



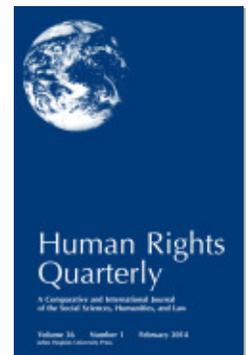
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Lars Waldorf

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Getting the Gunpowder Out of Their Heads: The Limits of Rights-Based DDR

Lars Waldorf*

ABSTRACT

The United Nations adopted an explicitly rights-based approach to disarmament, demobilization, and reintegration (DDR) in 2006 as part of its larger agendas of “liberal peace building,” integrated peace operations, and human rights mainstreaming. Rights-based DDR represents yet another example of how human rights discourse, law, and practice manage to penetrate adjacent domains—first the development, then humanitarian, and now security sectors. This article examines the development of rights-based DDR and looks at two key limitations. It concludes by recommending that DDR be rights-sensitive rather than rights-based.

“They all believe that we (ex-combatants) have gunpowder in our heads.”
—Liberian ex-combatant¹

I. INTRODUCTION

The United Nations (UN) adopted an explicitly rights-based approach to disarmament, demobilization, and reintegration (DDR) in 2006 as part of

* *Lars Waldorf* is Senior Lecturer in International Human Rights Law at the Centre for Applied Human Rights and York Law School, University of York (UK). He is co-editor of *Disarming the Past: Transitional Justice and Ex-Combatants*; *Remaking Rwanda: State Building and Human Rights after Mass Violence*; and *Localizing Transitional Justice: Interventions and Priorities after Mass Violence*.

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1. Mats Utas, *Building a Future? The Reintegration and Remarginalisation of Youth in Liberia*, in *NO PEACE, NO WAR: AN ANTHROPOLOGY OF CONTEMPORARY ARMED CONFLICTS* 137, 138 (Paul Richards ed., 2005).

its larger agenda of “liberal peace building.” This was a surprising move in three respects. First, DDR and human rights seem rather incompatible at first glance. After all, DDR emphasizes security and former combatants, while human rights privileges accountability and victims of conflict. In other words, they were seen as inhabiting different sides of the “peace versus justice” debate. Second, the effect of human rights on peace building is contested. For example, the 2000 Brahimi Report viewed human rights as “critical to effective peace building,” yet Roland Paris subsequently made an influential argument that political and economic liberalization is highly destabilizing for fragile and post-conflict states.² Third, the early enthusiasm and expectations around rights-based development had tempered by 2006.

The United Nations embrace of rights-based DDR was in keeping with former Secretary General Kofi Annan’s two-fold push to expand the core mission of the UN beyond “international peace and security” and to make it more “people-centered,” that is, less state-centric.³ Rights-based DDR has its roots in three key UN documents: the 1992 Agenda for Peace, which introduced the notion of peace building; the 1993 Vienna Declaration, which proclaimed development and human rights to be “interdependent and mutually reinforcing;” and the 1994 Human Development Report, which articulated the concept of human security.⁴ The 2005 World Summit outcome document brought these three strands together. There, the General Assembly affirmed that peace and security, development, and human rights are “the pillars of the United Nations system” as well as being “interlinked and mutually reinforcing.”⁵ The current UN Secretary General Ban Ki-moon reiterated this in a 2009 report on peace building.⁶

Prominent human rights organizations—primarily the International Center for Transitional Justice (ICTJ)—seized the opportunity rights-based DDR presented. ICTJ played a major role developing an evidence base and drafting policy guidance for linking DDR with transitional justice. Still,

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2. *Report of the Panel on United Nations Peace Operations*, U.N. GAOR, 55th Sess., U.N. SCOR, 55th Sess., Agenda Item 87, ¶ 41, (2000) U.N. Doc. A/55/305-S/2000/809 [hereinafter Brahimi Report]; ROLAND PARIS, *AT WAR’S END: BUILDING PEACE AFTER CIVIL CONFLICT* 135 (2004).
 3. Shortly after taking office, Annan called on the UN to “fully integrate” human rights into its peace and security, development, and humanitarian programming. U.N. Secretary-General, *Renewing the United Nations: A Programme for Reform*, U.N. GAOR, 51st Sess., Agenda Item 168, 196, ¶¶ 78–79, U.N. Doc. A/51/950, (1997).
 4. U.N. Secretary-General, *An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping*, U.N. Doc. A/47/277-S/24111 (1992); Vienna Declaration and Programme of Action (adopted by the 1993 World Conference on Human Rights in Vienna on 25 June 1993); U.N. DEV. PROGRAMME (UNDP), *HUMAN DEVELOPMENT REPORT 1994* (1994). See also Tara McCormack, *Human Security and the Separation of Security and Development*, 11 *CONFLICT, SECURITY & DEV.* 235, 236 (2011).
 5. G.A. Res. 60/1, ¶ 9, U.N. Doc. A/RES/60/1 (24 Oct. 2005).
 6. U.N. Secretary General, *Report of the Secretary-General on Peacebuilding in the Immediate Aftermath of Conflict*, ¶ 18, U.N. Doc. A/63/881-S/2009/304 (11 Jun. 2009).

rights-based DDR faced skepticism and resistance from DDR practitioners on the ground. As one senior DDR official stated: “There are so many complications with either [DDR or transitional justice] that you don’t simplify by putting them together.”⁷

Rights-based DDR is yet another example of how human rights discourse manages to penetrate adjacent sectors—first development, then humanitarian, and now security.⁸ This article begins by describing DDR and its human rights reframing. Next, it examines how a rights-based approach alters the implementation of DDR. It then looks at two key limitations of rights-based DDR. The article concludes by suggesting a more pragmatic way forward: rights-sensitive DDR.

II. DDR AND HUMAN RIGHTS

A. DDR

DDR is now a key pillar of liberal peace building. Along with security sector reform, DDR (re)builds the state’s capacity to (re)assert a monopoly over the legitimate use of force. It has become a regular feature of negotiated peace agreements and peacekeeping missions since its formal appearance in 1989. In 2005, over 1.2 million ex-combatants and their dependents participated in DDR programs in twenty-two countries at a total cost of \$1.9 billion.⁹ Despite a lack of evidence about the medium and long-term impact of these programs, the UN has stated that the “[d]emobiliz[ation of] combatants is the single most important factor determining the success of peace operations.”¹⁰

7. Interview with Gregory Gromo Alex, Senior Demobilization and Reintegration Specialist, MDRP Secretariat, World Bank, Kigali, Rwanda (17 May 2006).
8. On the “cascade” of rights-based approaches in the development sector, see Shannon Kindornay, James Ron, & Charli Carpenter, *Rights-Based Approaches to Development: Implications for NGOs*, 34 *HUM. RTS. Q.* 472, 476–92 (2012); ANDRÉ FRANKOVITS, *THE HUMAN RIGHTS BASED APPROACH AND THE UNITED NATIONS SYSTEM* 15–26 (2006), available at <http://unesdoc.unesco.org/images/0014/001469/146999e.pdf>. For a fascinating account of how the World Bank resisted being swept along, see GALIT A. SARFATY, *VALUES IN TRANSLATION: HUMAN RIGHTS AND THE CULTURE OF THE WORLD BANK* (2012). On rights-based humanitarianism, see Hugo Slim, *Not Philanthropy but Rights: The Proper Politicisation of Humanitarian Philosophy*, 6 *INT’L J. HUM. RTS.* 1 (2002).
9. Albert Carames, Vicenc Fisas, & Daniel Luz, *Analysis of Disarmament, Demobilization and Reintegration (DDR) Programmes Existing in the World During 2005*, at 9 (2006). For brief historical overviews of DDR, see Robert Muggah, *Introduction: The Emperor’s Clothes?*, in *SECURITY AND POST-CONFLICT RECONSTRUCTION: DEALING WITH FIGHTERS IN THE AFTERMATH OF WAR* 1, 4–6 (Robert Muggah ed., 2009); Macartan Humphreys & Jeremy M. Weinstein, *Demobilization and Reintegration*, 51 *J. CONFLICT RES.* 531, 531–32 (2007).
10. *A More Secure World: Our Shared Responsibility, Report of the High-level Panel on Threats, Challenges and Change*, U.N. GAOR, 59th Sess., Agenda Item 55, ¶¶ 227–28, U.N. Doc. A/59/565 (2 Dec. 2004).

DDR is designed to transform combatants into civilians and to ensure they do not take up arms again, whether as combatants or bandits. DDR has three constituent parts—disarmament, demobilization, and reintegration—which, it is now understood, need not occur in any particular sequence. Disarmament involves the collection, registration, storage, and often destruction of small arms and light weapons. Demobilization is more complicated as it encompasses both the physical and psychological processes of transforming combatants into civilians. It usually consists of two stages: first, processing combatants in cantonment sites or temporary centers, and second, providing a support package, commonly called reinsertion, which can last for up to a year. Reintegration is the long-term process whereby ex-combatants become reincorporated into civilian society. Reintegration has economic, social, and political dimensions. First, it aims to create sustainable livelihoods for ex-combatants. Second, reintegration seeks to rebuild social capital and social cohesion. Finally, it offers ex-combatants an opportunity to resolve political grievances through legitimate channels rather than through force of arms.

During the disarmament and demobilization phases, combatants are screened to make sure they are eligible for DDR and for program assistance. While the eligibility criteria are usually set out in peace accords or national legislation, DDR programs still face difficult choices identifying *bona fide* combatants, especially in the context of civil wars where many combatants are irregulars, part-time, or coerced. A program that is under-inclusive risks instability by leaving behind a reserve pool of armed combatants, while an over-inclusive program risks being perceived as unfair and corrupt. DDR programs have had particular difficulty in assisting female ex-combatants, as many choose to self-demobilize to avoid sexual violence in male-dominated demobilization camps or to avoid social stigma when they reintegrate.¹¹

B. From “Guns, Camps, and Cash” to Rights-Based DDR

Until recently, most donors and practitioners treated DDR as a short-term technical exercise typified by counting weapons, establishing demobilization camps, and handing out reinsertion packages—the “guns, camps, and

11. See U.N. Secretary-General, *Disarmament, Demobilization and Reintegration*, U.N. Doc. A/60/705 ¶ 8 (2 Mar. 2006). For an overview, see Luisa Maria Dietrich Ortega, *Transitional Justice and Female Ex-Combatants: Lessons Learned from International Experience*, in *DISARMING THE PAST: TRANSITIONAL JUSTICE AND EX-COMBATANTS* 158 (Ana Cutter Patel, Pablo de Greiff, & Lars Waldorf eds., 2010). For specific case studies on gender and DDR, see Kathleen M. Jennings, *The Political Economy of DDR in Liberia: A Gendered Critique*, 9 *CONFLICT, SECURITY & DEV.* 475 (2009); Kimberly Theidon, *Reconstructing Masculinities: The Disarmament, Demobilization and Reintegration of Former Combatants in Colombia*, 31 *HUM. RTS. Q.* 1 (2009).

cash" approach.¹² The emphasis was on preventing individual ex-combatants from becoming spoilers of the peace. Consequently, DDR programs paid little attention to the war-affected communities into which ex-combatants were reinserted. This security-focused approach was partly explained by the exigencies of the immediate post-conflict period, as well as the short time horizons and short attention spans of international actors. There was growing criticism both inside and outside the UN about the limits of this approach.

In 2006, UN Secretary-General Annan issued a report stressing the "vital" need to integrate DDR "with the wider peace, recovery, and development frameworks" to address serious problems in the planning, implementation, and coordination of past DDR programs.¹³ He set forth several principles to guide this integrated approach, including that DDR be: "people-centered," non-discriminatory, "accountable to the participants and beneficiaries," and participatory.¹⁴ These principles are the hallmarks of a rights-based approach.

A rights-based approach focuses on both process—non-discriminatory and participatory—and outcomes—at a minimum, increased respect for human rights. The main value added is that even the most marginalized are treated as active claimants of rights rather than as passive recipients of charity. As that suggests, the approach is inherently political. First, it empowers beneficiaries to see themselves as rights-holders with enforceable claims on the state and other duty-bearers. Second, it helps build "the capacities of 'duty-bearers' to meet their obligations."¹⁵ Third, it focuses on underlying structures of inequality, marginalization, and exclusion. Whether rights-based approaches actually achieve these goals is still subject to much debate.¹⁶

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12. Mark Knight & Alpaslan Özerdem, *Guns, Camps and Cash: Disarmament, Demobilization and Reinsertion of Former Combatants in Transitions from War to Peace*, 41 J. PEACE RES. 499 (2004).
 13. *Disarmament, Demobilization and Reintegration*, *supra* note 11, ¶ 9. For a good overview of integration in UN peace operations, see Kathleen M. Jennings & Anja T. Kaspersen, *Introduction: Integration Revisited*, 15 INT'L PEACEKEEPING 443 (2008).
 14. *Disarmament, Demobilization and Reintegration*, *supra* note 11, ¶¶ 28, 29, 31, 33–34, 41.
 15. U.N. DEV. GROUP, *THE HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT COOPERATION: TOWARDS A COMMON UNDERSTANDING AMONG THE UN AGENCIES* (2003).
 16. *Report of the Second Interagency Workshop on Implementing a Human Rights-Based Approach in the Context of UN Reform 1* (Stamford, USA) (5–7 May 2003), available at www.unfpa.org/derechos/docs/report_stamford.doc. For overviews of rights-based development, see PETER UVIN, *HUMAN RIGHTS AND DEVELOPMENT* 122–66 (2004); Paul Gready, *Rights-Based Approaches to Development: What is the Value-Added?*, 18 DEV. PRACTICE 735 (2008); Philip Alston, *Ships Passing in the Night: The Current State of the Human Rights and Development Debate Seen Through the Lens of the Millennium Development Goals*, 27 HUM. RTS. Q. 755, 798–808 (2005); Celestine Nyamu-Musembi & Andrea Cornwall, *What is the "Rights-Based Approach" All About? Perspectives from International Development Agencies* 17 (Inst. of Dev. Studies, Working Paper No. 234, 2004). Nyamu-Musembi and Cornwall identified four different ways that rights get used within rights-based approaches: as guiding norms; as instruments for measuring effectiveness and impact; as something to be integrated into programming; and as the underlying justification for strengthening institutions. They argue that "[m]ainstreaming a rights-based approach will therefore require work to promote all four dimensions." *Id.* at 47.

C. Framing DDR as a Human Rights Issue

DDR was successfully framed as a human rights issue between Annan's first report on DDR in 2000 and his report on integrated DDR in 2006. To understand how that happened, it is helpful to look at two conceptual frameworks for explaining why some human rights framings are more successful than others. Clifford Bob highlights the crucial role played by human rights "gatekeepers"—the large international NGOs, international organizations, and human rights intellectuals. He emphasizes that human rights framing is highly political, instrumental, and contentious on the part of gatekeepers.¹⁷

Joel Oestreich takes a more constructivist approach. In his study of how international organizations, like the United Nations Children's Fund (UNICEF), adopted a rights-based approach, he observes that these organizations partly "felt that framing issues in the language of human rights would increase [their] organizational influence; at the same time, however, that increased influence was desired primarily in order to pursue a principled agenda . . . that it felt was not being addressed sufficiently by more traditional means."¹⁸ Oestreich points to four factors that account for an international organization's pursuit of "principled ideas:" an ethical stance by "true believers" within the organization and supported by NGOs on the outside; an instrumental belief "that a principled stance will increase the actual effectiveness of its operations;" bureaucratic self-interest; and, most importantly, strong leadership capable of overcoming internal and external opposition.¹⁹

When it came to reframing DDR, the United Nations Development Programme (UNDP) was a key gatekeeper and norm entrepreneur. As early as 2000, the Brahimi Report had identified UNDP as the UN agency "best placed to take the lead in implementing peace-building activities."²⁰ This reflected an understanding that "effective peace-building is, in effect, a hybrid of political and development activities targeted at the sources of conflict."²¹ The Brahimi Report was a key moment in redefining develop-

17. Clifford Bob, *New Human Rights Issues: Understanding Their Contentious Rise*, 69 *COLOMBIA INT'L* 14, 20–29 (2009); Clifford Bob, *Introduction: Fighting for New Rights*, in *THE INTERNATIONAL STRUGGLE FOR NEW HUMAN RIGHTS* 1, 8 (Clifford Bob ed., 2009). For further development of this framework, see, e.g., R. Charli Carpenter, *Vetting the Advocacy Agenda: Network Centrality and the Paradox of Weapons Norms*, 65 *INT'L ORG.* 69 (2011). By contrast, Koskeniemi views human rights mainstreaming as a way for human rights experts to empower themselves within institutions. Martti Koskeniemi, *Human Rights Mainstreaming as a Strategy for Institutional Power*, 1 *HUMANITY* 47 (2010).

18. JOEL E. OESTREICH, *POWER AND PRINCIPLE: HUMAN RIGHTS PROGRAMMING IN INTERNATIONAL ORGANIZATIONS* 7–9, 12 (2007).

19. *Id.*

20. Brahimi Report, *supra* note 2, ¶ 46.

21. *Id.* ¶¶ 44, 46.

ment “as a strategic tool of conflict resolution and social reconstruction.”²² UNDP conducted a range of DDR activities—from coordinating donors to mapping socioeconomic opportunities for ex-combatants—in eighteen countries between 1991 and 2005. For UNDP, a key lesson learned from this experience was that “[m]any DDR interventions have in the past failed because of their narrow focus and short-term approach.”²³ Not surprisingly, it advocated a longer-term focus on development that would target both ex-combatants and receiving communities.

It was not much of a stretch for UNDP to apply its rights-based approach to development programming to the DDR context. First, UNDP had been at the forefront of mainstreaming human rights and championing a rights-based approach to development.²⁴ It was already engaged in rights-based development targeting ex-combatants. Second, the UN Secretary General had made clear that human rights “need[ed] to be fully integrated into peace operations.”²⁵ Third, there had already been a cross fertilization of a rights-based approach between the development and humanitarian sectors as a result of human rights mainstreaming within the UN and the fact that many NGO and UN development actors were involved in the humanitarian field.²⁶ Still, UNDP’s push for rights-based DDR also served the agency’s interests: DDR is one of the few, immediate sources of funding in post-conflict environments.

The UN created an Inter-Agency Working Group on DDR in 2005 with fifteen UN agencies represented, including three that had championed rights-based programming: UNDP, UNICEF, and the Office of the High Commissioner for Human Rights. The next year, the Secretary General launched the *United Nations Integrated Disarmament, Demobilization and Reintegration Standards* (IDDRS), an evolving set of standards that offers best practices for integrated and right-based DDR programming.²⁷ The IDDRS spells out

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22. Mark Duffield, *Social Reconstruction and the Radicalization of Development: Aid as a Relation of Global Liberal Governance*, 33 *DEV. & CHANGE* 1049, 1062 (2002).
 23. UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP), PRACTICE NOTE: DISARMAMENT, DEMOBILIZATION AND REINTEGRATION OF EX-COMBATANTS 18 (2005), available at <http://www.poa-iss.org/BPD/Upload/UNDP%20DDR%20Practice%20Note.pdf>. The description of UNDP’s work on DDR is drawn from that publication.
 24. See UNDP, POVERTY REDUCTION AND HUMAN RIGHTS: A PRACTICE NOTE, at iv, 1, 9–11 (2003); GERD OBERLEITNER, GLOBAL HUMAN RIGHTS INSTITUTIONS: BETWEEN REMEDY AND RITUAL 112–15 (2007); FRANKOVITS, *supra* note 8, at 27–33.
 25. See Kofi Annan, *Note from the Secretary-General: Guidance on Integrated Missions* ¶ 16 (17 Jan. 2006), available at <http://www.regjeringen.no/upload/UD/Vedlegg/missions/sgnote.pdf>.
 26. Michael O’Flaherty, *The Human Rights Field Operation in Partnership for Humanitarian Relief and Reconstruction*, in *THE HUMAN RIGHTS FIELD OPERATION: LAW, THEORY AND PRACTICE* 159, 173 (Michael O’Flaherty ed., 2007).
 27. UNITED NATIONS DEPARTMENT OF PEACEKEEPING OPERATIONS, *The UN Approach to DDR in Integrated Disarmament, Demobilization and Reintegration Standards* § 2.10, at 8–15 (2006), available at http://pksoi.army.mil/doctrine_concepts/documents/UN%20Guidelines/IDDRS.pdf [hereinafter IDDRS 2006].

the principles of rights-based DDR in some detail. In particular, it defines “people-centered” DDR in terms of non-discrimination, inclusivity, gender equality, child protection, and compliance with international human rights and humanitarian law. It also stresses that DDR should be participatory, involving local authorities, civil society, receiving communities, and ex-combatants and their dependents.²⁸

As the UN adopted rights-based DDR, the ICTJ took the opening. It sought to frame DDR as an issue for transitional justice. The ICTJ participated in conferences and published reports with the aim of persuading policymakers and practitioners to coordinate DDR programs with transitional justice processes. It helped shape DDR policy-making at the international level, first through the *Stockholm Initiative on Disarmament Demobilisation Reintegration* and then through the drafting of a transitional justice module for the IDDRS.²⁹ That 2009 module represents a high-water mark for human rights discourse in DDR programming.³⁰

D. PROGRAMMING RIGHTS-BASED DDR

A rights-based approach alters DDR programming in two fundamental ways. First, the principle of non-discrimination, strictly construed, means that DDR should provide benefits not just to ex-combatants but also to those communities receiving ex-combatants. Second, DDR must now respect international human rights law and international humanitarian law, particularly regarding accountability for serious violations of human rights and humanitarian law.

28. *Id.*

29. *Id.*

30. UNITED NATIONS DEPARTMENT OF PEACEKEEPING OPERATIONS, INTEGRATED DISARMAMENT, DEMOBILIZATION AND REINTEGRATION STANDARDS § 6.20, 19 (2009), [hereinafter IDDRS 2009], available at <http://www.ictj.org/sites/default/files/UN-DDR-and-Transitional-Justice-2009-English.pdf>. For ICTJ’s research and advocacy, see DISARMING THE PAST, *supra* note 11; Ana Cutter Patel, *Transitional Justice and DDR*, in SECURITY AND POST-CONFLICT RECONSTRUCTION, *supra* note 9, at 248; Roger Duthie, *Transitional Justice and Social Reintegration* (paper prepared for the Stockholm Initiative on Disarmament Demobilisation Reintegration, Working Group 3: Reintegration and Peace Building meeting, 4–5 Apr. 2005), available at <http://www.regeringen.se/content/1/c6/06/54/02/7545e870.pdf>; Jeannie Annan & Ana Cutter Patel, *Critical Issues and Lessons in Social Reintegration: Balancing Justice, Psychological Well Being, and Community Reconciliation* (2009); Pablo de Greiff, *Contributing to Peace and Justice: Finding a Balance Between DDR and Reparations*, Working Group on Development and Peace [FriEnt], 2007 (2007), available at <http://www.ictj.org/sites/default/files/ICTJ-Global-Disarmament-Reparations-2007-English.pdf>. Nine individual case studies, commissioned by ICTJ, International Center for Transitional Justice, Disarmament, Demobilization, and Reintegration, ICTJ, available at <http://ictj.org/our-work/research/disarmament-demobilization-and-reintegration>. See also Jelena Subotić, *The Transformation of Transitional Justice Advocacy: Assessing the State of the Field and Challenges Ahead*, 6 INT’L J. TRANS’L JUST. 106 (2012).

1. Non-discrimination

Non-discrimination is one of the most fundamental human rights principles. The IDDRS proclaims that “[n]on-discrimination and fair and equitable treatment are core principles in both the design and implementation of integrated DDR.”³¹ Yet, DDR programs usually discriminate in two ways. First, potential spoilers often get better deals. As the IDDRS acknowledges, “[i]t is likely there will be a need to neutralize potential ‘spoilers,’ e.g., by negotiating ‘special packages’ for commanders in order to secure their buy-in to the DDR process and to ensure that they allow combatants to join the process.”³² Second, and more fundamentally, DDR gives preferential treatment to ex-combatants over other war-affected groups, such as internally displaced persons (IDPs). The IDDRS recognizes that this sits uneasily with its commitment to non-discrimination and equal treatment: “[a]ll three groups [IDPs, refugees, and ex-combatants] face similar reintegration problems and, in principle, they should be given equal access to reintegration opportunities.”³³ The IDDRS justifies special treatment on pragmatic, instrumental grounds: “the security situation often demands that, in the short term at least, a specific focus on ex-combatants is required to increase security.”³⁴ DDR looks even more unfair when the situation for ex-combatants is contrasted with that of victims of gross human rights abuses. In 2005, not one of the twenty-two countries with DDR programs had implemented a reparation program for victims.³⁵

To balance security concerns with equity principles, IDDRS makes two policy recommendations. First, reintegration assistance to ex-combatants “must be harmonized with the assistance given to other returnees”—not to minimize discrimination, but rather to “minimize competition and resentment.”³⁶ Back in 2005, the Stockholm Initiative proposed a multi-donor trust fund that would support the needs of ex-combatants and their receiving communities.³⁷ But, there has been little, if any, political will to create such a mechanism: in the immediate post-conflict period, civilian returnees simply do not pose enough of a threat to peace building to attract the same level of funding as ex-combatants. Second, the IDDRS proposed that DDR programs should phase out direct assistance to ex-combatants over time and replace it with community-based reintegration assistance.³⁸ That is easier said than done: a well-intentioned DDR program in the Democratic Republic of the

31. IDDRS 2006, *supra* note 27, § 2.10, at 8.

32. *Id.*

33. IDDRS 2006, *supra* note 27, § 4.30, at 6.

34. *Id.*

35. *Id.* § 2.10, at 8; § 4.30, at 6.

36. IDDRS 2006, *supra* note 27, § 2.10, at 8.

37. MINISTRY OF FOREIGN AFFAIRS SWEDEN, *Executive Summary to STOCKHOLM INITIATIVE ON DISARMAMENT DEMOBILISATION REINTEGRATION: FINAL REPORT 35–36 (2006)*, available at <http://www.regeringen.se/content/1/c6/06/43/56/cf5d851b.pdf>.

38. IDDRS 2006, *supra* note 27, § 4.20, at 5; § 4.30, at 17–18.

Congo (DRC) that provided short-term micro finance loans to former combatants and medium term grants to communities caused confusion among the different beneficiaries.³⁹

2. *Respecting Human Rights and Humanitarian Law*

DDR programs must now comply with international human rights and humanitarian law. The UN Commission on Human Rights in a 2005 statement on Colombia “noted that the legal framework governing the disarmament, demobilization and reintegration process of illegal armed groups should guarantee the rights to truth, justice and reparations.”⁴⁰ The 2006 IDDRS also emphasizes compliance with human rights:

A primary objective of DDR is to increase human security. UN-supported DDR processes are therefore based on respect for the principles of international humanitarian law and promote the human rights of both programme participants and the communities into which they integrate. To ensure that the human rights of all persons are respected at all times, mechanisms must be established to minimize reprisal, stigmatization or discrimination.⁴¹

Interestingly, the IDDRS does not make a legalist argument for why DDR must comply with human rights; rather, it makes an instrumental argument that human rights are necessary for human security.

International human rights and humanitarian law now require accountability for serious violations. This legal imperative may well clash with DDR’s aims: many combatants will be less willing to disarm and demobilize if they fear prosecution for gross human rights abuses. While acknowledging this clash, the IDDRS insists on accountability:

Finally, mechanisms must be designed to prevent those who have committed violations of human rights from going unpunished and to ensure that DDR programmes do not operate as a reward system for the worst violators. In many post-conflict situations, there is often a conflict between reconciliation and justice, but efforts must be made to ensure that serious violations of human rights and humanitarian law by ex-combatants and their supporters are dealt with through appropriate national and international legal mechanisms.⁴²

Accountability requires three main changes to DDR programming: it rules out the use of amnesties to lure combatants into DDR programs; it calls for

39. Annan & Patel, *supra* note 30, at 10 (citing TSJEARD BOUTA, CLINGENDAEL INSTITUTE, ASSESSMENT OF THE ITURI DISARMAMENT AND COMMUNITY REINSERTION PROGRAM (DCR) (2005)).

40. *Promotion and Protection of Human Rights: Study on the Right to the Truth, Report of the Office of the United Nations High Commissioner for Human Rights*, U.N. ESCOR, Comm’n on Human Rights, ¶ 16, U.N. Doc. E/CN.4/2006/91 (2006), available at <http://daccess-ods.un.org/TMP/8314536.21387482.html>.

41. IDDRS 2006, *supra* note 27, § 2.10, at 9.

42. *Id.* at 10.

human rights screening of ex-combatants; and it means linking DDR and transitional justice mechanisms.

The tensions between DDR and human rights—between peace and justice—are most apparent when it comes to amnesties for serious violations of human rights and humanitarian law. Peace negotiators and DDR practitioners generally view amnesties as useful bargaining chips for getting potential spoilers to sign on to peace agreements and to disarm and demobilize their forces. By contrast, most human rights advocates argue that amnesties are morally unacceptable and legally impermissible. Since the 1999 Lomé Peace Accord in Sierra Leone, the UN has taken a principled stance against such amnesties.⁴³ The IDDRS has followed this approach: “while national amnesties may be agreed to, the UN system upholds the principles of international law, and cannot support processes that do not properly deal with serious violations of human rights and humanitarian law.”⁴⁴ Similarly, the IDDRS module on transitional justice rejects the use of amnesties.⁴⁵ Yet, a serious case can be made for amnesties as a lawful tool of both peace building and transitional justice.⁴⁶ Many combatants in Colombia have demobilized in exchange for partial amnesties.⁴⁷

If DDR programs are not to reward human rights violators, then entrants will need to be screened, which is similar to vetting. The IDDRS’s 2009 module on transitional justice proposes that DDR programs “consider” screening ex-combatants for serious violations of human rights and humanitarian law, though it recognizes that, in some contexts, this “will deter combatants from entering the DDR programme.”⁴⁸ It further recommends that, “at a minimum,” ex-combatants credibly alleged to have engaged in gross human rights abuses should not receive DDR benefits.⁴⁹ In practice, however, DDR programs have been very reluctant to engage in any human rights screening. Initially, the World Bank’s regional strategy for DDR in the DRC recommended screening ex-combatants for war crimes, but the UN peacekeeping

43. *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General*, U.N. SCOR, ¶ 10, U.N. Doc. S/2004/616 (2004).

44. IDDRS 2006, *supra* note 27, § 2.10, at 9.

45. IDDRS 2009, *supra* note 30, § 6.20, at 19.

46. Kieran McEvoy & Louise Mallinder, *Amnesties in Transition: Punishment, Restoration, and the Governance of Mercy*, 39 J. LAW & SOC’Y 410 (2012); Mark Freeman, *Amnesties and DDR Programs*, in *DISARMING THE PAST*, *supra* note 11, at 36; LOUISE MALLINDER, *AMNESTY, HUMAN RIGHTS AND POLITICAL TRANSITIONS: BRIDGING THE PEACE AND JUSTICE DIVIDE* 379–402 (2008).

47. Jemima García-Godos, *Colombia: Accountability and DDR in the Pursuit of Peace?*, in *TRANSITIONAL JUSTICE AND PEACEBUILDING ON THE GROUND: VICTIMS AND EX-COMBATANTS* 219–37 (Chandra Lekha Sriram et al. eds., 2013). Through political and legal challenges to those amnesty provisions, human rights advocates and victims groups won greater recognition and restitution for victims.

48. IDDRS 2009, *supra* note 30, § 6.20, at 25.

49. *Id.*

mission never attempted that.⁵⁰ Even Rwanda's DDR agency decided not to screen ex-combatants returning from the DRC for possible involvement in the Rwandan genocide. As one of its top officials explained: "You see how contradictory [screening] would be. We want people to come and if at the same time we start asking questions, they would start to say if you come to the demobilization center they are going to arrest you."⁵¹ Screening would also raise other human rights concerns regarding due process.

Integrated DDR requires that DDR be linked to other peace building processes, including transitional justice mechanisms. The Secretary General's 2006 report stated that DDR "must also be planned in *close coordination* with transitional processes to review and reform the rule of law and security sectors."⁵² The IDDRS softened that somewhat, stating that: "DDR programmes should be clearly linked to local and international mechanisms for achieving justice."⁵³ The IDDRS's transitional justice module provides the legal framework and policy guidance for coordinating the two processes. It also offers an instrumental rationale for linkage: "DDR programs that are informed by international humanitarian law and international human rights law are more likely to achieve the long term objectives of the programme[s] and be better supported by the international community."⁵⁴ More specifically, the IDDRS module claims that trials, truth commissions, reparations, and other transitional justice mechanisms will increase the willingness of war-affected communities to accept and reintegrate ex-combatants.⁵⁵ The idea is that these mechanisms can reassure victims and communities that those ex-combatants who have committed crimes will be punished or shamed or forced to make reparations. Reparations can also help blunt envy and

50. WORLD BANK, GREATER GREAT LAKES REGIONAL STRATEGY FOR DEMOBILIZATION AND REINTEGRATION 20 (2002).

51. Interview with John Zigira, Commissioner of the Rwandan Demobilization and Reintegration Commission, Kigali (15, 22 May 2006). See LARS WALDORF, TRANSITIONAL JUSTICE AND DDR: THE CASE OF RWANDA (2009), available at <http://ictj.org/sites/default/files/ICTJ-DDR-Rwanda-CaseStudy-2009-English.pdf>.

52. *Disarmament, Demobilization and Reintegration*, supra note 11, ¶ 9(h) (emphasis added). Similarly, the Secretary General's 2004 report on transitional justice stated that "Strategies for expediting a return to the rule of law [i.e. transitional justice mechanisms] must be integrated with plans to reintegrate both displaced civilians and former fighters." *The Rule of Law and Transitional Justice*, supra note 43, ¶ 32. In sharp contrast, Sean McFate argues that "There is a natural tension between transitional justice and DDR-SSR programs, and these two categories of activities should be isolated and compartmentalized, even as they must sometimes work alongside each other." SEAN MCFATE, THE LINK BETWEEN DDR AND SSR IN CONFLICT-AFFECTED COUNTRIES, USIP SPECIAL REPORT NO. 238 11 (2010).

53. IDDRS 2006, supra note 27, § 2.10, at 10.

54. IDDRS 2009, supra note 30, § 6.20, at 1.

55. IDDRS 2006, supra note 27, § 2.10, at 6.

resentment towards ex-combatants who receive DDR packages. As yet, there is limited empirical support for these claims.⁵⁶

III. THE LIMITS OF RIGHTS-BASED DDR

Having traced the development of rights-based DDR and some implications for programming, this section examines two crucial limitations of that approach. There are ongoing and robust debates over rights-based approaches in the development and humanitarian sectors. Without rehashing those debates here, this section flags two concerns that are particularly relevant in the DDR context.

A. Implementation

Rights-based DDR has run into problems when it comes to implementation. Much of that is common to other efforts at integration, mainstreaming human rights, and programming rights-based approaches. Integrated DDR has experienced many of the same difficulties as other integration reforms: “persistent administrative, funding and organizational barriers; cultural differences within and between the many elements of the UN system; underwhelming institutional commitment and processes, resources and political will to implement integration; fear of subordination to other UN departments or agencies; and basic failure to agree on what integration means and comprises.”⁵⁷ For example, the United Nations piloting of integrated DDR in Haiti and Sudan ran into trouble as the security-oriented Department of Peace Keeping Operations clashed with the development-oriented UNDP and UNICEF.⁵⁸ Similar issues arise with human rights mainstreaming: “uncertainties on how to integrate international legal norms into policy- and programme-type activities; little understanding of the implications of international human rights law; and doubts about the precise aim of mainstreaming.”⁵⁹

56. *Id.* § 2.20, at 8; *The Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies: Report of the Secretary-General*, U.N. SCOR, ¶ 26, U.N. Doc. S/2011/634 (2011). See Lars Waldorf, *Just Peace? Integrating DDR and Transitional Justice*, in *TRANSITIONAL JUSTICE AND PEACEBUILDING ON THE GROUND*, *supra* note 47, at 62–80; *DISARMING THE PAST*, *supra* note 11.

57. Kathleen M. Jennings & Anja T. Kaspersen, *Conclusion: Integration Going Forward*, 15 *INT’L PEACEKEEPING* 582, 582 (2008).

58. Robert Muggah, Desmond Molloy & Maximo Halty, *(Dis)integrating DDR in Sudan and Haiti? Practitioners’ Views to Overcoming Integration Inertia*, in *SECURITY AND POST-CONFLICT RECONSTRUCTION*, *supra* note 9, at 206–07, 215.

59. OBERLEITNER, *supra* note 24, at 106. For an especially scathing critique of human rights mainstreaming see Koskenniemi, *supra* note 17.

Philip Alston has noted how rights-based approaches are often pitched in terms of abstract principle that cannot be easily translated into real world programming where there is often a need to make difficult trade-offs in resource-scarce environments.⁶⁰ In a fascinating insider account, a former chief of strategic planning at UNICEF described four problems with a human rights-based approach to programming: a slowdown in program activity as staff digested and debated the new approach; increased difficulties in cross-cultural communication caused by the legalistic language of rights; overly exhaustive planning due to human rights holism; and “a paralyzing internal debate” over whether the indivisibility of human rights permitted priority-setting.⁶¹ In essence, there was an unresolved tension between a principled human rights approach, where rights are seen as non-negotiable, and an instrumental development approach, where rights are subject to cost-benefit analysis.

With a rights-based approach, DDR is now being asked to do more when it is not even clear if it was able to achieve its initial goals.⁶² There is little evidence that DDR programs actually work. Macartan Humphreys and Jeremy Weinstein found no significant correlation between participation in DDR programs and reintegration in a study of more than 1000 ex-combatants in Sierra Leone. They stated that “the nonfindings should be seen as a wakeup call to advocates of these programs” to moderate their claims and devise better methodologies for measuring DDR’s impact.⁶³ In places like Tajikistan, ex-combatants have reintegrated without going through DDR programs.⁶⁴ Furthermore, some scholars argue that DDR programs may even have a negative impact: “cementing divisions between ex-combatants and non-combatants; hardening group identity; buttressing harmful prewar authority structures . . . and contributing to participation in criminalized economies.”⁶⁵

60. Alston, *supra* note 16, at 802.

61. Lauchlan T. Munro, *The “Human Rights-Based Approach to Programming”: A Contradiction in Terms?*, in *RIGHTS-BASED APPROACHES TO DEVELOPMENT: EXPLORING THE POTENTIAL AND PITFALLS* 187, 196–98 (Sam Hickey & Diana Mitlin eds., 2009). See FRANKOVITS, *supra* note 8, at 6, 51–72. Alston would argue that UNICEF policymakers were mistaken in thinking that the indivisibility principle prevents the setting of “contextually identified priorities.” Alston, *supra* note 16, at 807. For more successful efforts at implementation by NGOs, see UK INTERAGENCY GROUP ON HUMAN RIGHTS BASED APPROACHES, *THE IMPACT OF RIGHTS-BASED APPROACHES TO DEVELOPMENT: EVALUATION/LEARNING PROCESS BANGLADESH, MALAWI AND PERU* (2007), available at http://www.crin.org/docs/Inter_Agency_rba.pdf.

62. A similarly well-intentioned expansionism is now underway as transitional justice policymakers seek to tackle economic, social and cultural rights. For a critique, see Lars Waldorf, *Anticipating the Past: Transitional Justice and Socio-Economic Wrongs*, 21 *SOC. & LEGAL STUD.* 171 (2012).

63. Humphreys & Weinstein, *supra* note 9, at 560.

64. Stina Torjesen & S. Neil MacFarlane, *Reintegration Before Disarmament: The Case of Post-Conflict Reintegration in Tajikistan*, in *SECURITY AND POST-CONFLICT RECONSTRUCTION*, *supra* note 9, at 47–66.

65. Kathleen Jennings, *Unclear Ends, Unclear Means: Reintegration in Postwar Societies- The Case of Liberia*, 14 *GLOBAL GOVERNANCE* 327, 338 (2008).

Rights-based DDR is simply trying to do too much and thus risks raising expectations among ex-combatants and receiving communities that simply cannot be met. Kathleen Jennings writes that DDR has become “so broad in scope and aims as to undermine chances of effective implementation.”⁶⁶ Pablo de Greiff trenchantly observes: “[a]ssigning DDR programs the responsibility to, say, make a significant contribution to economic development and then criticizing the program for failing to achieve this goal is an example of how conceptual profligacy with the goals of DDR programs may discredit them in general.”⁶⁷ DDR programs also may create confusion and lose the trust of ex-combatants as they provide expanded services to other returnees and war-affected communities. For example, the inclusion of communities in Timor Leste’s DDR program “resulted in the setting of unclear goals, and less sure-footed implementation.”⁶⁸

B. Limiting the Use of Local Justice Processes

In his 2006 report, the UN Secretary General stressed that integrated DDR should provide “local solutions to local problems.”⁶⁹ The IDDRS emphasizes community-based reintegration: “[u]ltimately it is communities who will, or will not, reintegrate ex-combatants and it is communities who will, or will not, benefit from a successful DDR programme.”⁷⁰ Despite these injunctions, integrated DDR still consists mostly of top-down interventions by international organizations and national governments without much meaningful participation by local communities or NGOs.⁷¹ The past few years have seen the emergence of Second Generation DDR. Originally developed to promote community security in the absence of the usual preconditions for DDR, such as peace agreements, Second Generation DDR can now replace or supplement traditional DDR. What distinguishes Second Generation DDR

66. *Id.* at 327. See Muggah, *Introduction*, *supra* note 9, at 6; NICOLE BALL & LUC VAN DE GOOR, *DISARMAMENT, DEMOBILIZATION AND REINTEGRATION: MAPPING ISSUES, DILEMMAS AND GUIDING PRINCIPLES 1* (2006), available at http://www.clingendael.nl/publications/2006/20060800_cru_paper_ddr.pdf.

67. Pablo de Greiff, *Establishing Links between DDR and Reparations*, in *DISARMING THE PAST*, *supra* note 11, at 132, 142.

68. Gordon Peake, *What the Timorese Veterans Say: Unpacking DDR in Timor-Leste*, in *SECURITY AND POST-CONFLICT RECONSTRUCTION*, *supra* note 9, at 165, 166.

69. See *Disarmament, Demobilization and Reintegration*, *supra* note 11, ¶ 30.

70. IDDRS 2006, *supra* note 27, § 4.30, at 12–13.

71. RENS WILLEMS ET AL., *SECURITY PROMOTION IN FRAGILE STATES: CAN LOCAL MEET NATIONAL?: EXPLORING THE CONNECTIONS BETWEEN COMMUNITY SECURITY AND DISARMAMENT, DEMOBILIZATION AND REINTEGRATION 13*, 58 (2009), available at http://www.humansecuritygateway.com/documents/CLINGENDAEL_SecurityPromotionFragileStates.pdf.

is that it is “programmed locally using an evidence-based approach.”⁷² These bottom-up initiatives “draw explicitly on local cultural norms rather than rigid or externally provided incentives.”⁷³

This new emphasis on community security dovetails with current understandings of the links between intra-state conflict and local-level dynamics. In the Eastern Democratic Republic of Congo, for example, conflict and insecurity persist despite peace accords, elections, transitional justice efforts, and DDR and Security Sector Reform (SSR) programs. Séverine Autesserre attributes this to local-level conflicts over natural resources, land, and political power. She faults the international community for “a dominant peacebuilding culture . . . that precluded action on local conflicts.”⁷⁴ She strongly urges a new local peace building strategy that would include, among other things, community reintegration of ex-combatants.⁷⁵ Similarly, Chris Alden, Monika Thakur, and Matthew Arnold argue that peace building efforts, including DDR, failed in the DRC and elsewhere because they did not provide local communities with sufficient security—something that would have undercut the rationale and support for local militias.⁷⁶

While rights-based DDR places attention on receiving communities, both in terms of benefits and participation, it simultaneously limits the use of local justice mechanisms for reintegrating ex-combatants and resolving community-level conflicts. Local justice is less formal dispute resolution, which runs the gamut from cleansing ceremonies in Mozambique and Northern Uganda to state-controlled community courts in Rwanda.⁷⁷ It is important not to romanticize or essentialize local justice mechanisms. In

72. UN DEPARTMENT OF PEACEKEEPING OPERATIONS, SECOND GENERATION DISARMAMENT, DEMOBILIZATION AND REINTEGRATION (DDR) PRACTICES IN PEACE OPERATIONS: A CONTRIBUTION TO THE NEW HORIZON DISCUSSION ON CHALLENGES AND OPPORTUNITIES FOR UN PEACEKEEPING 3–4 (2010), available at http://www.un.org/en/peacekeeping/documents/2GDDR_ENG_WITH_COVER.pdf. There is also some limited evidence that community-driven development can increase local-level social cohesion. See Patrick Barron, *CDD in Post-Conflict and Conflict-Affected Areas: Experiences from East Asia* (World Development Report 2011 Background Paper, 16 July 2010).

73. Nat J. Colletta & Robert Muggah, *Context Matters: Interim Stabilization and Second Generation Approaches to Security Promotion*, 9 CONFLICT SECURITY & DEV. 425, 444 (2009).

74. SÉVERINE AUTESSERRE, THE TROUBLE WITH THE CONGO: LOCAL VIOLENCE AND THE FAILURE OF INTERNATIONAL PEACEBUILDING 231 (2010). For more scholarship on the micro-level dynamics of civil wars, see STATHIS KALYVAS, THE LOGIC OF VIOLENCE IN CIVIL WAR (2006); SCOTT STRAUS, THE ORDER OF GENOCIDE: RACE, POWER AND WAR IN RWANDA (2006).

75. AUTESSERRE, *supra* note 74, at 251.

76. CHRIS ALDEN, MONIKA THAKUR & MATTHEW ARNOLD, MILITIAS AND THE CHALLENGES OF POST-CONFLICT PEACE: SILENCING THE GUNS 160 (2011).

77. See Roger Duthie, *Local Justice and Reintegration Processes as Complements to Transitional Justice and DDR*, in *DISARMING THE PAST*, *supra* note 11, at 228; Lars Waldorf, *Mass Justice for Mass Atrocity: Rethinking Local Justice as Transitional Justice*, 79 TEMP. L. REV. 1 (2006).

numerous conflict-affected settings, local justice, particularly in the form of purification rituals, has been used to help socially reintegrate former fighters back into their communities.⁷⁸ Kees Kingma identified early on that “[t]hese rituals have an important impact on acceptance by the community, as well as on the state of mind of the ex-combatants themselves.”⁷⁹

The IDDRS has stated that “[r]eintegration programmes for ex-combatants should . . . support the establishment of local conflict-resolution mechanisms that can work towards finding equitable and sustainable solutions to potential conflict about access to land and other resources.”⁸⁰ But IDDRS heavily qualifies that support: “DDR programmes shall not reconstitute traditional power structures that may have contributed to the outbreak of violent conflict in the first place, but instead shall encourage reconciliation and the inclusion of all stakeholders.”⁸¹ This is consistent with UN policy on peace building, which makes clear that international human rights norms trump local values.⁸² The new IDDRS transitional justice module makes the point emphatically: “Before establishing a link with locally based processes, DDR programmes must ensure that they are legitimate and that they respect international human rights standards, including that they do not discriminate, particularly against women, and children.”⁸³ That requires external actors—DDR officials and donors—to pronounce on the legitimacy of local justice. Furthermore, most local justice processes do not comply with international human rights norms and forcing them to do so may well undermine their local legitimacy and effectiveness.

Local justice processes are no panacea, but they may prove useful in specific peace building contexts, despite, or perhaps even due to, their clash with international human rights norms. That’s why they should not be ruled out from the start. What is needed, in other words, is a less liberal, more hybrid form of peace building better able to accommodate local norms.⁸⁴

78. See WILLEMS ET AL., *supra* note 71, at 8–10.

79. Kees Kingma, *The Impact of Demobilization*, in DEMOBILIZATION IN SUB-SAHARAN AFRICA: THE DEVELOPMENT AND SECURITY IMPACTS 181, 224 (Kees Kingma ed., 2000). He linked these ceremonies to payments by ex-combatants to village elders. *Id.* at 223–24.

80. IDDRS 2006, *supra* note 27, § 4.30, at 33.

81. IDDRS, *supra* note 27, § 2.30, at 6.

82. *Report of the Secretary-General on Peacebuilding*, *supra* note 6, ¶ 22.

83. IDDRS 2009, *supra* note 30, § 6.20, at 27.

84. See HYBRID FORMS OF PEACE: FROM EVERYDAY AGENCY TO POST-LIBERALISM (Oliver P. Richmond & Audra Mitchell, eds., 2012); Edward Newman, *A Human Security Peace-Building Agenda*, 32 THIRD WORLD Q. 1737 (2011); Roger Mac Ginty, *Hybrid Peace: How Does Hybrid Peace Come About?*, in A LIBERAL PEACE 209 (Susanna Campbell et al. eds., 2011); Oliver P. Richmond, *Resistance and the Post-Liberal Peace*, in A LIBERAL PEACE *supra* at 226.

IV. CONCLUSION: RIGHTS-SENSITIVE DDR

This article has examined how human rights discourse, law, and practice have crossed over from the development sector to the security sector with respect to DDR. Former Secretary General Kofi Annan and the UNDP have played crucial roles as norm entrepreneurs and gatekeepers in developing a rights-based approach to DDR. Subsequently, the ICTJ, a gatekeeper NGO, has reframed DDR as a transitional justice issue. Yet, rights-based DDR has run into problems when it comes to implementation. More worryingly, a rights-based approach precludes the use of many local justice processes for reintegrating ex-combatants into local communities.

There is a need to scale back integrated DDR. Instead of being rights-based, it should be rights-sensitive. DDR programs should be designed, implemented, and monitored with an eye to their effect on human rights, rather than on strict compliance with international human rights norms. Lauchlan Munro, the former UNICEF chief of strategic planning, has advocated a similar downsizing of the rights-based approach to development:

A rights-based *perspective* is less absolutist and much more helpful in the pragmatic game of running an organization and setting goals. . . . A rights-based perspective allows a pragmatic union of the promotion of rights with the exigencies of managing the inevitable scarcity of resources.⁸⁵

Rights-sensitive DDR also would be more realistic and more realizable than rights-based DDR. Programmatically, it would focus on participatory processes for ex-combatants and their communities instead of on legalistic outcomes, such as accountability.⁸⁶ Rights-sensitive DDR would not take an absolutist stance against amnesties for serious violations of human rights and humanitarian law or against discriminatory local justice processes.

Rights-based DDR points to how the expansion of human rights into adjacent domains leads to contradictions. On the one hand, it brings an awkward mix of ethical appropriateness, political empowerment, and legal fundamentalism, which rules out compromises around rights and accountability. On the other hand, it is mostly pitched using the logic of expected consequences: rights add value rather than having inherent value. This makes sense when trying to persuade DDR practitioners to adopt a rights-based approach. But, such instrumentalization and institutionalization brings its own unintended consequences: the denaturing and depoliticizing of human

85. Munro, *supra* note 61, at 201–02. See also Hannah Miller, *From “Rights-Based” to “Rights-Framed” Approaches: A Social Constructionist View of Human Rights Practice*, 14 INT’L J. HUM. RTS. 915 (2010).

86. The author is indebted to Paul Gready for suggesting this point.

rights.⁸⁷ By contrast, a rights-sensitive approach offers a middle position: not just between rights-based and rights-blind, but between uncompromising and compromised. It aims for what Martti Koskeniemi describes as a “mid-way where human rights might exist as an awareness or a sensibility . . . perhaps in the way of Max Weber’s ethics of responsibility: ‘the slow, strong drilling through hard boards with a combination of passion and a sense of judgment.’”⁸⁸

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87. See SARFATY, *supra* note 8, at 13–15, 115–32; Richard Caplan & Richard Ponzio, *The Normative Underpinnings of the UN Peacebuilding Commission*, in *THE NEW PROTECTORATES: INTERNATIONAL TUTELAGE AND THE MAKING OF LIBERAL STATES* 183 (James Mayall & Ricardo Soares de Oliveira eds., 2011).
88. Martti Koskeniemi, *Human Rights Mainstreaming as a Strategy for Institutional Power*, 1 *HUMANITY* 47, 55 (2010) quoting Max Weber, *The Profession and Vocation of Politics*, in *POLITICAL WRITINGS* 369 (Peter Lassmann & Ronald Spiers eds., 1994), available at <http://www.humanityjournal.org/humanity-volume-1-issue-1/human-rights-mainstreaming-strategy-institutional-power>.