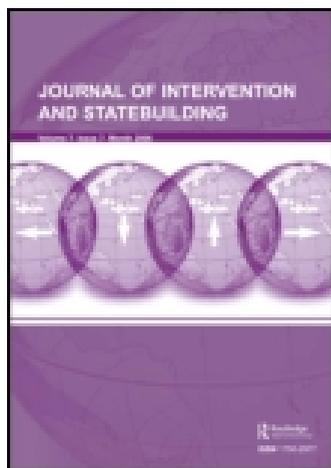


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### An Empirical Approach to Post-conflict Legitimacy: Victims' Needs and the Everyday

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# An Empirical Approach to Post-conflict Legitimacy: Victims' Needs and the Everyday

*Simon Robins*

*An empirical study has been made of victims of conflict in Timor-Leste and Nepal seeking a qualitative understanding of local post-conflict priorities. It allows an appreciation to emerge of how the conflict-affected conceive of legitimacy and quality of governance, with victims emphasizing basic needs, an addressing of issues of marginalization and the incorporation of indigenous understandings of the meaning of peace. The data in this study motivate a victim-centred discussion of both the limitations of liberal approaches to peace and the implications for the legitimacy of post-conflict governance of prioritizing the everyday needs of the conflict-affected, in contrast to universal and institutionally rooted liberal values.*

**Keywords** legitimacy; victims; Nepal; Timor-Leste; governance

Post-conflict societies are defined as such by the histories of violence they have experienced and which are inscribed in the minds and on the bodies of their victims. This study aims to understand the implications of those histories and of the presence of victims for the legitimacy of post-conflict governance, by investigating victims' priorities for a post-conflict peace. Liberal approaches attempt to address legacies of violence through the discourses of human rights and transitional justice (Paris 2004), rather than through reference to the needs and priorities of those most affected by such violence. The liberal peace, characterized by a commitment to a set of values that are presented as universal, but that emerge from the assumptions of Western liberal democracy, ignores the local and the particular of both peace and conflict, and subordinates indigenous perspectives and traditional culture to a prescriptive technical and procedural approach (Richmond 2009a). The rights discourse exemplifies this, offering a set of institutions, including trials and truth commissions, which can be 'rolled out' according to international precedent in any context (Teitel 2000, Hayner 2011). Here, the everyday needs of victims of conflict will be understood, situated in the social and symbolic worlds in which they live, and the implications for legitimacy of governance in their communities discussed.

The article begins by discussing understandings of legitimacy, dominated by approaches that focus on global benchmarks, and reviews how mechanisms of the liberal peace construct victims in narrow and universalized terms. The contexts of Nepal and Timor-Leste, and the ethnographic methodology of the study, are introduced and the results of an assessment of victims' needs presented. These data are then used to critique liberal and universalist approaches to legitimacy, in favour of a contextualized approach, driven by local and particular everyday lives and needs of post-conflict populations.

### Post-conflict Legitimacy and the Everyday

Legitimacy of governance refers to the acceptance by populations of a regime as correct and appropriate (Brinkerhoff 2005), ultimately understood to revolve around a population's willingness to be ruled: 'A state's (or government's) legitimacy is the complex moral right it possesses to be the exclusive imposer of binding duties on its subjects, to have its subjects comply with these duties, and to use coercion to enforce the duties' (Simmons 2001, p. 130). This definition, however, says little about what constitutes legitimacy, emphasizing that it is largely the product of the consent of the ruled. Post-conflict legitimacy has traditionally been perceived as emerging from normative models of governance, and a consequence of the hegemony of liberal approaches is that legitimacy of governance in states emerging from conflict is measured in terms of global benchmarks, focussing on institutional state-based measures and alienated from the lives and needs of populations. The liberal peace has defined 'good governance' as dependent upon liberalization, democracy and human rights (e.g. de Alcantara 1998, Brinkerhoff 2007). In states emerging from a violent past, the rights discourse drives institutional approaches to victims of violence and the addressing of conflict-era violations through prioritizing truth and accountability, widely perceived to restore the rule of law and boost legitimacy (e.g. Kritz 1996). The mechanisms of trials and truth commissions are emblematic of the proceduralism of liberal approaches to legitimacy, driven by an external universalism which is norm-based and prescriptive. Truth commissions have been described as 'one of the main ways in which a bureaucratic elite seeks to manufacture legitimacy for state institutions' (Wilson 2001, p. 19), fetishizing victims and their testimony, but ultimately existing to legitimate the new state rather than benefit victims (Humphrey 2002). There are few studies that attempt to empirically understand the impact of such mechanisms on post-conflict legitimacy from the perspective of the citizens upon whose consent to rule legitimacy depends.

Whilst addressing the needs of the population does not figure highly in the governance literature in comparison with the satisfaction of international norms, there is an emerging literature that challenges such norms as the sole basis for the legitimacy of governance. Milliken and Krause (2002), for example, suggest

that the addressing of everyday needs is a source of legitimacy for the state, expanding understandings of what creates conditions for governance from security and order to welfare and basic needs. Given that the populations of post-conflict states are often characterized by their extreme and unmet needs, the effectiveness of a state in delivering core services and addressing needs is perceived as impacting upon its legitimacy (Clapham 2003, Call and Cousens 2008). Defining legitimacy locally, rather than according to global benchmarks, and understanding that populations legitimate states according to the lives they lead, has been called 'performance legitimacy' (Francois and Sud 2006), relating both to the policy priorities made and the quality of their realization. A liberal peace that perceives legitimacy as constructed in metropolitan institutions rather than in the communities where people live can be irrelevant to such local priorities and thus struggle to be perceived as legitimate.

The empirical studies discussed here offer an alternative to universal and norm-based understandings of legitimacy: an evidence-based approach, where the priorities of those most impacted by conflict are understood in the context of the communities in which the social meanings that underpin legitimacy are constructed. Rather than examining the institutions of the state, such an approach studies popular perceptions of them. This kind of methodology is necessarily context dependent, abandoning the idea that there exists a set of liberal criteria that are universally valid in favour of an appreciation that both between and within states, perceptions of legitimacy can vary widely. It also implies not a technocratic, metropolitan-led approach, but one rooted in the everyday lives and experiences of populations emerging from conflict, and this drives the victim-centred approach taken here. The methodologies of such empirical work have largely been considered irrelevant to the international relations milieu from which most discussion of legitimacy originates, but tools such as the ethnographic methods discussed here can both inform and challenge norm-based understandings by allowing the voices of those who determine legitimacy to emerge. The relative priority assigned by populations to performance legitimacy (i.e. satisfaction of needs-based demands of the state) and to regime legitimacy (those elements that are norm-based and relate to institutions and formal structures of governance) can be evaluated using such methods.

The focus on victims of conflict emerges as a result of the fact that their presence exemplifies the impact of conflict and plays an important role in perceptions of legitimacy and in community attitudes to the post-conflict dispensation. Despite this, however, victims are largely absent from efforts to understand legitimacy. Often the locus of a spoiler problem will be a victim community seeking recognition of and redress for a grievance (Stedman 1997): the perceived suffering of victims will serve to mobilize a community and legitimate a discourse of continued violence, while delegitimizing the authorities. This is particularly true in traditional societies where networks of social relations provoke much stronger obligations than are felt to the state (Boege *et al.* 2009). Post-conflict legitimacy is constituted from the collective meanings assigned to the conflict and to the peace, and from community perceptions of

the state and their rulers. To gain an empirical grasp of the concept of legitimacy demands that the grievances of victims be understood as broadly as they are by their communities, and not according to some external and prescriptive discourse. Victim-centred approaches (Robins 2011) can act as a test of the perceived quality of governance at the grassroots, using a sample of those most affected by conflict. Conflict victims are the most vulnerable in their communities; they are, for example, the displaced, the disabled, the orphaned and the widowed: they are visible to their community as in need of services from the state and represent the greatest challenge to the *effectiveness* of the state: as such they represent a substantial test of performance legitimacy.

### Conflict Victims as Subjects of the Liberal Peace

Liberal interventions after conflict typically consider the state as their principal frame of reference, and a significant driver of liberal peace interventions is the global (and state-centred) discourse of rights, which emphasizes a perpetrator and violation-centred approach to legacies of violence. This has led to a focus on judicial process and ‘truth-telling’ bodies as an intrinsic part of peacebuilding: whilst victims are the principal performers in such mechanisms they operate in urban spaces in the capital, remote from the lives of rural victims. Such approaches neglect the fact that the most extreme impacts of violence are felt at the human level and so efforts to address their legacy must also unfold on a scale far below that of the institutions of the state.

Normatively driven rights-based approaches ensure that the institutions of peacebuilding are steered by experts remote from communities most affected by violations: the subjects of liberalism are constructed on a basis with little resonance with local norms. The discourse of rights, as one of the ideological planks of liberal peacebuilding, serves to ensure that agency lies with elites in the capital rather than ordinary people (Robins 2010a, Richmond 2010). In a state where only elites ‘know’ what rights are, they necessarily become something that are largely claimed *on behalf of* victims rather than by victims themselves, substituting passivity for empowerment and dependence upon others (Madlingozi 2010).<sup>1</sup> Whilst the rights discourse claims to address all rights equally, in practice civil and political rights are prioritized over others, notably the social, economic and cultural (Arbour 2007, Richmond 2010, Roberts 2011), particularly after conflict. Thus, rights come with their own priorities, which serve to depoliticize the discussion of peacebuilding, marginalizing agendas of social and economic justice in favour of a legalism that privileges the civil and political, i.e. regime legitimacy over performance legitimacy. Needs, in contrast, are the natural articulation of perceived deficits that arise in victims’ everyday lives, comprising both direct impacts of the violation to which they were subject and those which emerge from the context of poverty and marginalization that characterize states

in conflict. Needs are subjective, local and contingent, situated in and of the highly social worlds people occupy.

## The Two Case Studies

The two case studies represent one state, Nepal, where liberal peacebuilding has yet to unfold on any scale, and one, Timor-Leste, where such processes are considered largely complete, despite their manifest failure. Both are states with dispersed rural and agricultural populations of great ethnic diversity emerging from conflicts driven by alienation from their rulers. At the time of the research they had almost identical per capita GDP,<sup>2</sup> representing some of the poorest states in Asia.

Timor-Leste emerged from centuries of Portuguese colonial rule and 25 years of brutal Indonesian occupation to be subject to the full machinery of liberal peacebuilding. From October 1999 Timor-Leste was governed under UN trusteeship, and the state was considered a blank slate upon which liberal prescriptions could be inscribed (Richmond and Franks 2008). In terms of addressing the massive violations of the Indonesian period, a UN-led serious crimes process (ICTJ 2006) and a truth commission, the Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste (CAVR, Commission for Welcome, Truth and Reconciliation) (CAVR 2005) were created by a UN administration. The serious crimes process, focussed almost exclusively on the violence around Indonesia's departure in 1999, reflected the international community's preoccupation with accountability, while the Timorese leadership spoke against this and in favour of reconciliation: 'We have to see what we can do, not what we wish to do. Now we need reconciliation and we have to think of socio-economic rather than formal justice. That is our priority' (Xanana Gusmão, while President, 16 December 2005). CAVR's much lauded engagement with tradition revolved around the use of traditional local dispute resolution techniques, to reconcile perpetrators of less serious offences to their communities, in the Community Reconciliation Process (CRP) (Babo-Soares 2004, Ximenes 2004, Kent 2005). Some of the only literature on CAVR that comes from Timorese who did not work with the Commission is from *La'o Hamutuk*, a Timorese NGO (La'o Hamutuk 2003) and perhaps the only source that clearly states the CAVR model of truth and reconciliation as foreign in origin: 'many key staff, all funding, and the basic structure and methodology come from overseas. . . it has relied heavily on international consultants, advisors, and leadership' (ibid., p. 1). Despite the cooption of elements of indigenous process in the CRP, the basic philosophy of the Commission regarding the therapeutic value of truth as healing, for both individuals and the nation, was imported from global discourses, notably that emerging from the South African Truth and Reconciliation Commission. Less present in the literature is the 'valorization' programme that has led to tens of thousands of veterans of the liberation struggle, both military and civilian, receiving medals since late 2006 (World Bank 2008), and others receiving pensions and economic support: it is the mechanism

referencing Timor's violent past that has directly affected the greatest number of Timorese. The independence of Timor-Leste was formalized in 2002, only for the state to descend into chaos in 2006, with police and military exchanging gunfire on the streets of Dili against a background of ethnically driven violence (UN 2006), provoking both the return of UN-sponsored troops and more serious reflection on a peacebuilding and statebuilding intervention that had until then been considered a great success by those leading it.

Timor-Leste's population stands at a little over 1 million (Government of Timor-Leste 2010): 72 per cent of these live in rural areas, working largely in subsistence agriculture, and 37 per cent have an income below \$1.25 per day (World Bank 2010). In addition to widespread poverty, the legacy of the nation's violent past remains, with estimates that as many as one-third of Timor-Leste's population died as a result of the Indonesian invasion (Staveteig 2007), many of their bodies never having been found. Whilst 90 per cent of East Timorese claim to be Catholic, almost all continue to hold traditional beliefs; the structure of local secular and sacred hierarchies and the network of obligations between and within families creates a unified structure that traditionally represented both local governance and law (Hohe and Nixon 2001). In this sense, understandings of both governance and justice are 'socio-cosmic' (*ibid.*, p. 11), deeply embedded in kinship and in shared beliefs of spiritual understandings arising from the importance of acting in accordance with the wishes of the ancestors.

The second set of data comes from Nepal. Nepal is the poorest country in Asia: 55 per cent of the population lives on less than \$1.25 per day (World Bank 2010). The feudal social relations that have persisted into modern times impact upon livelihoods, with a significant proportion of the rural population lacking access to land: 10 per cent of the rural population is absolutely landless and 58 per cent functionally landless, with holdings too small for subsistence (Uprety *et al.* 2005). A lack of access to land is the dominant cause of rural poverty. Nepal is a mosaic of ethnicities, languages and castes, unified in the eighteenth century under a high-caste dynasty that migrated from India in the centuries before. The many other ethnicities in Nepal, notably the indigenous who have traditional animistic and Buddhist beliefs and the lower castes, have been systematically excluded from the very idea of the Nepali nation (Höfer 1979, Hachhethu 2003, Tiwari 2007). At the start of the twenty-first century the Brahmin and Chhetri castes, which constitute some 30 per cent of the population of Nepal, made up 87 per cent of civil service staff (Battachan 2006), with clear implications for representation and legitimacy. Nepal's conflict was driven by poverty and social exclusion: following democratization in 1990, a Marxist party, the Communist Party of Nepal (Maoist) (CPN-M), declared a 'People's War' against the regime in 1996 (Ogura 2008). The conflict escalated to the point where the Maoists had effective control of much of the territory of the state, including almost all rural areas. The decade-long conflict ended in 2006 when constitutional parties united with the Maoists to overthrow a king who had seized absolute power. A legacy of the conflict was a death toll of 16,000, largely at the hands of the state (INSEC 2007), with thousands more disappeared (ICRC 2008). Nepal's transition remains

incomplete, with political paralysis characterizing the situation since the CPN-M became the largest party in the legislature, following elections in 2008. A UN mission to Nepal, with a limited mandate to monitor the arms and armies of the parties to the conflict, has left the country and liberal peacebuilding remains frustrated by the lack of a stable polity.

### Methodology

Methods to understand people's needs and the evidence of everyday lives must be able to operate within the realm of local ontologies, challenging liberal universalism. This privileges ethnographic methodologies, which confront the 'thin' legalistic representations of liberal discourses with 'thick description' (Geertz 1977). This also permits a challenging of the universalizing effect of the theory which dominates discussions of both peacebuilding and legitimacy, including those advocating emancipatory approaches.

These studies (Robins 2009, 2010b) aimed to use qualitative research methods with a sample of victims of serious violations occurring during the conflicts in Nepal and Timor-Leste to understand their needs. The sampling frames used were lists of persons missing<sup>3</sup> as a result of the conflicts and collected by the International Committee of the Red Cross (ICRC 2003). These included persons killed but whose bodies had not been retrieved, those missing following arrest by a party to the conflict, and those who had become separated from families and not seen again, notably in Timor when populations were fleeing in the mountains. This data-set was the result of families of the missing visiting ICRC offices and of ICRC delegates meeting families in all areas of the country over the entire periods of conflict. Whilst this sampling frame contains only victims of certain violations, they are violations that have come to characterize both conflicts and have been identified and recorded by credible sources

A selection was made of four of Timor-Leste's 13 districts, and ten of Nepal's 72, including those most affected by violence, and within these districts cases were selected at random from the ICRC list and the families of victims visited in their homes. In Timor-Leste, a total of 69 families were interviewed and 81 relatives of victims met in nine focus groups, and in Nepal 86 families were interviewed and 74 relatives met in ten focus groups. Focus groups were organized by victims' organizations and (in Timor) by local community leaders. Families of the dead and the missing were interviewed using a semi-structured approach driven by a qualitative questionnaire that had been developed iteratively through contact with victims and victims' groups. The aim was to understand families' broad needs arising from their experience of conflict and their expectations of the authorities. Families were asked what needs they saw as emerging from their victimhood and, in Timor-Leste, their opinion of the mechanisms to address violations, namely trials, CAVR and the valorization

processes. Interviews were recorded, translated and transcribed and these transcriptions constitute the raw data of the study.

### Towards an Empirically Guided Post-conflict Peacebuilding

In principle, a victim is defined as such by what has been done to him or her, with this codified in the violations defined by various bodies of law. In practice, victimhood does not emerge naturally from the experience of being harmed, but is constructed socially and subjectively, with a range of factors determining who will be accorded victim status. Most formally, bodies established to deal with victims, such as Truth Commissions or prosecutorial bodies, will determine who is considered a victim. More locally, in many contexts victims' groups and NGOs will engage with victims and define criteria that may impact on understandings of victimhood within communities. These understandings may or may not coincide with those of victims themselves, usually being created by those with authority in the capital and remote from affected communities. A political agenda or a certain narrative of the conflict may privilege a particular conception of victimhood: victims constitute a part of the contested terrain of the memory of the conflict, at both national and local levels, creating a hierarchy of victimhood (Rombouts 2002). The Truth Commission represents the formalization of this process, in which victim memory is transformed into public knowledge (Humphrey 2002), sanctioned by authority. Victims were selected for this study on the basis of having a relative missing in the conflict, largely on their own understanding. However, since victims' associations played a key role in contact with victim families, these understandings were in most cases shared by their communities.

The needs and priorities of victims of conflict are summarized as they emerged in the study, with the aim of understanding implications for post-conflict legitimacy. Whilst human rights advocates seek to frame responses to violations in terms of rights, it has been seen in both Timor and Nepal that most victims, dominated as they are by the rural, poor and illiterate, know little or nothing of rights and articulate *needs*, often urgent needs with which they are confronted on a daily basis. This view is exemplified in the comment of the sister-in-law of a man disappeared by the state, in Rolpa, Nepal:

We hear people on the radio talking about these things. But nobody has come and told us about our rights. We don't have any concept of human rights. (Kotgaun, Rolpa, 11 June 2008)

### Needs of Victims

The priorities of victim families emerged from an initial open question, with dominant needs being those for economic support, truth about the fate and

**Table 1.** Needs expressed by families of the missing

Need	Families expressing this need, %	
	Timor-Leste	Nepal
Economic support	61	62
Truth about fate / access to body	46	64
Prosecution	10	29

Source: Robins (2009).

access to the body of the missing. Recognition, in terms of an acknowledgment from the authorities of what had happened, was also a priority, particularly in Timor-Leste, where 30 per cent mentioned it as a priority (Robins 2009).

There is a significant difference in needs expressed by families in the capitals and those in rural areas: almost 3 times as many families outside Dili as in the capital prioritized economic needs, while 10 times as many in Kathmandu expressed a need for prosecutions as in the rural district of Bardiya, populated largely by indigenous Tharu (Robins 2009, 2010b). The data demonstrate that even within a state needs are highly local, being strongly mediated by economic circumstance, education and degree of marginalization. The need expressed by the greatest number of families was for economic support; many families having lost breadwinners are confronted with the daily struggle to find the money to send children to school, to feed their families, and to pay for expensive rituals for the dead of the conflict. Victims living in poverty share the needs of all the poor and confirm the need for a positive peace that emphasizes livelihood. Such a peace also entails not a return to the structural violence of the past but a transformative process that challenges the violence of many social relations and the social exclusion seen for example by the indigenous people of Nepal. State legitimacy will come not from inclusion or development initiatives in the capital, but effective access to services and livelihood in the rural areas where most live.

In both Nepal and Timor, the understanding that a missing loved one is dead has often come as a result of the time they have been missing or as a result of contact with the spirit, in dreams or otherwise, that is perceived as confirming death. The most important cultural element of the expressed needs was the performance of rituals that would permit the spirits of the dead to rest in peace, and this was emphasized in Timor where the consequences of not performing rituals for the dead were believed to be the potential sickness and death of family members, and instances of both were reported during interviews. For example, the brother of one missing man from Bobonaro stated that:

[the spirits] take over the place and we cannot keep any animals because many died and only a few of us were left alive. For this reason we always get sick, we cannot domesticate our animals properly and we cannot live in peace, because the spirits are too strong. [...] [They are the spirits of] those who died without knowing where they are buried. [...] You know, us Timorese, how we deal with

the spirits. We know they died, but just think we did not get to bury them, and they died disgracefully, because we were not able to do any rituals; that is why they always come to disturb our family. (Los Palos, 13 August 2009)

For Timorese families a malign spirit is the most negative potential impact of a missing relative; addressing the issue of those who died in the conflict means not only addressing the needs of their families but also the demands of the spirits. For some families interviewed the peace of the nation is dependent upon this, with recent violence perceived as arising from the many spirits of the conflict dead still not at rest. The father of a missing man in Dili said:

If the authorities do not do anything to address [the issue of the spirits of the dead], many people will suffer again, because I believe that something else might happen: like a tragedy for the Nation. Let us face it, in 2006 what happened? In 2008, the 11th of February the President was shot ... and for those of us who believe in the spirits, the understanding was that this land is holy or sacred. So all I am asking for the authorities to follow up quickly in order to stop any other tragedy happening to this country. [...] Still they take no action. I have told them, for whoever rules this nation, if we have done nothing for them [the spirits], they will always shake up this country. (Colmera, Dili, 13 July 2009)

The normatively driven global emphasis on accountability is not shared by victims for whom law emerges from traditional dispute resolution and has little to do with the central institutions of the state. When asked explicitly about the need for prosecutions, only a minority in Timor sought them, and in Nepal a bare majority understand justice as meaning prosecutions. Justice was seen rather as receiving compensation or other acknowledgement from the state, or an answer about the fate of the missing. Similarly, a need for reconciliation which has driven the truth commission as a response to violent pasts, or needs linked to problems with or between communities, were articulated by no one interviewed. The overwhelming priority among typical rural victims was for their livelihood, to see the everyday poverty in which most live, and that has been worsened by the loss of relatives, addressed. Since almost all the missing are men, most of those left behind are women, who face challenges arising from the patriarchal structure of their societies and dominant attitudes within them. Both family and community resent the fact that wives do not dress or behave as expected of widows, since many refuse to accept their husbands are dead. Issues over their identity in a society where women's roles are narrowly defined are problematic, with the wives of the missing subject to discrimination and gossip. This demonstrates how the impact of violations arises from the nature of the societies in which victims live and drives women's demands that approaches to the violence of the past must also seek to transform the social hierarchies that increase its impact.

Recognition and acknowledgement was also important to many, particularly in Timor: when explicitly asked, 69 per cent of families sought a memorial to the missing and the dead, particularly important where there is no body. Constructions of national and local memory become crucial to permit victims' families to believe that the sacrifice of the dead and missing are valued; these contribute to

a political economy of memory that can be used to legitimate or delegitimize post-conflict regimes. Sources of greatest resistance to the current dispensation in Timor are veterans of the resistance who feel both they and their dead comrades have been forgotten by those now in power; in Nepal, Maoists continue to use narratives of the sacrifice of the 'martyrs' of the war to rally support for ongoing political struggles against the political status quo. The study revealed the extent to which attitudes to the political leadership in both states have been shaped by feelings that victims and those who fought for freedom have been betrayed, and the potential implications of this:

Our leaders should pay attention, we don't point our finger at the people who killed our father, but we only pass our message to the leaders to pay more attention to the orphans and widows whose loved ones are dead or missing during the war. (Relative of three people killed in internal Fretilin fighting, Manatuto, Timor-Leste, 22 July 2009)

Even though I lack those things I will never beg, you know. Why do you wait so long to give some subsidy, do you think we don't deserve it? Listen here, with that long time waiting I remind you that it could lead to another conflict because you're not taking care of our situation. (Disabled mother of missing man, Dili, Timor-Leste, 13 September 2009)

In Nepal, at a time when the CPN-M was in government, victims whose loved ones had died in the People's War stated that, if their needs were not addressed, a majority would react: half would take part in a political movement, while a significant minority (15 per cent) say they would be prepared to launch a rebellion with the use of arms, even against their own party:

The government has to understand our grievances and it has to respect our dignity. If the government of this twenty first century does not understand our problem, the counter-revolution will take place. (Brother of disappeared man, Gorkha, 16 June 2008)

Given that many of these families are cadres of the Maoist party, the implications for the future of the peace process of ignoring the needs of such victims should not be under-estimated. For such potential spoilers to accept the legitimacy of the regime they seek both memorialization of the dead and economic support of the living.

### Contrasting Local Needs with Liberal Prescription

In Timor the needs of victims can be compared with the mechanisms put in place as part of peacebuilding efforts, particularly those intended to address issues of violations. The dominant attitude of most families of victims is one of ignorance: hardly any families knew of the limited judicial processes that had taken place, and no family was met whose case had been heard by any court. Similarly, few

victim families knew of CAVR or had contact with the Commission: 11 per cent had given statements and two families had taken part in CRP hearings, but had not known this was part of CAVR. These data are consistent with CAVR's outreach, notably that 3–4 per cent of the population engaged with the CRP (Burgess 2004), but inconsistent with the eulogies the Commission has received as an instrument of truth and reconciliation for the nation (e.g. Babo-Soares 2004, Huang and Gunn 2004, Ximenes 2004). These data strongly suggest that the principal mechanisms of the liberal peace perceived as addressing violations of the past are unknown to most victims. Whilst half of those met were insufficiently informed to have an opinion of CAVR, a quarter believed that CAVR had produced no results and 7 per cent believed (falsely) that CAVR had led to their receiving a medal or pension. The product of the Commission is a report that remains largely inaccessible to the ordinary people of Timor-Leste both physically since copies have not reached villages and also due to widespread illiteracy. Even the title of the final report '*Chega!*' is in a language, Portuguese, spoken by only around 2 per cent of the population (Hattori *et al.* 2005). As the centrepiece of the transitional justice process, CAVR promised truth and reconciliation. The evidence of this study is that it was largely irrelevant to victims of serious crimes. The trope of truth as reconciliation had no resonance with victims interviewed: it was seen that families did not have problems with those in their community linked to violations and the data suggest that reconciliation within communities is largely accomplished. Given the fact that the CRP did not address the issue of the missing or the dead, and that it accessed a very small minority of victims, it seems likely that such reconciliation has either been spontaneous or achieved through community level initiatives. This suggests that in a dispersed rural society such as Timor, processes that emerge organically in communities are far more effective than centralized mechanisms in terms of both accessibility and impact.

As a result of the valorization process, 45 per cent of families met had received a medal, and 13 per cent a pension through the Veterans' Commissions, a process that has been a huge success:

Yes we are happy [with the medals and pension], it means a history of my father's sacrifice to help free the country; although he is not here with us but this is something that honours him. (Children of missing man, Dili, 16 July 2009)

In addition to the medal itself many families talked with pride of award ceremonies where senior members of the leadership had given them the medals, a clear positive impact on perceptions of legitimacy.

### Where Liberal Discourse Meets Indigenous Tradition

An ethnography such as this is able to challenge the culturally-based assumptions that drive approaches to legitimacy. Many of those interviewed in this study do

not share ideas of political causation with Western social science and as a result challenge the epistemologies with which we approach how impacts of the conflict can be addressed and thus how legitimacy is perceived. It is a fundamental assumption of social science that there are objective causes of social phenomena: peacebuilding and human rights are constructed on the understanding that changes in law, society and behaviour impact on people in certain ways. An alternative understanding of political causality is that which emerges from a religious or spiritual outlook in which consequences flow, as in the case for Timorese or indigenous Nepalis, from the actions of spirits. Many families interviewed in this study prioritize an addressing of spiritual needs above all others. The wife of a missing man from Lautem, Timor reported:

...one of my sons was sick. We brought him to the hospital in Baucau, and he remembered that it [finding his father's body] is something important that we should do. Maybe his sickness is the impact of my husband being missing. Therefore, they went to find his body... [...] we were looking for him because my child was sick, if he had not been sick we would not have found [the body]. (Los Palos, Lautem, 14 August 2009)

A Nepali man whose brother is missing confirmed:

The first reason the body is important is that we need to perform the ritual ceremony and the second one is to be able declare them as martyrs because they fought for their country. [...] There is nothing else that can satisfy the family; it's difficult because according to the Hindu religion we have to do the death ceremony and it's important as we do it every year. If we don't do it then there is a belief that the spirit of the dead will always trouble the family. (Kathmandu 25 August 2008)

Rural people see their lives as not just influenced but determined in many ways by spirits, whose actions can in turn be affected by human behaviour, notably by the correct performance of ritual. For some families the peace of the nation is dependent upon this, with recent violence in Timor-Leste perceived as arising from the many spirits of the conflict dead still not at rest.

Sometimes conflict appears in the nation and in villages because of the effect of all the people that died in the forest because of the war. Conflict appears because the nation has not yet recognized the people that died in the war for independence. Conflicts will always appear if the government does not recognize them. (Brother of missing man, Los Palos, Lautem, 13 August 2009)

A failure to acknowledge that conceptions of governance in rural communities emerging from conflict will necessarily diverge from imported global understandings will challenge state legitimacy. The addressing of many of these issues lies not in state institutions, but in traditional hierarchies in the community, where an everyday legitimacy can be constructed that resonates with the political and other communities that are far more valued than those of the remote state.

## Towards a Post-liberal Legitimacy

These data challenge a number of the assumptions that underpin the rights-driven mechanisms of the liberal peace in addressing impacts of violence and in constructing legitimacy after conflict. In both Timor-Leste and Nepal, victims overwhelmingly prioritized economic issues and the truth about their missing loved ones. The truth they sought, however, was a private truth, not a public one: the 'therapeutic ethic' (Colvin 2003) of truth as healing (for both individuals and nations) that has driven the Truth Commission as a prescription for addressing legacies of conflict is seen to have been largely irrelevant to victims in its Timorese incarnation. Rather, CAVR confirmed narratives of the Timorese as victims of the Indonesians that resonated with the nation-building needs of the leadership and thus served as regime legitimation for the new Timor-Leste state. This process was almost entirely an elite one, however, with little meaning for ordinary people and victims of the conflict. Yet a need for healing does emerge clearly in these data. The rites required to address spiritual needs are social events that serve as highly visible collective rituals that address community needs for healing. The effectiveness of such ritual derives from its performative nature, echoing the mechanism of truth commissions but using the language of spirit not catharsis and operating in a local social space rather than that of a state institution.

The machinery of liberal peacebuilding in Timor-Leste has been largely invisible to victims of the conflict and effective only where it has delivered something concrete, either in terms of economic support or acknowledgement of the sacrifice of loved ones. Efforts to engage with custom, in terms of traditional dispute resolution incorporated into the work of the CAVR, are largely unknown, representing an instrumentalization that has been romanticized by outside observers but that failed to impact on the vast majority of Timorese. A large number of positive appraisals of the role of the indigenous in the CRP have been written, mainly by those involved in its implementation, through the methodology of studying the very small minority who did engage with it. Such reports were part of the evaluation of the entire peacebuilding process in Timor-Leste that, immediately prior to the violence of 2006, was perceived as having been so successful. The proposed Truth and Reconciliation Commission in Nepal (Government of Nepal 2008) is similarly poised to address elite agendas in the capital, but likely to remain largely invisible in the rural areas where most violations occurred and most Nepalis live. The failure of such mechanisms to have relevance for ordinary people arises precisely from the fact that they emerge not from the local, but from global prescription, legislated from above with little consultation with the population. For process and institutions to aid legitimacy they must be rooted in the everyday social realities with which people live, emphasizing the custom and tradition that have long bound communities together. Such an approach will necessarily permit local particularities, such as the phenomenon of the missing and issues of spirits, to be addressed that are invisible to mimetic global practice.

A strategy to create a locally driven peace can emerge from an analysis of the relationship of the local to the mechanisms and instruments of peacebuilding, by

considering the 'modes of inclusion' (Lawoti 2009) of affected populations, including victims of the conflict, in peacebuilding processes. Those examined here (notably CAVR and the judicial process) constitute modes that can best be defined as either instrumentalization or co-option of victims. Intended to add a facade of legitimacy (for example through the fetishization of victim testimony in the truth-telling process of CAVR), they actually serve to ensure the exclusion of affected populations from having agency in such processes. For performance legitimacy to be served by such processes they must at the least be consultative in that they represent a response arising from an effort to understand the views of populations, but at best are participatory and transformative.

### Legitimacy as a Function of the Local and Particular

Normative concepts of legitimacy can be traced to Weber's three types of 'legitimate authority': rational–legal, traditional and charismatic (Weber 1978, p. 215). The rational–legal derives mainly from Western concepts of law and is seen to be largely irrelevant in communities that predominantly use their own traditional structures of dispute resolution and find the state judiciary remote and inaccessible. The traditional refers to those customs and structures to which people are accustomed: in Nepal and Timor-Leste local governance, rather than central structures which are at best irrelevant and at worst (as in Timor in Indonesian times) a source of violence and oppression. Charisma refers to perceptions of a leadership but has also been presumed to encompass the provision of goods and services related to state effectiveness (Barakat and Zyck 2009) and thus to include understandings of performance legitimacy. The Weberian framework, however, and the work of those who have attempted to build upon it (Rogowski 1974, Barker 1990, Beetham 1991), have little resonance with the data of this study.

At the level of what Richmond (2009b) calls the 'local-local' in Timor-Leste, efforts of the liberal peace to address the impacts of violence are invisible: they have had no positive impact on victims' perception of their rulers. In Nepal, planned peacebuilding measures appear likely to have similarly little impact outside the capital. For such processes to have an impact on victims there is a need to ensure that they are steered by an understanding of the priorities of local conflict-affected populations and to empower local and indigenous mechanisms that emerge from the local. This represents a *distributed* peace, where the locus of peacebuilding is not in the global offices of international organizations, but in the communities where those most affected by conflict live: a peace that can look different in different parts of the state, subject to both local culture and needs, and the particular impacts of conflict. Ensuring legitimacy for such populations demands a closing of the gap between where the liberal peace is instantiated and communities emerging from conflict.

Whilst it is the Truth Commission of CAVR that has been most praised by observers of Timor-Leste's transition, from the perspective of victims of the

conflict the largely ignored valorization process is perceived as by far the most valuable, because it addressed concrete needs. Legitimacy has been described as ‘a relatively simple process of meeting people where they are and meeting their needs and expectations’ (Barakat *et al.* 2010). ‘Meeting people where they are’ means both in their communities rather than in remote institutions and in the sense of addressing what they perceive as their priorities. Empirically, legitimacy in the highly collective societies examined here emerges as a shared understanding of the state and political leadership constructed within communities through their perceived interaction with the state. The valorization process succeeded because it addressed victims’ needs, namely those for economic support and for recognition in ways that impacted locally, on a significant scale and that were highly visible to the community. The process used currencies that were both understood and valued by the community, namely money and acknowledgement by a charismatic leadership. Reparation was perceived as more important than truth or prosecutions and was most readily delivered to victims through economic support and symbolic recognition, which in addition to sustaining livelihood, served as state acknowledgment of victimhood. Return of the bodies of missing loved ones would be the most reparative and legitimating act of the state, but has yet to happen on any scale in either context.

### Conclusion

In contrast to the usual approach of examining what states do in attempts to understand legitimacy, this study has asked those most affected by conflict what they seek to restore a view of the state. The perspectives of victims of conflict have been used to inform conceptions of state legitimacy that are constructed not from global benchmarks but from the everyday priorities of the conflict-affected and reflecting the intrinsically social construction of legitimacy. Empirical studies in two post-conflict states, Nepal and Timor-Leste, confirm that a state’s ability to deliver certain services to families and communities drives local concerns. This echoes concepts of *performance legitimacy* that construct perceptions of authority in terms of the perceived effectiveness of the state in addressing needs. For victims in the two states studied those needs considered most important are basic needs, such as can best be satisfied through effective livelihood, and an addressing of the impacts of conflict which, for the families studied here, are dominated by the need for an end to ambiguity about the fate of missing relatives. Victims we met emphasized above all welfare and this, rather than the creation for their own sake of state institutions that will remain remote from them, drives concepts of state legitimacy: performance legitimacy rather than regime legitimacy was prioritized.

The everyday is a space where it can be expected that global norms have to compete with visions of the world rooted in both traditional and highly particular

understandings. In the contexts studied here local and indigenous perspectives are seen to exist largely independently of global discourses such as rights. Meanings are constructed collectively in ways that are often unique to the cultures that exist within Timor-Leste and Nepal, and define how both war and peace are perceived and how community is understood: culture has a constitutive role in the initiation and cessation of conflict (Avruch and Black 1987). Similarly, the necessarily collective concept of legitimacy is constructed on local terms, with little reference to the global understandings that benchmark liberal peacebuilding, and any peacebuilding approach that ignores such understandings risks irrelevance to the everyday lives of ordinary people. Whilst basic needs have a degree of universality, many of the everyday impacts on victims emerge directly from local and highly particular social or spiritual understandings. That culture is important, indeed perhaps 'the most important issue of all' (Ramsbotham *et al.* 2005, p. 302) in conflict resolution, is seen in the range of needs that victims articulate in this study and serves to emphasize the centrality of the local and particular to post-conflict legitimacy.

#### Notes on Contributor

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#### Notes

1 The move to relabel victims as 'survivors', rarely done on the terms of victims, is another example of approaches that reinforce 'victim' as a negative appellation; in this study the identity of victim was perceived as a basis on which claims could be made of the state—the challenge for victims is to deny the dichotomy between victim and agent and attempt to forge a positive and enabling identity.

2 Annual per capita GDP, 2008: Timor-Leste \$469; Nepal \$444 (World Bank 2010).

3 'Missing persons or persons unaccounted for are those whose families are without news of them and/or are reported missing, on the basis of reliable information, owing to armed conflict (international or non-international) or internal violence' (ICRC 2003).

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