention by NATO (independent variable) altered the balance of power in the conflict environment between the Yugoslav Forces and the Kosovo Liberation Army (KLA) and, as a result, civilian victimisation increased. Wood et al. (2012) argue that, if the balance of power was against the Yugoslav forces following the NATO campaign, an increase in civilian victimisation was to be expected.

### *Definitions*

For the purposes of this article, the term ‘civilian’ is defined in accordance with the international humanitarian and customary law definition of non-combatant.<sup>3</sup> ‘Yugoslav forces’ refers to the combination of Serbian Ministry of Internal Affairs police and special police, Yugoslav Army soldiers and special units, paramilitary forces, and local militias (HRW 2001, 9). Downes’ definition of ‘civilian victimisation’ will also be used: namely, that it is an intentional strategy of indiscriminate violence targeted at non-combatants by government forces (2006, 157). Finally, the definition of ‘international intervention’ refers to military intervention as opposed to providing arms or safe havens (Wood et al. 2012, 654).

### *Sources*

This paper focuses on human rights reports and strategic reports. However, human rights organisations are not always free from bias (Kalyvas 2000, 19). The sources relied upon in this article such as Human Rights Watch and International Crisis Group are reputable organisations. For instance, Human Rights Watch has submitted numerous reports to the International Tribunal for the Former Yugoslavia. Moreover, these sources are also referred to by the International Committee of the Red Cross and in official documents such as the US State Report that comments on the importance of and reliance on NGO information gathering in Kosovo. Overall, this verifies these sources’ credibility and, as such, this article continues on the premise that they are unbiased and reliable.

### *Limitations*

It is recognised that civilian victimisation was used by both sides. However, this paper focuses on the Yugoslav forces’ targeting of civilians. Findings may differ when applied to the KLA. This paper also assumes that the government’s goals remain constant throughout the conflict when in reality these are subject to change. It is therefore possible that the original explanation for civilian victimisation may not correspond with its continued use over time.

### **Case Study and Analysis: Kosovo, 1998-1999**

The Kosovo War from 1998-1999 was an intrastate conflict fought between the Federal Republic of Yugoslavia’s forces and the KLA. Following the revocation of Kosovo’s autonomy, the KLA sought independence and called for the Yugoslavian government to cease its occupation and colonisation of Kosovo. In response to KLA attacks on Serbian targets, Yugoslav forces launched a campaign to regain full control of Kosovo and eradicate separatist ‘terrorist’ activity. Furthermore, in February and March 1998, Yugoslav forces led a severe crackdown in the KLA-controlled Drenica region, killing 83 Albanians including women and children (Nation 2003, 226). According to the UCDP database, the war began on 6 March 1998. During the conflict, Yugoslav forces targeted the civilian population. Summarily, victimisation included executions, torture, and expulsion from homes, as well as looting, burning of entire villages, the killing of livestock, and sexual abuse. NATO’s aerial bombing campaign began on 24 March 1999 and the conflict ended in June 1999 with the signing of the Kosovo Peace settlement.

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<sup>3</sup> Additional Protocol I to the Geneva Conventions

## Analysis of Theory 1

### *Ambitions for Territorial Control*

To begin, the Serbian aim for control over Kosovo was demonstrated during the 1980s when President Slobodan Milosevic used nationalist rhetoric to invoke Serb glory and argue that giving up Kosovo, a Serb ancestral homeland, would be a threat to Serbian national interests (UCDP). Milosevic took this much further in 1990, revoking Kosovo's autonomy and asserting a strong Serb military presence into Kosovo to fight terrorist "Albanian secessionists" (HRW 2001, 27). Any Kosovar Albanian resistance was considered to undermine Yugoslavia's territorial integrity (UCDP 2013). The Serbian government then adopted policies to alter Kosovo's demographic composition whereby Kosovar Albanians were economically and socially marginalised, whilst Serbs were provided with incentives for settlement in Kosovo. Additionally, there were reports of human rights abuses against Kosovar Albanians by Serbian Government forces (HRW 2001, 28). Between 1990 and 1995 an estimated 350,000 Kosovars left Kosovo (ICG Report 1998, 9).

Applying Downes' theory, this article analyses why civilian victimisation dramatically increased into a clear war strategy throughout 1998-1999. While Downes applied his theory with reference to interstate wars, he explicitly noted that it may be expanded to apply to other contexts such as intrastate conflicts (2006, 158). In the context of Kosovo, it appears that the dynamics are analogous to an interstate conflict: Kosovo was previously autonomous, had declared itself to be a republic (recognised by Albania), and was demographically made up of 90% Kosovar Albanians which strengthened and legitimised its claim to self-rule (Downes 2006, 154).

### *Territorial Annexation*

Previously, the KLA had been considered to be a limited threat by the Yugoslav forces with approximately 500 active members. However, the severe crackdown by Yugoslav forces in Drenica led to a huge surge in KLA membership to approximately 20,000 members, meaning the KLA now occupied 40% of the territory (Nation 2003, 227). In late April and early May 1998, the KLA then established control between Albania and Drenica (HRW 2001, 42). The Yugoslav counter-offensive in May-June 1998 aimed to regain this control and especially targeted KLA controlled areas such as Drenica and around Oraovac. This targeting intensified between July-September 1998 (HRW 2001, 47). By mid-August, the Yugoslav forces had taken most of the territory previously held by the KLA (HRW 1998, 4). The escalation of civilian victimisation was immediate and coincided with territorial conquest (Downes 2006, 168). Between May and September 1998 alone, around 30,000 civilians had fled the territory and 250,000 people were displaced (HRW 1998, 4).

### *"Fifth Columns": A Threat to Survival*

Arguably, the strength of the counter-offensive — with over 40,000 troops, tanks, helicopters, and heavy artillery — negated any need to target civilians (Nation 2003, 227). However, as Downes argues, annexation encourages the removal of threats of rebellion and subversion (2006, 167). Kosovo's demographic makeup of 90% Kosovar Albanians represented a threat to Serbian control, making terrorisation and cleansing more likely. The source of fear rested in the Kosovar Albanian population's common identity with the KLA, and that it, for that reason, would sympathise with the KLA or provide military support (Downes 2006, 167). For the Yugoslav forced this removed any need to distinguish between combatants and non-combatants (Downes 2008, 180), causing these areas to become 'opaque' (Kalyvas 2006, 170-171, 203-204).

Moreover, it is clear from human rights reports that by terrorising the Kosovar Albanian civilians into flight and preventing anyone from returning, the Yugoslav forces aimed to ‘cleanse’ Kosovo (Downes 2006, 168). Villages were shelled and looted, crops were burnt, and livestock were shot. Snipers fired upon fleeing civilians, landmines were placed along the borders, and civilians were beaten by police or arrested if they returned to their villages (HRW 1998, 62). While KLA-controlled areas had previously been targeted, Yugoslav forces later went on to attack areas with little connection to the KLA (HRW 2001, 5) such as in the municipality of Lipjan where houses were burnt down and eight men were executed (ICG 2006, 25). There was also a systematic targeting of military-aged Kosovar Albanian men, which deprived the KLA of manpower (US Report 1999, 8). In addition, the attack on towns and villages along the Albanian border cut off supply routes (HRW 1998, 4).

With the nationalistic rhetoric and revocation of Kosovo’s autonomy, it is apparent that Serbia (Yugoslavia) aimed to control Kosovo. In response to the loss of territory, this aim turned into a campaign of territorial annexation, seen by the re-conquering of KLA controlled areas. The Yugoslav forces clearly moved from discrimination of Kosovar Albanian civilians to the increased and severe use of civilian victimisation.

## **Analysis of Theory II**

### *Alteration of Capabilities: The Weakening of Yugoslav Forces*

Between 24 March and 10 June 1999, NATO’s Operation Allied Force launched a systematic air campaign in Kosovo. NATO did not support the KLA, but did aim to attack, disrupt, and decrease Yugoslav military capacity as well as pressure the Yugoslav powers (Clark 1999, 15). On 24 March 1999, UK Defence Minister George Robertson stated, “[o]ur military objective — our clear, simple military objective — will be to reduce the Serbs’ capacity to repress the Albanian population...” (Roberts 1999, 111). While the two- to four-day intensive airstrike was not sufficient to end the conflict (NATO was limited, relying only on airstrikes from 500 metres and no ground troops), the campaign intensified in April 1999 when NATO deployed additional airpower and expanded its targets to include military-industrial infrastructure and other strategic targets (Nation 2003, 247-248). By the end of the campaign, Operation Allied Force had tripled in size to 912 aircraft and 35 ships, with a total of 13,006 airstrike missions (Roberts 1999, 109). This signaled a clear power shift in the conflict environment with NATO damaging the Yugoslav integrated air defence system, hitting the Serb electric power system, destroying oil and petrol facilities and tank stocks, cutting off supply routes, and targeting ground forces (Clark 199, 17).

### *Increase in Civilian Victimisation*

Following NATO’s intervention, civilian victimisation by the Yugoslav forces severely increased and became more systematic, especially against those believed to be supporting the KLA (Nation 2003). There are reports that the increased civilian victimisation began in the days prior to the NATO bombing (Nation 2003, 249). However, preemptive violence is still linked to the alteration of capabilities, in this case with the aim of eliminating the threat that Kosovar civilians would be strengthened by foreign intervention (Valentino 2004). According to the United Nations High Commissioner for Refugees, within the first three weeks of NATO bombing 525,787 refugees from Kosovo fled to neighbouring countries (HRW 2001, 4). While some claim that the increase was voluntary in response to the fear of NATO strikes, victims report seeing people expelled from their homes at gunpoint and herded onto trains (US Report 1999, 9). Overall, in

addition to those previously displaced before NATO intervention, 862,979 ethnic Albanians were expelled from Kosovo (HRW 2001, 4).

Furthermore, a rapid spike in extrajudicial executions is also seen especially around 25–27 March just after the commencement of NATO bombing, and around 27–28 April and 10–11 May (HRW 2001, 424–425). The second wave coincides with a NATO attack on national infrastructure on 24 April (Serbian state television building), killing 11 civilians as well as coinciding with the deployment of additional NATO equipment (Nation 2003, 253–254). This demonstrates a tactic of ‘sheer violence,’ which is often used in response to a rapid decline in power (Arendt 1970, 53). According to Human Rights Watch, 65% of the violations (massacres, arbitrary detentions, torture, and the systematic destruction of homes and property) took place in KLA-related areas such as Drenica (HRW 2001, 4). Compared with 1998, Yugoslav forces also escalated their operations, with the destruction of homes and villages being much more comprehensive (US Report 1999, 9). Additionally, the targeting of larger towns and villages that had not been connected to KLA activity increased, such as in Istok where 90 ethnic Albanian inmates in the Dubrava prison were killed (HRW 2001, 32).

Overall, a clear reduction in Yugoslav fighting capacity followed NATO’s intervention, and a sharp increase in civilian victimisation (often seen as ethnic cleansing) was evident. It appears, therefore, that there is a causal link between the increase of civilian victimisation and foreign intervention as an attempt to shape the conflict environment (Wood et al. 2012, 653).

## Conclusion

It is acknowledged that a single case study can neither prove nor disprove a theory. However, within the scope of this paper, the above analysis demonstrates that civilian victimisation was used in Kosovo as a rational military decision to control a changing conflict landscape, altered both through territorial annexation and international intervention. Both theories link the increased use of civilian victimisation to the issue of control. Downes’ theory relates to the need to control the population by eliminating “fifth columns” that pose a threat to territorial annexation (evidenced by the targeting of areas deemed sympathetic to the KLA). Secondly, Wood et al. linked the issue of control to the need to counteract the shift of power in the adversary’s favour due to foreign intervention.

Effectively, territorial annexation causes actors to fear a civilian population that identifies with the enemy. In launching an offensive to eliminate this threat, human rights abuses increased into large-scale, organised, and systematic civilian victimisation through the expulsion and eradication of Kosovar civilians to eliminate potential “fifth columns.” Furthermore, evidence also demonstrates that foreign intervention altered the distribution of power, weakening government forces, creating the desire to regain control, and incentivising civilian victimisation. While NATO did not actively support the KLA, it did aim to reduce Yugoslav military capabilities, and did so over time, consequently altering the distribution of power. Therefore, the weakening of Yugoslav capabilities caused its forces to increasingly target civilians in an attempt to regain control, evidenced by the spike in victimisation coinciding with NATO’s intervention.

## *Limitations and Need for Further Research*

Overall, while the theories discussed in this article go some way in explaining why actors may use civilian victimisation as a rational military strategy, there is still a lot more to be researched. The situation in Kosovo was extremely complex, taking place within a deep-seated historical context

of ethnic tension, rising nationalism, the break up of Yugoslavia, and interstate wars. Further research is needed to analyse whether the theories examined here stand throughout the entire conflict, or whether different theories apply at different stages. Further research may help to explain why, for example, Yugoslav forces continued to victimise civilians while withdrawing from Kosovo (US Report 1999, 7).

Furthermore, it would be useful to examine the effect of foreign intervention through different lenses. For instance, according to the Independent International Commission on Kosovo (IICK), rather than provoking the targeting of civilians, NATO's intervention created an environment conducive for systematic victimisation (2006, 1). Other theories link victimisation to revenge, and some reports suggest that civilian victimisation was due to the policy of ethnic cleansing, claiming that such policies existed prior to any foreign intervention (IICK 2006, 1). Finally, to give more depth to this research, the theories analysed should also be applied to the increased use of civilian victimisation on the part of the KLA.

Overall, despite its limitations of scope, this study demonstrates the need for the international community to take civilian victimisation seriously as a rational and beneficial military strategy used by belligerents as a means to assert control in their favour. As such, where it is apparent that there is a clear intention for territorial annexation, close attention needs to be paid that this does not lead to a strategy of sheer civilian victimisation to advance the belligerent's aims. This same caution also needs to be applied when considering whether foreign intervention is required, as Wood et al.'s theory highlights issues surrounding such intervention and the need for policies to protect civilians, such as safe havens and ground forces (Wood et al. 2012, 657).

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**Author Biography**

Sarah Agnew is a Rotary Peace Fellow and an M.A. student studying Peace and Conflict Studies at the Department of Peace and Conflict Research at Uppsala University. She holds a Bachelor of Laws, as well as a Bachelor of Arts degree in Spanish and Japanese from the University of Otago, New Zealand. Following her studies, Sarah has worked at the New Zealand Ministry of Justice as a Human Rights Policy Advisor, and as a barrister/solicitor at a small law firm specializing in criminal and civil matters.

## The Microdynamics of Conflict Escalation: The Case of ANC-IFP Fighting in South Africa in 1990

SEBASTIAN VAN BAALEN

*Department of Peace and Conflict Research, Uppsala University*

### Abstract

*This paper seeks to understand the relation between local and national conflict dynamics by looking at four arenas of conflict between the African National Congress (ANC) and the Inkatha Freedom Party (IFP) in South Africa in 1990. The analysis shows that what started off as local conflict often escalated when national actors were brought in, locating agency at both the centre and the periphery. These insights are in line with other research on the microdynamics of war, offer novel insights into civil war as a complex phenomenon, and have implications for how we design conflict resolution mechanisms.*

### Introduction

In the late 1980s, violence escalated in South Africa with KwaZulu-Natal at its epicentre. One of the instigators of violence at the local level was the Umbumbulu township leader Sipho Mkhize, a local warlord. Accounts on his affiliations vary. He was known for engaging in local conflicts on the base of kinship, political affiliations, and economic incentives, as well as being an Umkhonto weSizwe member who actively supported the African National Congress (ANC) in subsequent violence (Mathis 2013, 433–434).

Previous accounts of apartheid-era violence tend to distinguish between factional fighting at the local level and political violence associated with the national anti-apartheid struggle (for an overview of this perspective see Guelke 2000, 246–249). However, as the example above illustrates, such binary categories of mutually exclusive motivations are neither based on real-world experience, nor useful for understanding intrastate conflict. A growing number of research reports highlight that civil wars are often a complex mix of local, regional, and national conflicts; solving but one of them is often not enough in order to achieve long-term peace (e.g. Autesserre 2006; Mathis 2013).

Yale University Professor of Political Science and initiator of the unofficial microdynamics of war research programme, Stathis N. Kalyvas, understands violent conflict as the result of an *alliance* between the different levels of aggregation in which the centre offers the tools of coercion in exchange for mobilized local support in the periphery (Kalyvas 2006, 365).<sup>4</sup> Therefore, violence is often the result of a successful centre-periphery alliance.

This paper will explore whether the theory developed by Kalyvas can explain the escalation of violence in South Africa. By focusing on the microdynamics of civil war, this paper seeks to explore how conflicts at the centre and the periphery relate to each other through a short case study of the outbreak of armed conflict in South Africa between the ANC and the Inkatha Freedom Party (IFP) in 1990. Four expressions of the violence will be studied: (1) the conflict over black local authorities (BLAs), (2) the conflict in the homelands, (3) the conflict in the

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<sup>4</sup> In this paper the terms national/centre and local/periphery will be treated as synonymous.

townships and squatter camps, and (4) the issue of the so-called “third force” (TRC 1998, 584–585).

### Theory

According to Kalyvas, civil wars are frequently interpreted as binary conflicts along an overarching issue dimension, what he calls the master cleavage. This master cleavage is often described in religious, ethnic, or political terms. While this might be the main driver of conflict at the central level, conflict dynamics at the supranational and local levels are a complex and ambiguous interaction that include political, ethnic, religious, and highly private identities (Kalyvas 2003, 475–476).

In many conflicts, actors at the local level articulate their grievances in the language of the master cleavage for strategic reasons. This does not mean that we can infer local identities and actions from the central to the local level. Instead, in the words of Kalyvas, “the distribution of allegiances across the population and the violence that takes place are often (though not always) a function of preexisting local rivalries whose connection to the cleavage that informs the civil war is tenuous and loose” (2003, 479). Individuals often use situations of civil war to avenge enemies or to opportunistically take control over valuable resources. What may appear to be political conflicts inferred from the national level might actually be local power struggles or long-going family or personal conflicts. As the anthropologist Jonathan Spencer notes in an analysis of local politics in Sri Lanka, “people were not necessarily enemies because they were in different parties; more often they had ended up in different parties because they were enemies” (Spencer 1990, cited in Kalyvas 2003, 479).

As a result of this logic, Kalyvas argues that we should understand the micro-foundation of civil war as an alliance between the centre and periphery, where the centre offers the tools of coercion (violence) to local actors in order to recruit and motivate local support and gain access to local knowledge, control, and resources. This enables local actors to win advantages over adversaries they could not otherwise win. Violence is then a form of selective benefit that produces collective action, a resource rather than a means of coercion (Kalyvas 2003, 486). As such, alliances are an interaction between local and national actors, simultaneously a bottom-up and top-down process. While they are not necessarily a cause of conflict in and of themselves, they increase the risk of conflict escalation because they both allow local actors to engage in violence and bring more actors into a conflict that is understood in terms conditioned by the master cleavage (Kalyvas 2006, 381–386). For example, Autesserre has shown that post-settlement violence in the Eastern Democratic Republic of the Congo was often a function of local power struggles between actors who utilized their ties with regional, national, and even international actors to hurt their enemies, widening the scope of conflict and escalating small conflicts into larger ones (Autesserre 2006).

In summary, this paper will treat centre-periphery alliances as the independent variable that drives conflict escalation as the dependent variable by bringing in more actors and mobilizing a larger segment of the population (see also Brosché and Elfversson 2012; Odendaal 2013). Based on this theoretical framework we should expect the following hypothesis to hold true:

*Hypothesis:* Intergroup violence is more likely to escalate if actors in the periphery interact with actors at the centre and the centre offers the tools of coercion to periphery actors (i.e. a centre-periphery *alliance* exists).

### Research Design

This paper will evaluate the explanatory power of the aforementioned hypothesis through a case study of the outbreak of violent non-state conflict in South Africa during 1990. This aspect of the transition from apartheid to democracy has been largely overlooked in previous research, despite the fact that the number of deaths has been estimated as high as 15,000 (Guelke 2000, 241). Even though violence occurred between several actors during the transition period, this paper will focus solely on the non-state conflict between the ANC and the IFP. This dyad was chosen because it accounts for most of the violence during the transition period (UCDP 2013a).

In order to test the hypothesis, I examine the existence of centre-periphery alliances. Alliance is understood as a transaction where actors at the centre supply actors in the periphery with the tools of coercion (e.g. weapons, military gear, police support) in order to gain local support. Four arenas of conflict identified by the South African Truth and Reconciliation Commission (TRC) are studied in order to identify the existence of such an alliance prior to the outbreak of violence (TRC 1998, 584–585).<sup>5</sup> The analysis relies on the TRC report along with other, well-regarded secondary sources. As pointed out by Kalyvas, the master narrative of a conflict provides for *ex post* simplification, wherefore the complexities of civil war tend to become less salient over time (2006, 386). Thus, it is worth keeping in mind that we are more likely to underestimate than overestimate the relative importance of alliances.

### Introduction to Case Study

During the 20th century, apartheid South Africa was marked by racial oppression and segregation through white minority rule. Popular opposition against the apartheid regime started in 1912 when the ANC was formed. An initially unarmed opposition turned violent in 1961 when the ANC formed its armed wing, Umkhonto we Sizwe, and launched an armed struggle against the government. Following its most violent period between 1981-1988, negotiations began in late 1989 and the violent conflict between the government and the ANC ended (UCDP 2013b).

In 1990 another conflict arose between two non-state actors: the ANC and the IFP. Incompatibilities between these two antagonists dated back to the Soweto uprisings of 1976 when the two groups had forwarded competing views on how to bring down the apartheid regime. By then the ANC had launched its armed campaign, while the IFP founder, Chief Buthelezi, believed in a more pragmatic opposition. Noting the predatory nature of many other African “freedom fighters,” Buthelezi viewed the prospect of ANC majority rule with caution (UCDP 2013a). Furthermore, the unbanning of the ANC and its reentry into South Africa threatened the Inkatha support base, culminating with violent confrontations in Sebeokeng in 1990 (Simpson 2012, 625). Widespread violence between the actors ceased in 1996 following the first democratic elections in 1994 and the transition to majority rule (Guelke 2000, 241; UCDP 2013a).

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<sup>5</sup> These different expressions of violence were identified as those most prominently referred to in the TRC report. This does not mean that these were the sole expressions of violence or necessarily the most important, but since the ambition of this article is explorative, the four selected expressions serve the purpose of suggesting whether my theory holds promise.

### Centre-Periphery Alliance

The following analysis is based on four prominent expressions of ANC-IFP violence as identified by the TRC (1998, 584–585, 627): (1) violence against local authorities, (2) violence in the homelands, (3) hostel and squatter camp violence, and (4) so-called ‘third force’ violence.

*Black Local Authorities (BLA)*<sup>6</sup>: Dissatisfaction with the BLAs began in 1983-1984 as poor living conditions sparked protests against increasing tariffs (Kane-Berman, 1993, 37). While these protests were locally rooted, the ANC began to play a key role. According to them, the BLAs were an extension of the apartheid state. Action, both violent and non-violent, against the local authorities became part of an overall strategy aimed at rendering the apartheid state ungovernable. On the other hand, the IFP saw BLAs as capable of improving the lot of the township dwellers. Violence against black councillors escalated between 1985 and 1991. In February 1991 the IFP made a public declaration to protect black councillors through armed resistance, providing them with both traditional weapons and modern arms (Kane-Berman, 37–39). The IFP’s commitment to defend these institutions by arming local residents militarized what was originally a conflict over local governance. The path from periphery conflict to centre-periphery alliance and subsequent escalation is well summarized by Chris Hani, the late leader of the South African Communist Party:

“We [the ANC] moved out to attack the institutions of white minority rule... During this phase many councillors were killed... Inkatha moved in by [recruiting] councillors. An attack on councillors came to be seen as an attack on Inkatha” (cited in Kane-Berman 1993, 39).

What was initially a local conflict became intertwined with the national struggle, bringing in new actors and weapons and thus escalating the conflict.

*The homelands*<sup>7</sup>: Although low-level political violence was prevalent in the homelands prior to 1990, the unbanning of the anti-apartheid movements in 1990 saw actors within the homelands increasingly involved in the political game. Homeland leaders, political parties, security forces, and BLAs, all with their own political agendas, were now competing for power, maneuvering between dominant players at the state centre (TRC 1998, 613). The ANC needed the operational space provided by the homelands and thus had an interest in securing local support. The IFP, who previously enjoyed strong support in the homelands (particularly Natal), viewed any ANC advancement into its constituencies with growing suspicion.

In early 1990, local actors became increasingly willing to engage in political brinkmanship to assert their power. At the same time, the TRC found substantial evidence proving that the IFP, ANC, South African Defence Force, and regional governments had armed these actors (TRC 1998, 704). While some conflicts were local manifestations of the national struggle, other conflicts were only loosely connected to the anti-apartheid movement if they were connected at all. Allying with stronger actors had become a way of taking control of traditional authorities, resources, and businesses or settling personal disputes (Mathis 2013, 428–433). In 1990, violence

<sup>6</sup> The black local authorities were introduced in 1982 and were a form of local governance structure for black South Africans similar to those enjoyed by the white population.

<sup>7</sup> Homelands, or *bantustans* as they were also called, were specific territories set aside for the black population as part of the policy of apartheid.

flared in the homelands. What was previously a low-intensity local conflict quickly became a nationalized civil war (Guelke 2000, 241).

*Hostel violence and squatter camps:* Due to the structure of apartheid, migrant workers from Natal living in single-sex hostels or squatter camps around Johannesburg constituted the poorest and most marginalized labor force (Taylor and Shaw 1998, 14). Township residents viewed many of these migrant workers as outsiders, and the hostile urban environment drove migrants to unite around their common Zulu identity. Abject poverty had already led to conflict and mutual suspicion between migrant workers and township residents during the township unrest of 1974–1975. As the ANC made its reentry into official politics in 1990, IFP leaders identified Zulu migrants as a perfect springboard for penetrating the urban Transvaal and gaining national support (TRC 1998, 628). Squatter camp residents lacked legal rights to the land and thus held only *de facto* control through their ability to defend it. Turning to local warlords who, in turn, sought the protection of the IFP, became a way to maintain territorial control (Guelke 2000, 248–249). Thus, the escalation of violence around hostels and squatter camps in 1990 was, at least partly, the result of local actors trading security for support in a centre-periphery alliance.

*The “third force”:* The “third force” refers to certain elements within the South African security establishment that were involved in covert operations aimed at destabilizing the ANC and fostering national anarchy during democratic transition. This was first disclosed through the infamous Inkathagate in 1991 when it was revealed that the government had secretly financed and armed the IFP (Sparks 1995, 157; TRC 1998, 704). In fact, one of the TRC’s most conclusive findings regarding non-state violence was, paradoxically, that the state had been involved to a great extent.

If we understand the covert funding and arming of the IFP by the “third force” as an alliance, this can explain the outbreak of the violence. Prior to the unbanning of the ANC, the IFP had little interest or need for coercive support. Following its conflict with the ANC over constituencies in 1990, this need became more acute.

## Discussion and Conclusion

This paper set out to explore the complexities of civil war in South Africa by looking more specifically at how centre-periphery alliances can lead to the escalation of violence. Although this paper has not studied the extent to which centre-periphery alliances caused the escalation of violent conflict between the ANC and the IFP, it suggests that such alliances worked as a catalyst for escalating conflict by enabling local groups to engage in intergroup violence and, as a result, draw in more actors. Due to the complex nature of the situation in South Africa during the early 1990s and the limited scope of this investigation, we should be careful in drawing too far-reaching conclusions. Instead, these findings should serve as a starting point for further investigation into the mechanisms of centre-periphery alliances.

A number of observations are worth mentioning. Kalyvas argues that “the locus of agency is as likely to be at the bottom as at the top” and that civilians are not to be treated as “passive, manipulated or invisible actors” (2003, 481). The benefit of this approach is that it explains the complexities of the conflict, especially the fact that violence continued despite national leaders calling for peace, inclusive negotiations, and, eventually, elections and the introduction of democracy (Guelke 2000, 242). This pinpoints the importance of paying attention to local conflict dynamics and micro-level theory as opposed to assuming intentions from the centre alone.

Although I support the efforts made by Kalyvas to link macrodynamics with microdynamics and identify the locus of agency at several levels of analysis, one must not forget that simplification is a virtue when constructing theory. While oversimplification might lead to dubious conclusions, under-simplification risks creating theories that are too complex to be pragmatic. In the words of Magnus Öberg, “[i]n the end, the question is not if we should simplify, the question is which simplifications are most fruitful for the problem at hand” (2002, 68). The challenge for Kalyvas and others concerned with the micro-foundations of civil war is to create a framework through which we can understand the complexities of civil war without creating theories as intricate as reality.

The purpose of this examination was suggestive rather than explanatory, and no definite conclusions can be drawn from the results presented above. With research on conflict microdynamics still scarce, both this paper and more elaborate research initiatives have pointed to the importance of focusing on conflict resolution mechanisms at the local level. Failing to do so could lead to high humanitarian costs resulting from local antagonism and incomplete or unsustainable peace settlements (see e.g. Autesserre 2006, 25). Future attempts to understand what part local actors play in the escalation of conflict should be made, both to increase our understanding of these processes and, hopefully, to save lives.

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**Author Biography**

Sebastian van Baalen is an M.A. student at the Department of Peace and Conflict Research at Uppsala University, holding a B.A. degree in Political Science from the same university. He has also studied African and South African politics at Stellenbosch University in South Africa, and works part-time as a freelance political journalist. He has been awarded a SIDA Minor Field Study scholarship to further study the suggestive results of this paper in South Africa.



## Indivisibility: The Case of the 2000 Camp David Summit and the Temple Mount/Haram al-Sharif

SARAH R. SMITH

*Department of Peace and Conflict Research, Uppsala University*

### Abstract

*The constructed legitimization by political leaders of sacred values and spaces explains the indivisible nature of the Temple Mount/Haram al-Sharif during the 2000 Camp David Summit, which failed to result in a peace agreement. Based on this case, I outline three theoretical implications: (1) sacred values contribute to indivisibility by making it more difficult for actors to recognize others' needs; (2) political leaders use sacred values as bargaining chips to legitimize territorial claims, set the tone of negotiations, and affect their bargaining position throughout negotiations; and (3) there is a need to further develop a framework of indivisibility. This case shows that (1) key issues should be discussed within broad parameters before going into more specific details; (2) religious leaders could have an influential role in these kinds of negotiations; and (3) mediators should focus on getting parties to understand the needs of the other party.*

### Introduction

When asked in February 2007 what it would take for Israel to reach an agreement with Palestine, Benjamin Netanyahu, current Prime Minister of Israel, answered that peace would be possible if every anti-Semitic reference in Arab literature was removed. Asked a similar question, Ghazi Hamad, a Hamas leader, responded that peace was possible if the Israelis recognized the harm done to the Palestinian people and offered an apology (Atran 2013; Atran et al. 2007). It is generally agreed, however, that the main reason for the failure of the 2000 Camp David Summit between then Prime Minister of Israel, Ehud Barak, and then Chairman of the Palestinian National Authority and Chairman of the PLO, Yasser Arafat, was the inability to come to an agreement over the Temple Mount/Haram al-Sharif.

Following the Oslo Accords in September 1993 — considered a breakthrough, because, for the first time, Israel and the Palestinian Liberation Organization (PLO) recognized each other and laid the framework for further peace talks — the peace process between Israel and Palestine alternated between serious discussions on how to resolve the issues and cool standstills due to different interpretations of how the Accords should be implemented. Negotiations resumed in 2000 with the Stockholm Talks in the spring and the Camp David Summit in July, hosted by then U.S. President, Bill Clinton.

The summit began with the U.S. team outlining broad parameters of key issues, including a conceptual view of Jerusalem as three cities in one: a practical city, a holy city, and a political city (Ross 2004). These parameters were meant to avoid separating the parties into two opposing camps. While the parameters were modified throughout the summit, they served as a baseline for negotiations. Despite the parties reaching a shaky agreement on most of the key issues, including many zoning and security issues regarding Jerusalem, at the end of the day neither party was willing to give up sovereignty of the Temple Mount/Haram al-Sharif. The indivisibility of this

sacred site is thus uncontested. However, there is no consensus as to what factors lead to such indivisibility.

Using the 2000 Camp David Summit, specifically negotiations regarding the Temple Mount/Haram al-Sharif, as my case study, I seek to address what factors lead to indivisibility during peace negotiations. I analyze the explanatory power of two theoretical approaches to indivisibility in explaining why the Temple Mount/Haram is an indivisible space in the Israeli-Palestinian conflict. The first approach, *sacred values and spaces*, as advocated by Atran et al. (2007) and Hassner (2003), argues that, due to moral and symbolic beliefs, a people can mark a space as a fundamental part of their sacred identity. Goddard (2006) argues instead that political actors construct indivisibility, using political and/or religious history and the current domestic political system to legitimize their claim to a space (their *constructed legitimacy*), using the space as a bargaining chip in negotiations. As demonstrated by the 2000 Camp David Summit over the Temple Mount/Haram, indivisibility is best explained by a combination of these approaches. Thus, the summit failed to reach an agreement because of the inability of both sides to acknowledge the sacredness of the Temple Mount/Haram for the other actor, as well as the strategy by both party leaders of locking into their original bargaining positions.

It should be noted, however, that this discussion does not analyze all the possible causes of indivisibility; there are certainly other factors that influence indivisibility, either separately or in conjunction with the two discussed within this analysis. In particular, the rational actor explanation views indivisibility as a result of a cost-benefit analysis, in which parties actively keep information from each other and misrepresent their willingness and ability to comply with an agreement (Fearon 1995; Toft 2002). While this approach certainly provides relevant analysis to the case study, I find that it is an oversimplified explanation of issue indivisibility. I thus focus on the two factors that I argue influence indivisibility to the largest extent.

Following a brief overview of the methodology used, I analyze the 2000 Summit using these theoretical explanations of indivisibility. I then develop some theoretical and policy implications for the causes of indivisibility and how third parties can mitigate these issues during negotiations. While my arguments are based within the literature, this paper is not intended to represent the full spectrum of literature that focuses on indivisibility. Rather, this paper is largely a summation of my perspectives of what caused indivisibility over the Temple Mount/Haram during the Summit.

## Methodology

The paper proceeds by applying two identified causes of indivisibility — *sacred values and space* and *constructed legitimacy* — to the 2000 Camp David Summit, particularly the issue of the Temple Mount/Haram. I use both primary and secondary sources, including academic literature. There are several autobiographical accounts of what took place during the 2000 Camp David Summit, many of which blame one party over the other for its failure. I refer mainly to one account written by Dennis Ross, U.S. Envoy to the Middle East from 1988-2000, in his book *The Missing Peace: The Inside Story of the Fight for the Middle East Peace* (2004). I use his account for two reasons: (1) as mediator, Ross is credible and less biased than actors from the Israeli or Palestinian teams, approaching the negotiations in a relatively neutral manner and addressing the needs of both sides, and (2) with multiple accounts, it becomes more difficult to ascertain which account is the most reliable. Unless otherwise noted, information regarding the summit is taken from Ross's account.

### Indivisibility

For the purposes of this paper, I adopt a simple definition of indivisibility: “when any division of the issue acceptable to one of the antagonists is unacceptable to the other” (Goddard 2006, 37). This encompasses the inability of parties at the 2000 Camp David Summit to agree to terms regarding the Temple Mount/Haram al-Sharif. It is less clear, however, as to what factors contribute to an issue/space being indivisible. I focus on two such factors — *sacred values and spaces* and *constructed legitimacy* — in the following section.

#### *Sacred Values and Spaces*

According to psychological and sociological approaches to indivisibility, moral and symbolic beliefs or perceptions outweigh material and economic incentives. These sacred values are defined as “differ[ing] from material or instrumental [values] by incorporating moral beliefs that drive action in ways dissociated from prospects for success. Across the world, people believe that devotion to core values (such as the welfare of their family and country or their commitment to religion, honor, and justice) is, or ought to be, absolute and inviolable” (Atran et al. 2007, 1039). Such values can therefore be attributed by a people to a variety of both tangible and intangible entities, including the state or the protection of a people. Studies show, for example, that offering material tradeoffs for a sacred value actually results in increased violent sentiments towards the other party and decreases the likelihood of reaching an agreement (Atran et al. 2007). When sacred values are involved, people are more likely to respond favorably to symbolic concessions by the other party, and political leaders are subsequently more likely to focus negotiations on material issues (Atran et al. 2007).

At Camp David, both parties required symbolic concessions by the other side. Israel wanted Palestine to recognize its security needs in order to maintain a Jewish state; Palestine wanted Israel to accept responsibility for Palestinian refugees. Both of these concessions would have been a clear sign to each that the other party understood and respected its needs. Both parties required sovereignty over the Temple Mount/Haram in order to move forward with negotiations. These issues would end up shaping the summit. According to Ross, the Israelis would not recognize Israel’s responsibility regarding refugees without the Palestinians recognizing its security needs and vice versa. Furthermore, each side seemed to approach the Temple Mount/Haram recognizing the practical needs of the other side, but only recognizing a symbolic connection when it came to their own needs. In other words, when one party views something as sacred, it is unable to identify or understand any sacred values by the other party that directly challenge its own values, particularly when these opposing sides attribute sacred values to the same physical space.

Sacred values often manifest themselves in relation to particular geographical locations or monuments; that is, sacred spaces. Hassner states that sacred spaces serve three functions: “they are places of communication with divinity through prayer, movement or visual contact with an image of the divine; they are places of divine presence, often promising healing, success or salvation; and they provide meaning to the faithful by metaphorically reflecting the underlying order of the world. These three characteristics combine to turn the sacred space into a religious center for the believer, spiritually or even geographically” (2003, 5). Hassner further develops two dimensions that influence the importance of a sacred space to a group: (1) *centrality*, the relationship with a group’s identity, and (2) *exclusivity*, the extent to which access to the site is monitored or restricted. The closer the site is to the identity of a religious group, the more likely

that group will respond to acts that threaten to decrease its value; the more exclusive a site, the more likely the presence of foreign groups will be perceived as offensive (2003, 8).

Throughout, sacred values were raised regarding the Temple Mount/Haram, with one Palestinian negotiator noting that “God cannot create another Haram/Temple Mount,” and the top Israeli negotiator Shlomo referring to it as a “sacred mountain” (Ross 2004, 700). Sacred spaces are, according to Hassner, often indivisible because they have unambiguous boundaries (2003, 5). Thus, when two parties view the same location as a sacred space, they are not able to simply move the borders around in exchange for something else. The Temple Mount/Haram al-Sharif is a sacred space for both the Israelis and the Palestinians, and proved to be one of the major reasons the summit did not end in an agreement. The space is central to both Jewish and Islamic cultures; Israel, in order to maintain security, has issued a ban of Muslim prayer at the site, a clear violation of Palestinian sacred values, increasing the site’s *exclusivity*. Thus, the site is *central* to both groups, yet remains *exclusive* to one group. This dichotomy likely contributed to tense negotiations regarding the Temple Mount/Haram, as well as both parties’ unwillingness to back down from their original positions.

While the arguments presented by Atran and Hassner assume that religion is inflexible and sacred values inherent, sacred things are in reality constructed by humans and can be deconstructed by humans (Sosis 2011). For example, the unambiguous nature of the Temple Mount/Haram’s boundaries is questionable, as what is holy to the Jewish faith is underground (e.g. the three ruined Jewish temples) and what is holy to the Muslim faith is above ground (e.g. the al-Aqsa Mosque), suggesting that the boundaries of sacred spaces do not necessarily have to be unambiguous. During the summit, mediators suggested such a separation of sovereignty between underground and aboveground areas. Neither side was, however, willing to allow the other to gain even nominal sovereignty over the site (Sosis 2011, 695-699), revealing that sacred values overshadowed economic and political incentives to reach an agreement.

It is clear that both sides attributed sacred values to the Temple Mount/Haram, which is both *central* to both parties and *excluded* from one group. These values hindered them from seeing the other side’s legitimate claims (also based on sacred values) to the same site. However, due to the fact that the sacredness of this space is found in different physical areas of the site, this theoretical approach fails to completely explain why the Temple Mount/Haram remained indivisible throughout the Summit. Thus, the concept of *sacred values and spaces* fails to adequately account for the fact that leaders used these values as bargaining chips to strengthen their legitimacy at the negotiation table. From Ross’s account, these values seemed to be more influential with the Israeli and Palestinian people than those present at Camp David. These values affected the negotiators more in terms of domestic constraints: in order to maintain their positions at home, they had to support and defend values that were important to their constituents. For the negotiators at Camp David, the recognition of these sacred values was perhaps a means towards negotiations, but certainly not the ultimate goal.

### *Constructed Legitimacy*

The use of sacred values as bargaining chips in negotiations can be explained by the social constructivist approach, which states that actors construct indivisibility. Goddard is critical of the assumption that indivisibility is inherent to territorial disputes, arguing instead that it is “a social fact, a product of actors’ representations of the territory” (2006, 36). Instead, indivisibility results from how political actors legitimize their claims of territory at the negotiation table, or *constructed*

*legitimacy*. Depending on the legitimization strategy used, it can either serve as the first step of negotiations or lock actors into their position so that they are unwilling to recognize the legitimacy of the other party's claims. Goddard further suggests that once actors are locked into their positions, the parties involved cannot do much to change the indivisible nature of the territory for three reasons: (1) moving away from original sources of legitimacy could be seen as weakening bargaining positions; (2) in order to maintain legitimacy, parties must stick to their original bargaining positions; and (3) these legitimization constraints eventually reinforce other causes of indivisibility (Goddard 2006, 63). *Constructed legitimacy* could, as Ross suggests, be a result of parties acting in response to domestic opinion, including sacred values and spaces.

From the beginning of the summit, both parties established the tone of negotiations by legitimizing their own claim to the Temple Mount/Haram, to the point that they were not willing to compromise. Israel wanted consolidated sovereignty over the Temple Mount in order to reserve space for Jewish prayer (Wanis-St. John 2011, 228–229). The Palestinians wanted sovereignty over the Haram al-Sharif and all of East Jerusalem (Wanis-St. John 2011, 225). In addition, Israeli diplomats reworked Clinton's broad parameters of solutions to include Israeli and Palestinian positions on each issue, ensuring an 'us-versus-them' mentality from the beginning of the summit and making it more difficult for either party to move away from its original bargaining position, thus locking their positions (Ross 2004, 655–656).

Both Barak and Arafat came to the summit with the idea that they would make no concessions until *after* the other made concessions (Ross 2004, 666). This strategy never really changed throughout the summit. At one point, the U.S. mediators suspected that Barak was actually hardening his positions for fear of looking too weak within negotiations. In addition, though the Palestinians had agreed to consider Israeli needs, they came back to the negotiation table unable to concede sovereignty of the Temple Mount/Haram without the Israelis first agreeing to the Palestinians' right of return. This suggests that while both actors gained significantly from an agreement, they also lost a lot — both in terms of bargaining position and domestic political authority — if they made too many concessions without the other party making concessions in turn. They therefore both preferred to remain at (or return to) their original points of legitimacy in order to save face during negotiations.

However, both sides did concede somewhat on this original position throughout the summit, suggesting that the initial legitimization strategy to discount the other's needs was not completely locked. Actors thus have the ability to maneuver even after establishing their original position, but it might take some pressure from a third party. However, the Israelis and Palestinians were out of sync with each other throughout the summit — due in part to the importance of sacred values and spaces for both parties — and, at the end of the day, they were never willing to concede full sovereignty at the same time.

As described by Goddard, the 2000 Camp David Summit became a vicious circle in which the negotiation tactics and rhetoric used began to characterize the conflict as a whole. In order to maintain their positions at the bargaining table, each side further legitimized its own claims to the Temple Mount/Haram without being willing or able to recognize the legitimacy of the other side's claims, thus solidifying the indivisibility of the issue. I thus argue that a combination of the *sacred values and spaces* and the *constructed legitimacy* approaches best explain the indivisible nature of the Temple Mount/Haram during the 2000 Camp David Summit. The way in which claims to the sacred space were legitimized and the strategies used to protect this legitimacy made it

virtually impossible for Barak and Arafat to recognize the legitimate claims of the other side, even while both of their negotiation teams made strides in this direction.

### **Theoretical Implications**

The 2000 Camp David Summit highlights three main theoretical implications regarding the causes of indivisibility. First, sacred values contribute to indivisibility of sacred spaces by making actors unable to recognize the sacred values others attribute to the same space. Second, while sacred values and spaces are certainly an intricate aspect of indivisibility at the domestic level, political leaders often use these values as bargaining chips to legitimize territorial claims, set the tone of negotiations by establishing a clear position from the beginning, and affect their bargaining position throughout negotiations. The original constructed legitimacy position of a sacred space affects the tactics used in the negotiations and can result in neither party's willingness to give up what it considers most sacred. Third, the case highlights the need to further develop a framework of indivisibility that includes the factors discussed above as well as other factors that might also contribute to indivisibility. Neither dimension outlined above is a sufficient cause of indivisibility; these dimensions are interdependent. Legitimization tactics affect claims around sacred values and spaces, which are then used as bargaining tools to ensure the greatest possible amount of benefits.

### **Policy Implications**

Hassner argues that symbolic dimensions regarding the Temple Mount/Haram were eliminated from the equation at Camp David; negotiations became simple bargaining over price (2003, 26–27). Hassner thus calls for a more balanced negotiation approach that would focus on the different perceptions of sacred spaces. I agree with Hassner that discussing these more general issues first, and perhaps involving religious leaders, would be a good step in facilitating negotiations from the very beginning, pushing each side to understand and accept the other's needs and interests. Such discussions might change actors' bargaining positions such that they would be able to agree to certain trade-offs that they would otherwise be unwilling to make. This case shows that, as mediator, it is not only important to understand how each party is legitimizing its claims to a sacred space, but also to make the other side understand these needs. The case suggests that, although difficult, the mediator should, to as great an extent as possible, not allow parties to arrive with already-locked legitimized claims. Providing broad parameters for discussion allows parties to adjust their bargaining position throughout the negotiations. Further research is needed, however, as to how mediators should deal with indivisibility within the peace process.

### **Conclusion**

I have used the concepts of *sacred values and spaces* and *constructed legitimacy* to explain the indivisible nature of the Temple Mount/Haram during the 2000 Camp David Summit. In particular, I find support for the explanatory power of both concepts, though neither is mutually exclusive of the other. Overall, I find that both the Israelis and the Palestinians constructed legitimate claims regarding the Temple Mount/Haram — which serves as a sacred space to both parties' domestic audiences — to serve as bargaining chips throughout negotiations. The lack of symbolic concessions by either party meant that they could not come to an agreement on how to divide the Temple Mount/Haram. The case study contributes to three theoretical conclusions:

(1) sacred values lead to indivisibility because actors fail to recognize each other's needs; (2) political leaders use sacred values as bargaining chips within negotiations to legitimize territorial claims; and (3) a more nuanced framework of indivisibility is needed in order to understand how it contributes to a lack of political agreements between parties, as well as how third-party mediators should deal with cases of indivisibility. Three policy implications are also outlined: (1) the basic needs of each party should be discussed before going into more specific details that lay out how these needs will be fulfilled; (2) religious leaders have the potential to influence conflicts associated with indivisibility; and (3) mediators should focus on getting parties to understand each other's needs. There is therefore a need for further research on how these factors work together to create indivisibility within conflicts and negotiations.

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### Author Biography

Sarah R. Smith is a second-year M.A. student at Uppsala University's Department of Peace and Conflict Research. Prior to coming to Uppsala, she worked with two think tanks in Washington, D.C.: the Center for Strategic and International Studies (on U.S. policy responses to potential transitions) and the Wilson Center (on African politics). She has also conducted research on local peacebuilding initiatives in Somalia through the Dag Hammarskjöld Foundation in Uppsala. Sarah is currently completing her Master's thesis research on the relationship between peacekeeping and peacebuilding programs in conflict and post-conflict environments. She has a Bachelor of Arts degree in International Studies from Rhodes College in the United States.

## A Legitimized External Spoiler? Examining the Legitimacy and Externality of the MNLF in the Government of the Philippines-MILF Peace Process

IAN NICCOLO TOBIA

*Department of Peace and Conflict Research, Uppsala University*

### Abstract

*A criticism of Stedman's spoiler concept concerns the normative consequences of its application on assessing actor legitimacy. According to the critique, a normative standard inherent in the concept presumes the legitimacy of peace processes; actors that contravene such processes are deemed illegitimate. Closer reading of Stedman's internal-external spoilers typology, however, compels a refinement of assessments on actor-legitimacy. This paper hypothesizes that a spoiler may nevertheless have legitimate standing, provided that it is an internal party to the process; external ones remain illegitimate. It explores the hypothesis on external spoilers against the empirical facts on the behavior of the MNLF in the GPH-MILF peace talks. The empirics demonstrate that the MNLF may have legitimate standing despite remaining an external party. In conclusion, this paper recommends further study on the impact of a party's legitimate standing when assessing its behaviors that would otherwise be categorized as spoiling.*

### Introduction

Since the signing of the Framework Agreement on the Bangsamoro (FAB)<sup>8</sup> between the Government of the Republic of the Philippines (GPH) and the Moro Islamic Liberation Front (MILF) in October 2012, another actor has been demonstrative of its opposition to the peace process. The Moro National Liberation Front (MNLF), a non-state actor from which the MILF broke away in 1977, has repeatedly voiced its condemnation of the GPH-MILF negotiations as violative of the GPH-MNLF-OIC Final Peace Agreement of 1996 (FPA)<sup>9</sup> (see Fitrah 2012; MNLF 2013). Of greater concern, however, is that the MNLF has mobilized its resources and armed forces in very high-profile incidents in apparent attempts to derail the current peace process. These include the allegedly MNLF-backed invasion of Lahad Datu, Sabah, in Malaysia (the mediator in the peace process), and the MNLF Declaration of Independence of the Bangsamoro Republik which was followed shortly by the invasion of Zamboanga City. Since these events, statements from state organs and news media have become replete with sweeping characterizations of the MNLF as “spoilers” to the GPH-MILF peace process (see Reganit 2013).

The choice to label the MNLF as a spoiler should not be taken lightly. Stedman (1997) defined spoilers as “leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it” (5). The concept of spoilers to peace processes is “commonly used and referred to in

<sup>8</sup> Framework Agreement on the Bangsamoro Entity is available at <http://www.gov.ph/the-2012-framework-agreement-on-the-bangsamoro/> (last viewed on 19 January 2014).

<sup>9</sup> The Final Peace Agreement of 1996 is available at <http://www.gov.ph/1996/09/02/final-peace-agreement-with-the-mnlf-september-2-1996/> (last viewed on 19 January 2014).



academia as well as in critical policy circles” (Nilsson and Söderberg Kovacs 2011, 622, 610), that it potentially desensitizes audiences to its inherent *normative* content, which is a bias in favor of peace processes. Against the MNLF, a spoiler label can lead to an uncalibrated judgment of its legitimacy. Legitimacy broadly refers to “the normative belief by an actor that a rule or institution ought to be obeyed” (Hurd 1999, 381). On peace processes there is an analogous normative belief, anchored to a liberal peace ethic that such processes are legitimate and therefore should be fostered. Conversely, opposition to peace processes is deemed illegitimate. Instead of leaving open the possibility to categorize the MNLF objection to the GPH-MILF peace process as a legitimate-though-adversarial position, the spoiler-label presents a danger of foreclosing any MNLF legitimacy, premised on the fundamental normative “wrongness” of opposing peace processes. Those that characterize the MNLF as spoilers must be cautious of this danger of foreclosing legitimacy.

### **Purposes of the Paper**

The primary research question this paper seeks to answer is whether or not actors that behave as spoilers can have legitimacy. Operating on the hypothesis that only internal spoilers have legitimate standing by way of their participation in a peace process, the secondary research question asks whether or not external spoilers conversely lack legitimate standing.

The second part of this paper sets out to develop Stedman's (1997) typology of internal and external spoilers through a linkage with a more refined conceptualization of the notion of legitimacy. It first argues that there are nuanced categories of legitimacy — that of a spoiler's demands, tactics, and standing. Rather than a plenary label of illegitimacy, spoilers can be illegitimate as to tactics, demands, and/or standing, or any combination thereof. More relevantly, this deconstruction of legitimacy casts a light on a theoretically-differentiated applicability of legitimacy as to standing to Stedman's (1997) typology of external-internal spoilers. This paper, by way of hypothesis, argues secondly that internal spoilers are legitimate as to standing while external ones are not.

The third part of this paper examines Stedman's (1997) category of external spoilers by examining the hypothesis that such spoilers lack legitimate standing.<sup>10</sup> It analyzes the MNLF in relation to the GPH-MILF peace process. Significant here is the fact that the MNLF is (1) an invited party to the negotiations and (2) an internal party in a concurrent and related mediated peace process with the Government of the Philippines. Using relevant empirical facts from this broader context surrounding the GPH-MILF talks, it is suggested that the MNLF, though external, has legitimate standing in the negotiation. This case demonstrates, contrary to the hypothesis, that not all external spoilers lack legitimate standing.

Finally, this paper concludes with a recommendation to further study the impact of an actor's legitimate standing on assessments of its behaviors which would otherwise be categorized as spoiling. This prospectively opens a difficult normative debate on the validity of the MNLF position (i.e. demands and tactics) on the GPH-MILF negotiations.

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<sup>10</sup> The nexus between externality and the lack of legitimate standing is extrapolated from studies on the legitimization of non-state actors. See Melin and Svensson (2009) and Rothchild (1997).

## Conceptual Framework

### *Spoiler Concept and the Normative Critique*

Stedman (1997) defined spoilers as “leaders and parties who believe that peace emerging from negotiations threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it” (5). The parameter of success for spoilers is inversely related to the success of peace processes — the success of the former is contingent on the failure of the latter and vice versa (Stedman 1997, 6-8). Another feature of the concept is the typology of internal versus external spoilers. An internal spoiler is party to a peace agreement or negotiations, while external ones are those who are excluded or exclude themselves from the same (Stedman 1997, 8-9).

One contested area of the concept concerns the propriety of using the term 'spoiler.' Reference to the definition unveils a judgment of rightness or wrongness extrapolated from an embedded normative standard that presumes the validity of peace processes (see Nilsson and Söderberg Kovacs 2011, 609). That the concept of spoilers allegedly necessitates this presumption, thereby invalidating any actors opposed to such settlements for whatever reason, constitutes the focus of the normative critique.

Newman and Richmond (2006) have argued that the source of this normative referent is a prevailing, hegemonic Western notion of “what a peace process should 'look like'” (2006, 2). Tenets of liberal peacebuilding, such as the establishment of democratic institutions, free markets, and human rights safeguards are presumed to be the objectives of peace processes. It is against this backdrop that the normative judgment of the term 'spoiler' is constructed and any attempt that prevents the fulfillment of these objectives constitutes a spoiler from the perspective of a liberal peace thesis (Newman and Richmond 2006; see Nilsson and Söderberg Kovacs 2011, 609).

Spoiler-labeling impresses on an actor a negative connotation, the basis of which is purely subjective (Newman and Richmond 2006, 5; see Dansie 2009, 11-18). Indeed, not all peace processes can be presumed to be equitable, leaving room for a valid opposition to such processes. Newman and Richmond (2006) take stock of this and posit that “actions which are construed as 'spoiling' may appear *legitimate* (at least the objective, if not the tactics) according to an alternative rationality” (2006, 3, 5, emphasis added). Thus, actions construed as spoiling are therefore illegitimate under the prevailing normative paradigm.

### *Deconstructing Legitimacy*

Stedman (1997) only describes spoilers as actors that act to undermine peace processes; he makes no reference to legitimacy. Addressing legitimacy becomes indispensable, however, in the normative critique of the spoiler concept, because what is considered legitimate depends on the prevailing normative orientation. What is not clear is whether or not there is a difference between the legitimacy of actors and acts. This is not an issue for Stedman (1997) because these are clearly delineated — spoilers are actors and 'spoiling' is the act. For the normative critic, however, the breadth of delegitimization that comes with the spoiler label is ambiguous. What, then, is delegitimized? Is it the actor, the act, or both? Here lies an imprecision of the normative critique, and the critical literature seems to fail to find answers to these questions. It wastes no effort elaborating on the biased normative paradigm of the spoiler concept, yet only tepidly discusses the corollary issues of legitimacy and delegitimization. It fails to clearly articulate the breadth and, more importantly, the *limits* of delegitimization that accompany the spoiler-label. Verily, it is the

critics' failure to articulate these that allows the realization of their worst fears — that spoilers to peace processes are wholly delegitimized and vilified as enemies of peace.

Newman and Richmond (2006) suggest that the concept of spoilers is “more an issue of tactics (i.e. acts), not actors [themselves].” Moreover, they point out that 'spoiling' acts may appear “legitimate (at least the *objective*, if not the *tactics*)...” (2006, 5, emphasis added).<sup>11</sup> This could be seen as an attempt to articulate legitimacy between that of actors as a whole, and their objectives and tactics. Careful examination of Stedman's (1997) typology of internal-external spoilers suggests another category of legitimacy — that of *standing*, which attaches to the former but not the latter (see Stedman 1997, 8-9). Standing refers to the fact of actor participation in peace negotiations. On intrastate conflicts, Melin and Svensson (2009) note that any referral of a dispute to negotiations is an “infringement of sovereignty and an interference in the internal affairs [of a state]” (254, citing Touval 2000, 240). Crucially, they assert that “international mediation can increase the *legitimacy* of the opposition-side, since it implies that the government will be talking to the non-state actors *on equal footing*” (240, emphasis added). They imply a potential effect of possessing legitimate standing on categories of legitimacy such as demands and tactics.

A consolidation is necessary at this point in order to establish the nexus between Melin and Svensson's (2009) notion of non-state actor legitimacy and Stedman's (1997) typology of internal and external spoilers. On non-state actor legitimacy, the referral of a dispute to a mediated peace process establishes such actor's legitimate standing to participate; on the spoiler typology, the fact of participation/non-participation in such a process determines spoiler internality/externality. Participation corresponds to internality; non-participation, to externality.

The following hypotheses are extrapolated herein: (1) internal spoilers possess legitimate standing in a mediated peace process; and (2) external spoilers do not possess legitimate standing.

#### *Significance of Spoiler Legitimacy*

Though it is necessary to acknowledge the normative content inherent in the spoiler labeling, arguing the subjectivity of these norms does not provide a solution for decisively assessing the actors, peace processes, and the terrain upon which such processes operate. Eventually, it will become necessary to select a standard, normative as it may be, in order to make a determination of both the validity of the process and the legitimacy of actors. However, any judgment derived from a normative standard cannot simply be applied without any specificity. On actor legitimacy for example, normative judgments cannot be black and white characterization (i.e. legitimate or illegitimate). Normative judgments require a more nuanced assessment, conceding that there exists a gradation to actor legitimacy.

There are at least three categories of actor legitimacy that can be negatively affected by spoiler-labeling: namely, tactics, demands and standing. Though tactics employed are the most salient means of judging an actor against a normative standard, a judgment on the validity of demands underpinning such tactics must be made. The most important of these categories, however, is legitimate standing. Conventionally, the conferral of legitimate standing to a non-state actor occurs before such actor has an opportunity to spoil, following Stedman's (1997) prerequisite of an existent peace negotiation. Thus, the fact of possessing legitimate standing

<sup>11</sup> Nilson and Söderberg Kovacs (2011) assert that actors that behave according to the expectations of the normative framework of liberal peacebuilding “will be considered to raise fair and legitimate *demands*” (2011, 609, emphasis added). Demands hereafter will be referred to alternatively as objectives or aims.

should be beyond the purview of the normative judgment of spoiler labeling.<sup>12</sup> More importantly, the fact of possessing legitimate standing is an acknowledgement of a non-state actor's demands, at least as to its negotiability. Furthermore, it could be argued that when such a legitimated actor subsequently behaves as a spoiler, a normative assessment of the legitimacy of its demands and tactics requires reference to the previous conferral of standing. External spoilers, meanwhile, lacking legitimate standing, are simply assessed against the normative paradigm based on the legitimacy of their demands and tactics and without such reference.

## Study of the MNLF

### *Background*

With regard to the case of the MNLF and their categorization as spoilers in the GPH-MILF peace process, this paper tests the hypothesis that external spoilers do not possess legitimate standing. Given the importance of legitimate standing to the normative assessment of other categories of an actor's legitimacy, it is worth examining whether the hypothesis is true as to the MNLF. Preliminarily, this paper must establish whether or not the MNLF is an external spoiler. Referring to Stedman's (1997, 5-8) definition of spoilers, specifically external ones, facts must show the following: (1) the existence of a peace process; (2) externality of the actor in question; (3) the actor's opposition to the peace process; and (4) the use of violence and/or other means to derail the peace process.

First, there is an existing peace process to be spoiled. The GPH and the MILF have been in tenuous negotiations since 1997, resulting in a cycle of ceasefire agreements and all-out war. In 2001, the GPH-MILF referred their negotiations to mediation, paving the way for the entry of Malaysia as lead mediator and the International Contact Group composed of several other countries and non-governmental organizations in 2009 (Fitrah 2012, 24-27). The peace process continues to the present with substantial progress, notably with the signing of the landmark 2012 Framework Agreement of the Bangsamoro, which laid the groundwork for the creation of the Bangsamoro governmental entity that will replace the existing Autonomous Region of Muslim Mindanao (ARMM). At the moment, the GPH-MILF panel is negotiating the annexes on power sharing and normalization (OPAPP 2013a).

Second, the fact of MNLF externality to the peace process is incontestable. The GPH had invited the MNLF to participate in the peace process by "initiating a means of convergence between the MNLF and the MILF." Moreover, "the government invited the MNLF, specifically Nur Misuari and Muslimin Sema to nominate representatives to the Transition Commission<sup>13</sup> which will draft the Bangsamoro Basic Law" (OPAPP 2013b). At no point, however, had the MNLF decided to join the GPH-MILF peace talks, despite presidential directives to make such processes as inclusive as possible (see OPAPP 2013c).

Third, the opposition of the MNLF to the GPH-MILF peace process is also well documented. The group has declared that the subject talks is a "conspiracy with Malaysia" to

<sup>12</sup> This assertion acknowledges a subsequent development in the spoiler concept, which includes a debate on whether or not to distinguish between actual and potential spoilers. Although potential spoilers are beyond the scope of this paper, their identification may have an effect on a state's decision to confer legitimate standing.

<sup>13</sup> The Transition Commission is a creation by executive fiat tasked to draft the Bangsamoro Basic Law Bill, which will be the basis in law for the creation of the Bangsamoro entity. This is pursuant to the Framework Agreement on the Bangsamoro, signed in 2013. See <http://www.gov.ph/the-2012-framework-agreement-on-the-bangsamoro/>, last viewed on 27 October 2013.

replace the existing ARMM with a new political entity called the Bangsamoro. Moreover, the group claims that the GPH-MILF peace process is violative and “disrespectful” of a concurrent and parallel peace process involving the GPH-MNLF-Organization of Islamic Cooperation (OIC) (MNLF 2013a). Nevertheless, the GPH has denied any insinuations that the GPH-MILF talks signal the termination of the parallel GPH-MNLF-OIC tripartite negotiations (OPAPP, 2013d).

Fourth and finally, this paper comes to “the use of force and other means to disrupt the process in pursuit of their aims” (Newman & Richmond 2006, 4). On July 2013, the Nur Misuari faction of the MNLF declared the independent United Federated States of Bangsamoro Republik (UFSBR), embracing the islands of Mindanao, Basilan, Sulu, Tawi-Tawi, Palawan, and North Borneo (‘Sabah’) (MNLF, 2013b). This declaration of an independent Bangsamoro entity, although benign and unrecognized beyond the confines of Misuari’s faction, appears to be an apparent attempt to subvert the primary objective of the GPH-MILF peace talks, which is also to establish a Bangsamoro entity.

The use of force to disrupt the peace process is less straightforward. The February 2013 incursions into Sabah in Malaysia (the third-party mediator in the GPH-MILF talks) reportedly involved MNLF fighters, though Misuari has denied instigating the attack (Rappler 2013). Meanwhile, the MNLF has not expressed a specific intent to derail the GPH-MILF talks by an invasion of Zamboanga City in the Southern Philippines. Instead, they had claimed that they had only intended to raise the MNLF flag in the city hall complex as a peaceful expression of their declared independence, but their suppression by armed force compelled the organization to resort to violence as well (MNLF 2013a). Nevertheless, a relationship can be inferred between their desire to unilaterally establish a Bangsamoro entity and the use of violence both in Sabah and Zamboanga City. The MNLF thus meets the criteria of a spoiler pursuant to the employed definition, with reservations as to the use of force. The question herein is whether the group is without any legitimacy to shape the GPH-MILF peace process.

### Analysis

There are two details in the recitation of background facts that are relevant to an inquiry into hypothesis that asserts an external spoiler’s lack of legitimate standing. First, the GPH policy has consistently been to include the MNLF in the GPH-MILF peace process. This has manifested itself in a continuing invitation to the MNLF to participate, whether through a convergence with the MILF panel or participation in the drafting of the Bangsamoro Basic Law Bill with the GPH and MILF representatives on the Transition Commission (OPAPP 2013c). With reference to Melin and Svensson’s (2009) assertion that including non-state actors in negotiations places them on “equal-footing” with the state, this paper asserts that a ‘continuing invitation’ is an acknowledgement of the legitimate standing of the MNLF to participate (Melin and Svensson 2009, 254). This paper opines further that their legitimacy as to standing is *not* contingent on their acceptance of the invitation – it is manifest and apparent in the fact of invitation. That the MNLF has consistently refused to participate in the peace process does not divest them of their legitimate standing as a party competent to engage the state in negotiations.

Second, the MNLF is an internal party to the tripartite GPH-MNLF-OIC negotiations on the implementation of the FPA of 1996. There is interplay between their internality in the

tripartite negotiations and their externality in the GPH-MILF peace process.<sup>14</sup> The subject matter of the two processes is different *but related* — the implementation of the full terms of FPA of 1996 is to be fulfilled within the context of the impending GPH-MILF Bangsamoro governmental entity (OPAPP 2013e, 4). In relation to the MNLF, it seems incompatible to recognize their legitimacy in establishing the terms of the FPA but, at the same time, withhold recognition of the same in contributing to the structural design within which the FPA can be executed. This explains the importance the GPH attaches to involving the MNLF in the GPH-MILF Transition Commission, which is tasked in drafting the Bangsamoro Basic Law Bill. An inference can be made as to the competence of the MNLF to participate in the drafting process of the bill because of their instrumental role in the FPA implementation.

Both of these select facts support a premise that the MNLF possesses legitimate standing in relation to the GPH-MILF peace process. Though it remains an external party, it is conferred legitimate standing through a confluence of these facts that operate outside of the conventional basis of legitimate standing — the fact of participation in a certain peace process. The case of the MNLF suggests that legitimate standing of non-state actors is not obtained by participation in, but by invitation to, a peace process. Just as Melin and Svensson (2009) point out, it is the referral of a dispute to mediation, but without mention of the non-state actor's acceptance of the referral, that places such actor on equal footing with the state. Analogously, it is the invitation that confers legitimate standing to a non-state actor.

Moreover, the case of the MNLF in the GPH-MILF peace process raises another interesting inference about the interaction of separate mediated peace processes with one another. Beardsley and Grieg (2009) have criticized the tendency of research to study mediation in isolation from a larger, surrounding mediation context, which includes other mediation processes (2009, 246). Authors have already noted the relationship between the tripartite and GPH-MILF mediation platforms, and even the necessity of a combined strategy of dealing with both non-state actors, but no research has investigated the effect of one process on the other (see Bertrand 2013, 19; Fitrah 2012, 5-6). In this case study, there appears to be a relationship between parallel processes, at least as to the legitimate standing of non-state actors, which requires closer scrutiny in future research.

## Conclusion

This paper posed the question whether or not spoilers can have any legitimacy despite contravening an underlying and entrenched liberal peacebuilding ethos. It answered this in the affirmative, by pointing out that internal spoilers possess legitimacy at least as to standing in a peace process, though perhaps not on their demands and/or tactics. On external spoilers, it was hypothesized that they do not have legitimate standing, and may very well have no legitimacy at all under any category of legitimacy. However, the empirical analysis above suggests that although the MNLF is an external spoiler, it may in fact have legitimate standing, and thus further suggesting that my hypothesis is incorrect.

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<sup>14</sup> Beardsley and Grieg (2009) recommended a widening of analyses of mediated peace negotiations to wider structural contexts within which such negotiations are conducted. I find their views insightful in that a more critical inquiry into the legitimacy of the MNLF also benefits from an examination of a context larger than the GPH-MILF peace process. In this case, an understanding of MNLF legitimacy is enriched by contextualizing it within the parallel peace processes in Muslim Mindanao.

Any assessment as to the legitimacy of actors who behave as spoilers is very complex and should therefore be carefully crafted. There is a plurality of categories and bases of legitimacy and it is insufficient to make sweeping assertions about actor legitimacy. Furthermore, more research must be done on the effect of legitimate standing on perceptions of the validity of what would otherwise be construed as spoiler demands and tactics. The MNLF, at the moment vilified, stands to benefit from more nuanced assessments of its opposition to the GPH-MILF peace process.

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### Author Biography

Ian Niccolo Tobia is a M.Sc. candidate at the Department of Peace and Conflict Studies at Uppsala University. He also holds M.A. degrees in the field of human rights at the University of Sydney and Mahidol University in Thailand, as well as a law degree from the University of the Philippines.



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