This chapter re-examines reconciliation and the concept of just peace. Reconciliation is typically accepted as an aspirational goal, namely as a means to re-establish trust in norms, institutions, and civic community. Drawing on Dworkin's theory of integrity, this chapter argues that reconciliation should be primarily understood as civic discourse in a post bellum context, namely as an instrument to empower affected victim-survivors and to identify legitimate areas of disagreement. Ultimately, this chapter argues the role of the international community in reconciliation, setting forth a holistic and critically engaged concept of it and the need of interdisciplinarity to assess such meaning.

jus post bellum, reconciliation, integrity, civic discourse, Ronald Dworkin, transitional justice

6

Reconciliation and a Just Peace

James Gallen*

I. Introduction

This chapter argues that assessing how jus post bellum contributes to reconciliation is a necessary component of any emergent jus post bellum framework. If jus post bellum is to add any value to existing practice regarding post-conflict states, assessing its contribution to reconciliation should be seen as a technique to inform and evaluate the decisions of national and international actors in contributing to a just and sustainable peace. In addition, the language of reconciliation should be used as a legitimate means of critique of jus post bellum initiatives by victim-survivors and citizens of post-conflict societies.

Expanding on the use of reconciliation in transitional justice, this chapter first argues that reconciliation is already engaged in several relevant post-conflict legal questions, including the legitimacy of amnesties; disarmament, demobilization and reintegration (DDR) programmes; and the field of security sector reform. Second, the chapter will examine the existing limited discussion of reconciliation in jus post bellum discourse and disaggregate conceptions of reconciliation, forgiveness, and coexistence in existing, cross-disciplinary literature. Third, it will argue that despite the complexities of reconciliation in post-conflict states, the concept should usefully be used as a critical lens for individual citizens of post-conflict societies to evaluate the extent of legitimate distrust of jus post bellum initiatives. It is only after these components have been addressed that questions of intra-personal reconciliation can legitimately be evaluated. It will also argue that jus post bellum can play a further role in evaluating the structure of post-conflict assistance as providing opportunities or impediments to reconciliation in specific post-conflict contexts. In particular, the need for meaningful interdisciplinarity and the role of donor states in designing explicit reconciliation policies are considered. The chapter concludes by identifying an appropriate expectation for reconciliation as a goal in post-conflict societies: to evaluate how post-conflict societies make political decisions, pursue public goods, reckon with their past, and secure and a just and sustainable future.

II. Law and Reconciliation in Post-Conflict States

It is otiose to state that reconciliation is an elusive subject that defies easy description and definition, and that there is disagreement about whether it is attainable or desirable. Johan Galtung stated that reconciliation is a 'theme with deep psychological, sociological, theological, philosophical, and profoundly human roots—and nobody really knows how to successfully achieve it'. While the definitional debate remains largely unresolved, the term gains steadily in usage and importance, despite ongoing questions about in its interaction with other post-conflict initiatives.

In particular, the interaction of reconciliation with international law suggests it is necessary to consider whether it is appropriate to attempt a legal definition of the term: if we do not, we risk seeing the phrase used in a fashion destructive of a just and sustainable peace or as a byword for impunity. For instance, Article 53 of the Rome Statute of the International Criminal Court obliges the Office of the Prosecutor (OTP) to consider whether taking into account the gravity of the crime and the interests of victims, there are nonetheless substantial reasons to believe that an investigation would not serve the interests of justice. The OTP may consider questions of transitional justice, including questions of reconciliation, but in the absence of express guidance, affected states and communities are left to guess what factors might or might not be determinative. In addition, reconciliation informs the legality of post-conflict amnesties, especially for gross violations of human rights. In Azapo, the South African Constitutional Court assessed the legality of the amnesty attached to the national Truth and Reconciliation Commission process and sought to reflect the interim constitution's attempts to turn a necessity of amnesty into a virtue through reconciliation. More recently, international law and policy reflect a growing trend towards the necessary prosecution and punishment of gross violations of human rights. The UN secretary-general has stated that the UN will no longer endorse amnesty for genocide, war crimes, or crimes against humanity. While invocations of reconciliation in order to justify amnesties are becoming more difficult to legitimate, it is possible for more limited amnesties, which interact with the provision of truth, accountability, reparation, and guarantees of non-repetition to comply with international law. States continue to employ national amnesties in their drafting and implementation of peace agreements. There have been significant discussions arising from these issues, often framed as a 'peace v. justice' debate. However, a non-dualistic approach here, seeking to craft a just peace rather than framing the two values as opposing, should be preferred. Reconciliation also arises in further post-conflict initiatives and contexts, such as for returning refugees and internally displaced persons (IDPs), in the context of disputed property ownership, or in DDR programmes.

The increasing interaction of reconciliation with international law relevant to the termination and aftermath of armed conflict suggests a necessary role for reconciliation in the emergent field of jus post bellum. The temptation may be to provide a positive and perhaps legally operational definition and/or to incorporate reconciliation at the level of a principle or value of an emergent moral theory of jus post bellum. While framing reconciliation as a principle of jus post bellum, this chapter suggests an alternative may be possible that employs reconciliation as a critical device, not to be employed primarily by international law and policymakers as a discrete policy tool, but used responsively by victim-survivors and citizens of post-conflict states to strengthen the inclusive nature of the post-conflict processes, augmenting their voice and moral and political resources. In this way, reconciliation serves as an indicator not merely of its normative content, but also as a marker of the acceptance of other values pursued in the development of a just peace.

III. Reconciliation in Jus Post Bellum

Existing uses of reconciliation in jus post bellum discourse identify its potential in contributing to a sustainable just peace, but demonstrate ambiguities in its proposed application to the specificities and complexities of post-conflict societies. For Larry May, the pursuit of reconciliation is predicated on an attitude that preferences and privileges the desire for peacemaking rather than nationalistic or antagonistic attitudes. The need for post-war reconciliation goes to the core of May's conception: that a just war is one that eventually leads to peace, which is better enabled by pursuit and knowledge of jus post bellum principles. May contends that reconciliation concerns the shifting of social attitudes and understandings to enable one side to a conflict to view the other as worthy of trust and equal status before the law. Drawing on references from Vitoria and Grotius suggesting the

need for clemency or humility, reconciliation fits well with May's undergirding principle of meionexia or moderation, in fostering a set of cooperative attitudes across parties in the jus post bellum. On this approach, reconciliation may not be possible if all sides to a conflict insist on terminating the conflict by demanding what is their due, though May makes an exception that victims of gross violations of human rights should not be encouraged to compromise on their rights and standing. The question of reconciliation should be applied contextually to modern asymmetric armed conflict or negotiated conclusion to conflict, not exclusively to classical conflict between the armed forces of two states. It is one thing to ask a victorious army to exercise mercy over a vanquished one, it is quite another to burden victim-survivors with the duty to reconcile or show mercy to those who perpetrated gross violations of human rights against them.

In contrast, Coleen Murphy argues the overarching aim of jus post bellum is to contribute to the repair of the relationships damaged during conflict to develop political interaction until it is based on a minimally acceptable threshold level on reciprocal agency. On this account, the goal of reconciliation suggests that just reconstruction in jus post bellum should be broader than a mere cessation of violence and restoring the status quo ante, as more transformative approaches are necessary to move beyond the material social and political conditions that led to armed conflict and human rights violations. For Murphy, the just reconstruction of a community torn apart by warfare requires rebuilding (i) the rule of law and (ii) the conditions needed for relational capabilities, including a minimally functioning economy. May distinguishes this approach, suggesting: 'Murphy focuses on overcoming a climate of corruption and oppression, whereas I am concerned with healing the wounds inflicted by war and mass atrocity where there may not have been the kind of institutionalised oppression that Murphy addresses'. It may be profitable for a comprehensive account of jus post bellum to consider not merely reconciliation between two warring factors as social groups, but also to incorporate the role of institutions as objects of reconciliation. Legal, political, and social institutions can play a significant role in either facilitating or inhibiting the pursuit of reconciliation in post-conflict or post-authoritarian states.

For Daniel Philpott, 'reconciliation, both as a process and an end state, is itself a concept of justice. Its animating virtue is mercy and its goal is peace'. On this approach, reconciliation is achieved through a set of six political practices (socially just governance, acknowledgement, reparations, punishment, apology, and forgiveness) that seek to restore a measure of human flourishing and increases the legitimacy that citizens bequeath to their governing institutions or to their state's relationship with other states. Philpott views reconciliation as a holistic process: 'a process of restoration as well as a state of restoration, addresses the wide range of harms that crimes cause, and enlists the wide range of persons affected by these crimes'. These practices and the deeper goals they seek to establish add up to an ethic that is both an ideal of justice as well as a process of promoting justice. On this account reconciliation takes on a maximalist meaning, incorporating features of transitional justice and being equated with one conception of a just peace.

Finally, Andrew Rigby argues that a necessary feature of any just peace, particularly in post-civil war situations, is that it is a durable one that warrants the commitment of all relevant stakeholders. As a result post-conflict policy initiatives should address the pains of the past so that such experiences cease to dominate the present and enable all citizens to construct and reproduce new memories shorn of the desires for revenge and retribution that can destroy a fragile peace. On Rigby's account, for people to become reconciled to loss as a way of dealing with the pain of the past it is necessary for them to reinterpret that past, to reconstruct their memories in a manner that eases the intensity of feelings of hatred and bitterness and open up the possibility for new relationships with those once deemed responsible for their suffering.

Beyond these accounts references to reconciliation in jus post bellum literature broadly adopt the posture taken to the concept in transitional justice, despite the potential for divergence or adaptation between jus post bellum and that field. What remains absent in the literature to date is how the goals of jus post bellum impact on the reasons for action of individual decision makers, especially individual legal officials, attempting to use jus post bellum to guide their conduct. Conceiving of reconciliation as a substantive end-point will not help guide individual behaviour. In addition, reconciliation as one end-goal among others may continue a narrative that values must be compromised and traded off in jus post bellum, rather than viewed as a coherent network of value. In the alternative, it constitutes the entirety of a just peace, and thus does not help guide individuals in cases of apparent value conflicts or trade-offs in which they may be engaged. In addition, the question of how reconciliation might work as a principle of jus post bellum in guiding the behaviours and attitudes of an individual victim-survivor or citizen in a post-conflict state remains unaddressed.

While consideration of reconciliation in jus post bellum in this context will benefit from the experiences of transitional justice practice, and individual experiences before truth commissions or traditional forms of local-level reconciliation, our approach should not be bounded by the experience of that field. Previous discussions of jus post bellum have noted the potential for it to overlap but extend beyond the field of transitional justice, to consider issues of socio-economic rights and economic reconstruction, environmental protection, and property rights, with which transitional justice is not primarily concerned. Moreover, while it is possible to frame reconciliation as the process and end-point of all processes concerned with the pursuit of a just peace, it is unclear how such a technique does distinctive work as part of a jus post bellum approach. The conception of reconciliation offered must therefore seek to be relevant to the full range of activities that may operate under a jus post bellum framework but also provide normative guidance for law-applying officials, victim-survivors, and citizens engaging with such a framework.

IV. Disaggregating the Elements of Reconciliation

Any review of the diverse literature on reconciliation suggests that it cannot be narrowed down into a one-size-fits-all definition. Ongoing ambiguity in definition may enable governments to claim they pursue reconciliation, while fostering impunity or ignoring victims and the causes of conflict or violence. As a result there remains value in disaggregating the elements of reconciliation discourse, to see how they interact with emergent jus post bellum ideas.

First, we need to set appropriate expectations regarding value goals in post-conflict societies. In particular, we can expect victim-survivors and members of a post-conflict society to disagree about reconciliation, among other value goals, mirroring scholarly or theoretical disagreement. Paul van Zyl notes ‘there can be no blueprint that satisfies a wide spectrum of citizens’. Members of post-conflict societies legitimately disagree about how to address the past and how to achieve public goods for the future. The risk is that disagreement around reconciliation may thus cause individuals or groups to disengage with post-conflict processes if they believe their conception of reconciliation is not understood and accommodated. Christine Bell asserts: ‘Expecting victims to give up retributive desires in favour of reconciling narratives may not contribute to their “healing” at all’. Second, to mitigate this risk, reconciliation should not be understood as impunity or a substitute for justice. A key risk with international interveners is that the actual goal is not a just peace but ‘just a peace’—without regard to its substantive justice. International legal obligations and moral commitments to accountability suggest the necessity of offering an account of reconciliation that acknowledges a necessary element of criminal prosecutions and individual accountability in post-conflict societies. Indeed, it may be profitable to consider whether reconciliation is an essentially contested concept, that is, the type of idea that benefits from contestation and discussion about its meaning.

Third, conceptions of reconciliation will necessarily be informed by social context and national/local but should not depend exclusively on a religious or culturally specific conception. Reconciliation has a significant basis in religious and traditional thought. In some post-conflict environments, religious and traditional conceptions of reconciliation and forgiveness have been used and can present genuine opportunities for reconciliation. However, several limitations undermine the applicability of religious or traditional approaches to reconciliation. As culture-specific tools, they are necessarily limited to the ethnic, religious, and regional communities in which they are applied. In addition, some traditional or religious approaches may marginalize the role of women or young people or be subject to political manipulation. Moreover, conflict can damage the capacities of traditional leaders to perform justice and reconciliation rituals and challenges the appropriateness of peacetime conceptions of reconciliation or justice in addressing mass human rights violations. Finally, religious or traditional leaders may have been involved in the perpetration of violence or conflict, which could delegitimate them as facilitators of reconciliation. As a result, while national, regional, and local level approaches to reconciliation will necessarily be culturally and perhaps religiously informed, a distinctive post-conflict conception will likely emerge with the interaction of secular and/or foreign conceptions of reconciliation and should be encouraged.

Fourth, reconciliation should not be equated with forgiveness or the mere absence of violence. Theorists of reconciliation generally recognize that reconciliation is a 'scalar' concept, which allows for minimal and maximal versions of improved relationships, but the post-conflict context suggests these two extremes of blanket forgiveness or non-violence should be avoided. Victim-survivors of gross violations of human rights across several post-conflict societies legitimately object to coerced or centrally organized forgiveness. Martha Minow writes '[t]o forgive without a good reason is to accept the violation and devaluation of the self'. David Bloomfield argues that victims often conclude reconciliation means they must give up some claims, or accept imperfect justice, or be forced unilaterally to forgive those who made them suffer. Amy Gutmann and Dennis Thompson argue that societal forgiveness 'is not desirable from a democratic perspective independently of forgiveness by the victims themselves' and David Crocker states that it is 'morally objectionable . . . for a truth commission or any other governmental body to force people to agree about the past, forgive the sins committed against them, or love one another'. Susan Dwyer thus argues that 'reconciliation . . . is conceptually independent of forgiveness. This is a good thing, for it means that reconciliation might be psychologically possible where forgiveness is not'. It is therefore preferable to separate forgiveness and reconciliation. In particular, placing the burden of forgiveness on victim-survivors to personally forgive their perpetrators seems ethically intolerable.

Similarly, we must avoid the alternative temptation to equate reconciliation with mere coexistence. Coexistence is a more mundane term, with none of the religious overtones or ease of use as a pejorative term. Louis Kriesberg has argued that coexistence better suits the basic premise of compromise that underpins democratic politics—coexistence as accommodation—without the interpersonal, subjective overtones of emotion and emotional change of reconciliation. Kreisberg identified a range of coexistence based on the degree to which groups are integrated together in terms of interaction and interdependence, and the extent to which the relationship is mutually constructed or unilaterally imposed and sustained. David Crocker has similarly suggested two levels of coexistence, suggesting a thin conception of non-lethal coexistence and a thicker conception of democratic reciprocity in which former perpetrators, victims, and bystanders are reconciled insofar as they respect each other as fellow citizens and participate in democratic decision-making. However, if we adopt a thin concept of reconciliation as mere coexistence or non-violence, we have not addressed social relationships in a sustainable fashion, nor examined the underlying causes of conflict. Coexistence also seems, in its thinner conception, to be a pragmatic idea, suitable as a state

of affairs, but hard to justify to citizens of a post-conflict state: 'hate each other, but don't harm each other' does not seem particularly persuasive. Moreover, a thin conception of coexistence as non-violence, without addressing legitimate grievances, may disable co-operation between divided groups in a post-conflict society. Whatever our theoretical conception of a just peace, it should necessarily be a sustainable and principled one. A thicker more positive conception of coexistence merges into civic accounts of reconciliation, discussed below.

Fifth, national and personal reconciliation are different. Both must be pursued. Priscilla Hayner distinguishes between individual and national/political reconciliation. Hayner suggests: 'there are certainly examples of truth commission processes leading directly to healing and forgiveness for some individuals, but knowing the global truth or even knowing the specific truth of one's own case will not necessarily lead to a victim's reconciliation with his or her perpetrators'. The literature recognizes the value in political and national reconciliation, and its scope suggests it provides an appropriate goal for the fields of law and practice that populate jus post bellum. Bloomfield argues that national reconciliation extends beyond those who have directly suffered and those who perpetrated violence to incorporate a community and society-wide dimension 'that demands a questioning of the attitudes, prejudices and negative stereotypes that we all develop about "the enemy"'. Charles Lerche asserts that national reconciliation requires a process extending 'beyond coming to terms with the past to seeking out and implementing more broadly equitable models of governance . . . to build a society that is truly participatory and fulfilling to all of its groups'. These conceptions of reconciliation suggest national reconciliation should inform an overarching approach in jus post bellum across fields of economic reconstruction or the (re)development of good governance, among others. Political reconciliation also has an important symbolic and communicative role. Michael Ignatieff has remarked, 'Leaders give their societies permission to say the unsayable, to think the unthinkable, to rise to gestures of reconciliation that people, individually, cannot imagine'.

However, the risk with an exclusively elite-led political reconciliation is that it may appear distant and irrelevant to victim-survivors of conflict or citizens disconnected from political power more generally. Empirical evidence from truth commissions demonstrates that some victim-survivors view the experience as primarily for political benefits, disconnected from their real priorities, or worse that those who gave evidence and bore witness were (re-) traumatized by the experience. Moreover, we risk conflating individual and political reconciliation. Bloomfield notes that individual or interpersonal psychological ingredients (concerning hurt, pain, trauma, acknowledgement, reparation, punishment, revenge, healing, forgiveness, apology, and so on) are often used to discuss the very different context that applies to national or group reconciliation in a post-conflict society. The differences between political and individual reconciliation must be respected. Michael Ignatieff asserts, '[n]ations, properly speaking, cannot be reconciled to other nations, only individuals to individuals'. Donna Pankhurst suggests 'what is required psychologically for an individual to recover from trauma and be reconciled with the past . . . need bear no resemblance to what might be required for a society to do so'. Similarly Rosalind Shaw concluded 'Nations . . . do not have psyches that can be healed. Nor can it be assumed that truth telling is healing on a personal level: truth commissions do not constitute therapy'. To be effective, reconciliation must be considered as both national reconciliation and individual reconciliation. Both forms of reconciliation depend upon the social circumstances in which individuals exist, which can enable social cooperation and reconciliation or provide legitimate reasons for mistrust and perpetuate a non-reconciled society. An increasingly popular justification for national-level reconciliation practices is that principles and values will filter down and diffuse across the wider community. While this may be the case in limited contexts, it cannot be assumed and it would seem inappropriate for political elites alone to

determine the timing, nature, and consequences of political and individual forms of reconciliation. In particular, an elite-led reconciliation policy that fails to fully address the structural causes underpinning conflict can entrench existing structural imbalances and power relationships and thus gives the disempowered nothing new to which to reconcile. National reconciliation, or politically led reconciliation, can be hugely damaging to victim-survivors and do more harm than good in the pursuit of sustainable and just peace. The remainder of this chapter will therefore seek to construct a conception of how national and political reconciliation may be pursued as elements of jus post bellum based on the limitations identified in this section. In particular, the role of reconciliation in contexts beyond those considered in transitional justice should be borne in mind.

V. Setting Expectations: A Holistic, Critically Engaged Conception of Reconciliation

Above, we have established that reconciliation is contested and operates at least at political and individual levels. We have also noted the risks are that it is equated with forgiveness and is too demanding of victim-survivors, or that it is equated with impunity or the mere absence of violence. If jus post bellum is to position reconciliation as an organizing goal or principle, it needs to examine how it applies in practice. To consider the application of reconciliation as part of jus post bellum, this chapter suggests that reconciliation should primarily be understood not merely as an end-goal, but also as an evaluative technique for the individuals, both victim-survivors and post-conflict citizens more generally, of their experience of the practice of jus post bellum. The success of a post-conflict regime and its approach to transition is often judged, both by locals and by the international community, by its treatment of the past—how victims and perpetrators are treated as viewed by these groups, each other, and the society in general. Reconciliation can play a role in providing an evaluation of this success.

National experiences of armed conflict are highly diverse, but can be minimally understood as being destructive of social and civic trust and the rule of law. The restoration of these social conditions is recognized as structural conditions necessary for the operation of a range of fields relevant to jus post bellum, such as peacebuilding, economic development, transitional justice, or security sector reform. The present suggestion is that citizens have a basis not to reconcile with the state or with one another where legitimate grievances are not met or where apparent incoherences and contradictions in jus post bellum policy are not justified. For Pablo de Greiff, an 'unreconciled' society is one in which resentment characterizes the relations between citizens and between citizens and their institutions. It is one in which people experience anger because their norm-based expectations have been threatened or defeated. Equally, unreconciled societies are characterized by massive and systematic failures to recognize individuals as subjects of fundamental value and dignity, which entitles them both to basic protections and to raise claims. This failure of recognition leads to a legitimate breakdown of social trust among citizens. Reconciliation then can be seen as the process of response to these failures:

Reconciliation, minimally, is the condition under which citizens can trust one another as citizens again (or anew). That means that they are sufficiently committed to the norms and values that motivate their ruling institutions, sufficiently confident that those who operate those institutions do so also on the basis of those norms and values, and sufficiently secure about their fellow citizens' commitment to abide by and uphold these basic norms and values.

On this account, the process of establishing reconciliation and interrogating whether it is legitimate in a given context, operates as a form of civic discourse. Susan Dwyer conceptualized reconciliation as 'bringing apparently incompatible descriptions of events into narrative equilibrium', a process involving the articulation of a range of interpretations of those events and the attempt by the parties

'to choose from this range of interpretations some subset that allows them each to accommodate the disruptive event into their ongoing narratives'.

Applied to jus post bellum the role of reconciliation would enable victim-survivors and citizens to contest the justice and legitimacy of the practice of particular initiatives, such as a truth commission, or the settlement of property disputes, or the distribution of wealth through taxation or reparations. Building on my own previous work, we can conceive of reconciliation as offering a user-centred, rather than legal official centred, evaluation of jus post bellum as a coherent account of a just and sustainable peace. Previously I have employed Ronald Dworkin's principle of integrity to account for the need to present a coherent moral justification of the whole project of jus post bellum and to use jus post bellum as a moral evaluative tool to critique apparent inconsistencies or hypocrisies in relevant international law and practice. The principle of integrity was primarily addressed to a law-creating or law-applying official. Addressing the principle of integrity from another angle, we could ask how an individual citizen of a post-conflict state can reconcile their own specific moral commitments, values, and experiences with the armed conflict and with steps the post-conflict state has taken to address the harm and division individuals and communities have experienced. Are there still good and legitimate reasons neither to trust the state, nor to reconcile with the other? On this account, reconciliation offers an interface between the views of individual citizens and the law and policy creating and applying official, offering the latter feedback as to whether their approach has been legitimately accepted.

Second, as a form of civic discourse, reconciliation can play a role in countering narratives that the post-conflict society continues the conflict by other means. While it is inevitable everyone will not get everything they want in a post-conflict settlement or society, viewing reconciliation as aimed at rebuilding trust between citizens and state and citizens themselves offers the justification that a post-conflict settlement stands for a principled compromise, part of a larger project and practice of recognizing individual citizens and victim-survivors as objects of fundamental value and equal concern and importance. It suggests the potential to view jus post bellum activities hopefully, that an appropriate combination of actions and attitudes may lead to a virtuous circle, rather than to view them in zero sum terms.

Third, reconciliation as a form of civic discourse and evaluative tool counters the risk that elite-level practitioners focus on objective social conditions and neglect the subjective emotional experience of individuals and their attitudes towards one another regarding reconciliation. As a second order form of analysis of post-conflict law and policy, presently the purview of academics and theorists, the risk is that jus post bellum remains totally disconnected from the views and preferences of victim-survivors and individual citizens in post-conflict states. Andrew Rigby has argued that policymakers overly privilege institution-building and infrastructural reconstruction, and neglect the 'subjective' and lived experience of individuals subject to their policies at community and individual levels. In particular they fail to take account of the emotional challenges faced by those seeking to come to terms with loss in the context of post-conflict life. De Greiff argues that if reconciliation is to mean anything at all it must refer to something individuals either experience or not.

Fourth, while there is a role for discrete and intentional reconciliation activities where culturally and contextually appropriate, reconciliation can also be pursued indirectly through other activities in jus post bellum. Reconciliation on de Greiff's account is epiphenomenal, that is, it results from pursuing life, or in this case, law and policy, in a certain way, rather than being a goal to seek directly. As a result, there are very few things that can be done to promote reconciliation independently of other jus post bellum goals or initiatives. Reconciliation is therefore not one merely instrument or field among several that constitute jus post bellum, including transitional justice, peacebuilding, or

economic reconstruction. Rather, as Bloomfield and Philpott agree, it is the overall relationship-oriented process within which these diverse instruments are the constitutive parts. Viewing reconciliation as a civic discourse enables it to operate as a principle across the fields relevant to jus post bellum in a dynamic fashion. In addition, however, recognizing its dynamic role should prompt us to consider how jus post bellum as a discourse and emergent practice can itself facilitate reconciliation through the (re)structuring of post-conflict processes of legal, political, and social change.

VI. The Structural Role of Jus Post Bellum and the Need for Interdisciplinarity

The role of reconciliation as a process in jus post bellum therefore can enable and empower victim-survivors to legitimately critique post-conflict activities that do not warrant legitimate trust nor contribute to individual understandings of national or individual reconciliation. Jus post bellum can also take a constructive role by interrogating the structure of responses to armed conflict to enable an international, national and local climate to be conducive to organic reconciliation processes. Planning policy for reconciliation should therefore begin with conflict analysis assessing the context of the conflict, root causes including conflict actors and the role of the international community, the nature of victimization, consequences including psychological trauma, and the existence of any initiatives for reconciliation at different levels in society, among other issues. Questions about the transition itself, whether imposed or negotiated, and the content of any peace agreement, are also relevant to the development of reconciliation. The condition of the society including its power dynamics and stakeholders is also relevant to how legitimate forms of reconciliation can be pursued. Analysis of the causes of conflict are already relevant considerations in several fields relevant to jus post bellum such as transitional justice, peacebuilding, or security sector reform.

A number of authors argue that minimum preconditions should exist before it is legitimate to consider questions of reconciliation. Andrew Rigby suggests that any durable peace settlement should be inclusive, offer meaningful human security, including DDR, the development of a working state, the pursuit of economic reconstruction, and socio-cultural repair work. David Becker suggests that security, the pursuit of truth about the violent past, and some form of post-conflict justice are necessary conditions, which will inevitably take time to result in changes to behaviours and attitudes, while mediated by cultural expectations and understandings of reconciliation and forgiveness. The risk of such approaches is that they offer a laundry list of conditions before which reconciliation can be pursued, which may be disabling to individual policymakers seeking to prioritize and sequence limited resources.

A key opportunity for jus post bellum in this process is to enable effective sequencing of activities to ensure that seemingly discrete disciplines and fields of practice can offer complementary rather than competitive contributions to a post-conflict society, such that they meaningfully offer a coherent form of building civic trust and legitimating processes of reconciliation. We have above identified that while reconciliation intrudes into the legal realm, it also has a rich discourse and practice in theology and can often find both genuine expression and manipulation among political elites. Carsten Stahn, Jennifer Easterday, and Jens Iverson express concern that the discourse, interpretive and practice communities of jus post bellum that have been built around overlapping and pre-existing post-conflict fields and areas will interact in ways that will cause confusion: ‘there is a risk that the multi-disciplinary study of jus post bellum will lack inter-disciplinary dialogue—with each field taking siloed approaches—which could confuse or fragment the concept’. The issue of disciplinary conflict is particularly acute in post-conflict societies and humanitarian contexts. As David Kennedy puts it, ‘When violence breaks out, it makes a difference whether one sends lawyers, doctors, soldiers, priests, therapists, or aid specialists to respond’. The obvious risk is that

'Humanitarian policy makers can become committed to a school of thought—in economics, in law, in political science—and resolve choices among policy alternatives by defaulting to the option which seems to exemplify their methodological commitment—to positivism, naturalism, neo-classicalism, institutionalism, formalism or anti-formalism'. Diverse methodological starting points across disciplines run the risk of actors from different disciplines talking past one another and risk inhibiting shared or common understanding of concepts shared across jus post bellum related disciplines and fields such as reconciliation.

This challenge means that jus post bellum discourse may need to consciously provide genuinely trans-disciplinary dialogue on cross-cutting themes that impact on each area relevant to jus post bellum, including reconciliation, rather than hoping it happens organically. Such an approach should not merely include acceptance of the legitimacy of other disciplinary perspectives and eschewing disciplinary competition, but should extend to active steps for interdisciplinary learning, through knowledge sharing, skills training and greater interdisciplinary analysis, research and institutional research structures such as interdisciplinary centres on transitions and post-conflict issues. The complex and multidimensional nature of transitional societies warrants an appropriately detailed and rich analysis which may be of added value to practitioners.

For instance, for those coming from an international law or human rights background, the focus of the individuality of the gross violations of human rights, and the requisite need for reconciliation and complex forms of redress, must be placed in the context of a complicated web of violations to understand the systematic nature of violations committed during conflict and the structural conditions in which such violations occur. We already see a growing awareness of this in transitional justice, with moves to examine violations of socio-economic rights. Recent events on the environment and property rights in jus post bellum demonstrate awareness of the need to consider a response to conflict in a holistic framework.

However, features that have been comparatively neglected to date, which warrant consideration in the context of reconciliation, are the emotional and psychological conditions that surround conflict and mass atrocity and their impact on related fields. Neta Crawford observed, 'postconflict peacebuilding efforts too frequently fail . . . because peace settlements and peacebuilding policies play with emotional fire that practitioners scarcely understand but nevertheless seek to manipulate'. Similarly, Daniel Bar-Tal suggests that 'a psychological infra-structure' develops in a society's or group's shared beliefs: around selfhood, collective memory, ideologies, or views of victimization or legitimation. Bar-Tal argues that this leads to a conflictive ethos in society, created by these societal beliefs regarding one's own group, the adversary and the relationship between them, which can fuel or perpetuate conflict. Similarly John Darby and Roger MacGinty refer to a 'custom of violence' that is created in protracted conflict which 'alters fundamentally the entire society's norms of acceptable behaviour'. Darby and MacGinty conclude by stating that the 'central task [of the peace process] is to alter human behaviour from a helpless acceptance of fell deeds to the civilised conduct of human relationships'. A further perspective is offered from a rational choice background, as Barbara Walter argues that incentives are key to understanding social or cultural change such that post-conflict should seek to ensure that no individual feels that continuing life in the current condition is worse than the possibility of death in war, or that there is a closed political system that does not recognize their interests or permit change except by use of violence. An understanding of these types of emotional dynamics of post-conflict societies will allow theorists and practitioners to comprehend more clearly the challenges of meaningful application of jus post bellum principles and initiatives in real-world contexts, and enable greater facilitation of reconciliation.

VII. Role of International Community in Reconciliation

Finally, mindful of these complex challenges for the practice of jus post bellum in contributing to reconciliation, it is appropriate to interrogate the role of the international community, particularly in the explicit promotion of reconciliation in policy design. Luc Huyse argues that '[l]asting reconciliation must be home-grown because in the end it is the survivors who assign meaning to term and the process'. Brandon Hamber asserts 'the notion of 'reconciliation' [is] a complex modern foil used to market unfavourable compromises made during political negotiations'. Such comments are used traditionally regarding politically powerful perpetrators but I think should also be considered to apply to donors who can drive a post-conflict agenda, in particular where such states fail to acknowledge any structural role in creating, facilitating, or profiting from the relevant armed conflict. For instance, one could frame the international community's development and reconstruction financing to Timor-Leste as constituting a form of reparation and reconciliation for their inaction during Timor-Leste's occupation by Indonesia. However, such aid fails to capture the crucial element of acknowledgement of responsibility for a wrong committed, a point strongly resisted by the international community. While the UN secretary-general recommended that the international community provide funding for a solidarity fund for a reparations scheme for Timor-Leste, which could serve for this purpose, this proposal was not acted upon. If international actors want to model reconciliation for post-conflict societies, they would benefit from practising what they preach rather than instrumentally using post-conflict states to further their own commercial or foreign policy objectives alone.

Secondly, international actors must be aware of the moral hazard they create with a loose use of reconciliation as part of their financial support. Erin Daly has argued that civil society organization may value the objective of reconciliation, because 'they truly believe in it or because they truly believe that reconciliation has cash value insofar as donor nations insist on a conciliatory component of the transitional agenda'. Donor funding is typically granted on short cycles of up to five years and as a result, tangible outputs are expected, which suggests the need to distinguish one's own organization from its 'competitors'. Bidders seek to keep their risks low to improve their chances of success. As a result, bidders will not challenge or contradict any significant assumptions incorporated into the request for proposal or espoused by those involved in awarding the contract. The bidding process does not therefore encourage any serious discussion of lessons learned, especially from the mistakes of the past. This competitive bidding structure also does not encourage the sharing of lessons learned, as identifying lessons learned in prior projects may be used as a unique selling point in subsequent bids. Aid agencies do not devote significant resources to promoting lessons learned. They are by their nature forward-looking institutions. As a result, the industries involved in areas relevant to jus post bellum may expect expertise, not learning or preparation: 'much learning is done through mistakes that could have been avoided through preparation based on the wealth of published knowledge'. The absence of institutional learning for knowledge regarding shared norms—for instance, the rule of law—encourages reliance on personal and informal forms of knowledge transfer: 'there is no significant system of structured learning in which such information is actively analysed, critiqued and presented to those whose task is to apply the lessons'.

None of this structure is suitable to the long term, personal, and epiphenomenal nature of reconciliation that has been discussed above. If international actors and donor states are to be explicitly involved in the business of reconciliation, they need to better foster the sharing of comparative experiences and lessons learned and also incorporate such learning into subsequent practice and policy. There is thus the potential for jus post bellum to serve a function in enabling academic and practitioner sharing of lessons learned, best practices, or policies in a framework that connects the dots between disparate existing groups of fields, scholars, and practitioners. The recent

initiative from Academics Stand Against Poverty illustrates the potential for attempts to overcome some of these difficulties in a related area of mainstream economic development, and demonstrate the value of academic research to practice.

Key therefore among the evaluative considerations for a specific action in a field relevant to jus post bellum is the consideration of second order questions. In addition to asking what a specific initiative will do, for example to reform the security sector or enable the settlement of property disputes, it is appropriate to ask whether a given initiative will enable individual citizens of a post-conflict society to legitimately have greater trust with one another or with state institutions. Can and how does such an initiative form part of an overall narrative that would legitimately enable individual citizens to reconcile to the shared future that the overall project of jus post bellum pursues? If jus post bellum discourse and emergent literature is to ask itself these questions, effective efforts for disciplines and practitioners to learn from one another must be consciously pursued.

VIII. Conclusion

Unreconciled relationships, 'those built on distrust, suspicion, fear, accusation . . . will effectively and eventually destroy any political system based on respect for human rights and democratic structures'. Yet, as Timothy Garton Ash argues, 'the reconciliation of all with all is a deeply illiberal idea'. It is in this apparent tension that reconciliation must play a role in jus post bellum. This chapter has sought to shape a conception of reconciliation that seeks to empower victim-survivors and citizens of post-conflict states, as the end-users of the process of jus post bellum. The desire in this chapter is that reconciliation can be used as a critical device, to identify legitimate areas of disagreement and unreconciled relationships and structures in post-conflict societies, and to enable affected victim-survivors and citizens to seek justification of these unreconciled conditions from their state and from relevant international organizations, donors, and civil society actors. This approach has the potential to engender meaningful hope among victim-survivors and citizens: that they are being heard, acknowledged, and responded to. This experience of citizens being understood as fundamental objects of concern may in turn enable such citizens to 'hope well' is to experience ourselves as agents of potential, confronting our limitations and seeking to move beyond them. However, hope cannot survive without the conditions to sustain it. As a result, the chapter has gone on to consider the structural role jus post bellum can play in fostering better approaches to reconciliation. At this early stage, enabling law- and policymakers to benefit from consciously pursued interdisciplinary analysis, especially from social psychology, would strength our understanding of the actual reality of reconciliation in post-conflict states, rather than operating from mere constructions or theorizations. Finally, viewing reconciliation as a critical component of jus post bellum should humble us about the ability and appropriateness of the law, expertise, power, privilege to affect change in individual social attitudes and behaviours. Pablo de Greiff cautions that the relationship between law and policy efforts and reconciliation is complex: 'while transitional justice measures can contribute to making institutions trustworthy, actually trusting institutions is something that requires an attitudinal transformation that the implementation of transitional justice measures can only ground but not produce'.

As the jus post bellum discourse continues to emerge and shifts towards a more practical focus, scholars and practitioners would benefit from mindfulness and consciousness about these large structural issues. In particular, the potential for jus post bellum to operate actively, not only as a top down academic framework for large areas of international law, but also as a bottom up space for advocacy regarding the coherent implementation of international law and policy relevant to the post-conflict arena should be strongly considered. Academic and policy spaces for interdisciplinary

and inter-institutional collaboration may provide important first steps to more effectively advance the norms, laws, and policies relevant to jus post bellum.