

Rebuilding for Peace:

Post-Conflict Legal Reform and the Balance Theory

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1. Abstract

At a critical time in history, a new perspective emerges to potentially stall the increase in global conflict. By acknowledging the recent nature of conflict as intrastate, identity driven, and non-military, action transfers from the international community to the intra-national society. Also, the evolution of the modern nation-state has given rise to a new avenue of peace work through the legal institution. The foundation of the nation-state can be inherited by the legal institution which defines the citizens it is administered over.

In a post-conflict modern nation-state, the legal institution can be used to address and relieve tensions preventing regression into violent conflict. By reforming the legal system of the nation-state, issues of identity, power, resources, and rights can be peacefully disputed until an effective solution is created.

The Balance Theory proposed uses the legal system to prevent degeneration into recurring conflict. This is done by using the legal system to address the causes of previous conflict, correct them, and prevent further tensions. It is typically argued that conflict is the result of some sort of imbalance, and that conflict is used to recreate a balance. This balance can be in the area of power, resources, borders, identity, or practically any other cause of conflict. Conflict is expected to continue until some kind of balance is reached. Essentially, in the post-conflict arena, after some sort of balance is reached, the legal system can be used to perpetuate that balance and prevent recidivism to conflict.

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2. Introduction

A. Concept

In building any structure, the primary concern is on the strength of the foundation. Only with a well-constructed foundation can any progress be made on top of it. Without the proper foundation, efforts to build any structure would lead to eventual collapse. Although the perception of building a house is distinctively different from building a nation, they share a common prerequisite. In order to build a nation, this foundation must be manufactured in order to provide the necessary avenues for progress (Coyne 2004). In order to properly construct this foundation of a nation-state, it must be defined. The foundation of the modern nation-state can be identified by many different principles, such as visualized community, recognized sovereignty, territorial boundaries, and national identity (Anderson 2006). In that regard, only one practical institution can actually encompass the idea of the nation-state in a less abstract manner. This institution would be the legal institution used by the nation-state.

The concept of the foundational value of the legal institution is a relatively new phenomenon (Samuels 2006). Although the concept of the legal institution is older than the idea of the nation itself, its modern usage has evolved far beyond a code of conduct. Due to the increasing interconnectivity across the globe, the legal institution has evolved to encompass nearly all values and aspects of a community, therefore defining it (Samuels 2006). This national identity inherently defined and applied by the legal system is an important aspect and contemporary function of the legal institution as a foundation

of the modern nation-state. In application, the legal institution is the structural foundation of the nation-state (Reynolds 2007).

B. Hypothesis

On this basis, it is possible to go further than nation-building with the legal system as the concrete foundation upon which the unique nation is built. This paper proposes that the potential usage of the legal institution as a nation-rebuilding tool is an important yet untapped resource. In the post-conflict environment, the legal institution may be adapted, adjusted, or completely recreated in order to prevent further conflicts and increase the possibility of sustainable peace. Also, this paper will introduce a newly acknowledged objective of the legal institution specific to the post-conflict atmosphere, which will be presented as the “Balance Theory.” Using previous perceptions of addressing conflict, combined with contemporary issues, potentially yields an important understanding of attaining peace. This understanding puts the legal system in an advantageous position because of its ability to influence multiple issues of potential contention. Reaching and perpetuating balance, may create a path to effective peacework.

C. Why now?

This research and potential avenue for progress comes at a chaotic yet opportunistic time in history. Depending on your definition of “conflict” the figures can

vary wildly on how many active conflicts are currently in progress. The United Nations is engaged in twenty peacekeeping missions, which is a relatively good proxy (United Nations 2008). However, the exact number is hard to determine or perhaps simply does not exist. This is due to the current trend of intrastate conflict, which usually involves paramilitary groups and movements rather than official state militaries (Mortimer 1999). The modern cause of conflict has progressed to a motivation typically involving identity issues such as ethnicity or ideology (Carley 1996). This is made even more complex by the issues erupting intrastate and typically not being restrained by any concept of state borders; the borders of the nation-state essentially melt away as identity issues erupt across them. This current trend in conflict demonstrates the need for something more, especially in the structure and foundation of the nation-state (Godfrey and Unger 2004).

D. Why legal reform?

This is not to say there has not been advancement in the concept of the nation-state. In fact, its constant evolution is what makes possible the prospect of using legal reform as a tool. The modern nation-state has begun to take into consideration the areas of identity in forming its boundaries, as opposed to the previous thought of simply using geographical and defensible borders (Godfrey and Unger 2004). Now that a potential source of conflict rests within the state itself, the nation-state has begun to define itself in terms such as ethnicity, religion, culture, and other typically exclusive values (Anderson 2006).

These identity values are not always reflected in the institutions of the nation-state. In this situation, the potential for identity conflict is usually heightened (Smith 1991). However, the prospect of the legal institution as a source of identity within the structure of the nation-state may potentially alleviate the tension. By identifying this component and using it as a tool, the issue of identity may be less inclined to become violent (Samuels 2006). This allows legal reform to become a fluid issue in accurately portraying, defining, and stabilizing issues of identity within the nation-state.

Some opponents of this premise will argue that the legal institution cannot accurately portray issues of identity, let alone stabilize them. However, when taking into account the institution of law as a whole, it is not difficult to believe it can be of vital importance. The institution of law, beyond simply defined as a code of law, is inherently created, accepted, or refused by the people within it (Tschirgi 2005). Therefore, the citizens of the nation-state, under a system of law, either approve or reject their identity as formed by the nation-state, which is addressed by the legal institution. Those who reject will usually seek a change, which when legally sustained would alter the legal system to accurately portray the needs of the citizens (Mortimer 1999). The issue of conflict erupts when the people seek a change; however, the legal system is not allowed to adequately adapt to the demands of the dissenters (Honderich 1989). Thus, legal reform as a tool, can be used to peacefully allow change.

E. Why post-conflict?

Legal reform can be done peacefully and without conflict. However, conflict usually brings forth any imbalances of power, unfulfilled needs, or identity tensions (Lederach 2006). At that point, the points of contention are extremely obvious and can be specifically addressed. When tensions build and a breakdown occurs, then it becomes obvious that an outlet for tensions must be built into the legal system to prevent further conflict. The legal institutions must play a role in preventing the regression to violent conflict after its completion.

The physics law that an object in motion tends to stay in motion, or an object at rest tends to stay at rest, is no different in the arena of violent conflict. Statistics have shown that countries recently in conflict have a high recidivism rate (Collier *et al.* 2003). This means that a country at war, tends to stay at war whereas, peaceful countries tend to remain peaceful. By using the legal system as an institutional obstruction to conflict, and by addressing the foundational sources of conflict within the nation-state, it is possible to help thwart the cycle of conflict.

In the post-conflict phase, a common theme is rebuilding. The communities involved typically begin to analyze what went wrong and how to improve (Teitel 2004). When a community is in this rebuilding mode, reform of any kind is typically easier. The society is more eager to work, negotiate, address grievances, and alter otherwise static values and institutions (Lederach 2006). Therefore, the post-conflict society is more able to address tensions and have an impact on its correction.

3. Instituting legal reform

A. Key terms

In the discussion and implementation of a framework for post-conflict sustainable peace, it is important to adequately define and interpret the complex terms. These terms such as nation-state or sustainable peace are often accompanied by a flurry of ever-varying definitions and conceptualizations (Smith 1991). In order to properly use these terms for this study, it becomes necessary to discuss the manner and context in which they are presently used. What follows should not be interpreted as definitions *per se*, but should be used to understand the idea underlying the concepts usage, and therefore, it can be more easily applied to different situations. By refraining from using concrete definitions, the terms become more alive and adaptable to varying conflicts, cultures, and times (Lederach 2006).

I. Nation-State

The nation-state itself is not a new concept. However, the modern conceptualization is under constant evolution. After World War II, the world began to recognize a concept known as self-determination (Carley 1996). Its original understanding was the foreign intervention to allow a typically oppressed people to operate under their own authority, and has since progressed to the ideal of an intra-national struggle for independence (Carley 1996). Typically, the cause of a self-determination movement can be traced back to issues of identity conflicts. The entire concept of self-determination as the right to self-rule revolves around the issue of

identity. In order to believe that you are under the illegitimate authority of a group that does not represent you, there must be some kind of identity distinction (Anderson 2006).

The nation-state is no longer an issue of territory control and expansion, but a legitimate member of a global community (Carley 1996). Thus, the issue of national identity has become intertwined with self-determination movements and the ensuing aspirations of statehood. The usage of the term nation-state here symbolizes the representation of a self-determinant group identity, which is manifest in statehood. The nation-state then becomes a manifestation of an identity and a social construct in order to protect the national identity (Anderson 2006).

II. National identity

Social identity is the construction of an ideal or a set of ideals with which a group of people willingly associate (Smith 1991). People then use those ideals to locate themselves within a group (Tajfel 1982). Typically, this involves issues of religion, ethnicity, language, culture, or other similar characteristics (Mortimer 1999). An important concept to consider is the willing acceptance of the set of characteristics which set a group apart from another (Anderson 2006). Identity is an accepted social construction, multi-layered, and exclusive (Tajfel 1982). When this social identity gives credence to an authoritative body within a nation-state, it becomes a national identity.

The construct of the national identity defines the application of values and rituals to daily life. National identity categorizes acceptable social action, interactions with people inside and out of the identity group, and who is included and who is excluded

from the identity (Anderson 2006). Therefore, the national identity manifests concepts of morality, citizenship, human rights, civil responsibility, and public organization (Tajfel 1982). Those values from the macro level symbolize the legal institution which administers and regulates social interactions and the foundation of the nation in which the inhabitants form.

III. Legal Institution

The legal institution, as applied here, is not the classic perception of the criminal system and trial procedures, although that is intrinsic to a legal institution. The legal institution, however, encompasses far more than the criminal justice aspect. As previously mentioned, the legal institution or the legal system can be interpreted as the foundation of the modern nation-state. This can only be explained by viewing the legal institution as a whole. In giving the legal institution the authority to administer concepts of order, justice, punishment, and structure, its grasp is far-reaching and therefore can be seen within all aspects of society, even who is allowed in and who is not (Godfrey and Unger 2004).

The legal institution is formed as a response to social bonds and the perceived desire for social order and structure. When a social identity is formed, the group inherently creates a pact to abide by certain principles or face punishment by the group (Smith 1991). When the social identity becomes a national identity, with authority of governance, the pact within and between the groups is institutionalized as a national legal system with similar precepts (Smith 1991). Citizens of the nation, as members of the

group, must acquiesce to the national identity, act a certain way, and abide by certain principles, or face punishment (Smith 1991). Thus, the national identity creates the legal institution, which perpetuates the preferred values, principles, actions, and punishments when any bonds are broken. By administering punishment, the legal institution also acts as a system of reconciliation (Teitel 2004). Administering the legal institution in this manner makes it more obvious as to its depth and influence upon the national identity of the citizens of the nation-state.

IV. Sustainable Peace

The goal of this framework is to create an environment known as sustainable peace. In order to reach sustainable peace, many themes and necessities of a society must be addressed. Beyond the typical lack of violence lies an entire spectrum of issues which must be available to a society in order to be considered peaceful (Kemp and Fry 2004). Also, in order to be considered sustainable, there has to be a propensity to maintain that peace among all parties (Samuels 2006). The sustainable peace concept can be described as a positive peace, in which not only is violence absent, but there is a presence of certain values such as human rights, equal and fair justice, individual freedoms, and equality amongst the people (Kemp and Fry 2004). This is not to say there is an absence of conflict, but conflicts are solved by nonviolent methods, where the harmony of the community is maintained (Kemp and Fry 2004).

The sustainable aspect suggests that this notion of positive peace should be institutionalized. Although peace itself will invariably rely on the actions of the society,

a government designed to promote positive peace values is more likely to be peaceful and remain peaceful (Collier *et al.* 2003). In creating a legal institution which amplifies the national identity and enforces positive peace values, the legal institution can promote an environment of sustainable peace.

B. Objectives of reform

Examining the objectives of legal reform will yield a clearer framework of legal reform. In general, the legal institution should be used to move toward the concept of sustainable peace. However, the legal institution does have specific areas it can be used to advance in terms of sustainable peace. Recalling the totality of sustainable peace, the legal institution can be used to affect the positive dimensions of peace. The presence of social justice, including human rights, equal justice, and social equality, as well as the ability to peacefully resolve grievances, and the prevention of power abuses clearly fall within the realm of the legal institution (Tschirgi 2005).

The legal institution should be used to protect human rights. The presence of human rights is an important aspect of positive peace (Kemp and Fry 2004). By codifying the society's value systems and concepts of morality within the legal institution, they can be protected and guaranteed to the people. Although the general global tendency is toward increasing human rights, this can be an issue with some oppressive societies (Meckled-Garcia *et al.* 2006). Some societies are morally closed and domineering; therefore, allowing their value system to be reflected throughout the legal system may cause the legal system to be morally oppressive as well (Meckled-Garcia *et*

al. 2006). In this case, special care should be taken in creating a pluralist understanding of morality where multiple value systems exist. It is important to recognize the identity of multiple groups while not challenging any. The key concept behind human rights is the freedom of choice (Meckled-Garcia *et al.* 2006). For example, an Islamic woman who chooses to wear a covering, and is free to do so, has her human rights protected. The issue is not whether covering is oppressive, but whether she has the freedom to make a choice either way (Coward and Smith 2004). Therefore, moral pluralism, and acceptance can be defined, applied, and protected by the legal system (Meckled-Garcia 2006).

Another issue of importance is that the legal institution should be receptive and formed by the people it governs. Not only should the legal institution affect the citizens of the nation-state, but the dynamic social identity should affect the formation of legal institution as well (Carley 1994). When the citizens of the nation-state seek to change the legal institution to better represent any changes in the national identity, it should be able to do so. If not, the fixed system will seem oppressive and may lead to conflict. Therefore, the legal institution should carefully control the dynamic of power and authority of the nation-state. This is not only the focus of governance, but the prevention of abuse. Tyranny is not only a characteristic of militaristic or authoritarian states; even democracies can become tyrannical, should a power imbalance occur (Honderich 1989).

One way to prevent power abuse is to create a mechanism within the legal institution specifically for discussion and settling of grievances. Using the legal institution to create a process for redress of the government body, allows for the people to

bring up issues before they become violent, and permits the government to address those issues (Evan 1990). This creates a dynamic atmosphere which adjusts the legal institution, and therefore, adjusts the nation-state, according to the shifting perceptions of identity within the society (Godfrey and Unger 2004). This will relieve social unrest, creating a more stable and tranquil environment. Within this similar aspect, the legal institution can apply this same policy to the micro level, allowing individuals to address grievances with other individuals via the legal system. By doing so, the legal system will prevent escalation of social tension, in daily actions, before it can build up to the macro level. This is especially important in the post-conflict environment, where reconciliation and justice are important issues in working for prevention of further conflict (Mani 2005).

Incorporating the voices of the general public into the governing body should be a key role of the legal system. Not only should the legal system operate within the sphere of the people, but within the government as well. A legal system which forces consequence on an administration for any acts of indiscretion will essentially prevent that kind of an immoral atmosphere, including power abuse (Evan 1990). If not, it will at least hold offenders accountable for their actions, within the government. This is especially important for creating trust within the government, keeping the government just, and preventing social opposition. This will also balance government divisions, similar to the checks and balances system of the United States. By allowing the legal institution to hold everyone accountable, it can help prevent any division from becoming too powerful, and purposefully damaging the national identity of the state (Samuels 2006).

Although sustainable peace is the ultimate objective of the legal institution as claimed, the manner in which it is brought about is the strategic importance to such a system. The assertion of the specific relationship between the concept of national identity and the legal institution is paramount to reaching sustainable peace. The influence the national identity of the nation-state can have on creating a perceivably just and effective legal system can be tremendous. Not only that, but establishing the legal system in this manner creates an entire atmosphere of credibility, accommodation, and participation (Reynolds 2007). This permeating effect of social cohesion and government interaction created by focusing on the national identity will prevent violent outbreak. This institutional roadblock to violence, as prescribed, will help reduce the incidents of conflict. A legal institution which curbs violence, as well as the fear of violence, and promotes the peaceful management of conflict, will yield a national harmony and tranquility (Honderich 1989). This national harmony will therefore produce progress in various aspects of the nation-state (Honderich 1989). This progress will make conflict difficult to regress to, will encourage social unity, and advancement in sustainable peace related principles.

The roles of the legal institution range far beyond the relationship between the police force and criminals. It can and should be used to perpetuate a feeling of trust among the people and the government. The legal institution can prevent social tension by allowing an outlet of frustration and redress of the government. It can also be used to limit transgressions by the government against the people. Perpetuating social equality, extending human rights, and peacefully resolving conflict are additional and important

objectives of the legal institution. By reflecting the national identity of the people in the legal system, it creates an acceptance of the system and eagerness to contribute to its influence. This influence reflects the value system of the community, creating social harmony and an environment conducive to peaceful progress. As shown, the legal institutions role in creating an atmosphere of sustainable peace is a potentially significant one. Using the legal system as an institution actively working for a total and sustainable peace is a relatively untapped, yet abundant, resource.

C. Implementation of reform

As maintained, the purpose of the legal institution should be the pursuit and achievement of sustainable peace. This end can be achieved through a specific formulation of the legal system. This is done by reflecting the national identity of the people governed within the legal system. In order to do this, the national identity must be established. This can be done gradually by perpetual adaptation of the legal system and the nation-state, which is usually a peaceful transition. The focus of this paper, however, is the result of an inability to resolve the friction through amendment, which usually erupts in violent conflict (Honderich 1989). This conflict, whether economic, political, social, or religious, brings up important areas of contention (Lederach 2006). This is a reason for an emphasis on post-conflict reform, because the problematic issues are exposed and can be targeted (Lederach 2006).

Within the post-conflict atmosphere, legal institutional reform should be intentional. It should be planned and implemented carefully. Without this emphasis on

intentionally solving issues, addressing the needs of the people, and development of the national identity, it is likely that a conflict could reemerge (Honderich 1989). Also, intentional reform of the system will allow reform to be done correctly. In the modern global community, conflicts in a nation-state tend to be inundated with international aid and intervention (Samuels 2006). This is an extremely valuable aspect in ending the conflict because of the pressure the international community can place on the parties involved in conflict. In addition, international aid is vital in preventing humanitarian crises in conflict zones, especially where the government is involved in conflict and unable to assist. However, this dynamic shifts once the conflict ends.

In the post-conflict phase, where active conflict has subsided, it is important that reconstruction is a result of intra-national policies and decisions. When the international community gets directly involved in post-conflict reconstruction and reform, there is a propensity for the international community to dictate rather than support (Godfrey and Unger 2004). In the legal system, where the national identity is so important to creating a functional foundation for the nation-state, it is imperative that the nation reforms under its own pretenses. The internal mechanics of the nation-state should be addressed by people who understand the identity of the people, and that typically precludes foreign nations. The understanding of the root causes of the conflict may not be apparent to those outside of the conflict (Godfrey and Unger 2004). Therefore, it is likely that the important causes and issues will not be addressed by foreign reformers. In terms of reform, bringing together different units of the nation-state, representing various aspects of the national identity may be able to give a balanced assessment. This input should then be

transformed into a productive framework for implementing reform. By using internal perspectives, the process is legitimized and more likely to create progress.

Implementation of legal reform, though intentional, should primarily be fairly relaxed (Samuels 2006). Policies should be implemented slowly and carefully in order to make sure that amendments are being made with approval of the people and are not exacerbating the situation. Also, the malleable state after conflict, although helpful in implementing reform, may make the conceptualization of the national identity difficult. It may take time for the national identity to emerge because it will usually undergo transformation during and after a conflict (Mortimer 1999). Therefore, starting with the obvious issues and proceeding slowly, as the national identity reconstitutes itself, is the preferred course of action.

Implementation of legal reform does not seem to be inherently difficult. The post-conflict nature of the reform makes the country very dynamic and susceptible to change. Conflict is an awareness of imperfection within the nation-state and its position in the global community (Lederach 2006). If the nation-state was perfect, it would not have engaged in conflict in the first place. The nation-state is typically eager to engage in reform, especially because of the negotiation and reconciliation which takes place post-conflict (Samuels 2006). Once conflict is complete, prevention of further conflict should be a primary focus (Mani 2005). Therefore, the focus of the implementation of legal reform should not only be how it is implemented but its function. Although making sure that reform is mostly internal, accepted, and properly instituted is important, without the correct understanding of the post-conflict operation of legal reform, implementation will

be fruitless. In order to get the most out of reform, there needs to be a framework for what to address and how to do so, in order to minimize conflict recidivism.

4. Balance Theory

The Balance Theory is a framework for post-conflict legal reform based on the assessment of the current conceptualization of the modern nation-state and the recent trend of intra-state conflict. The important aspects of this theory are formed based on the aforementioned principles associated with the legal reform's role in preventing further conflict and enabling advancement towards sustainable peace. This theory intends to be adaptable to most post-conflict situations, which should help to limit the reversion to violent conflict all over the world. In achieving this, it is not only likely that conflict will not emerge in post-conflict nations, but nations at peace will not be forced to engage in conflict as well (Tschirgi 2005). Therefore, it is possible to work towards an environment of global tranquility and justice using this theory in conjunction with important peace frameworks.

In regards to the Balance Theory, it can be explained as a specific target of post-conflict legal reform. Everything mentioned earlier still holds true and is entirely valid. However, the Balance Theory narrows the scope and specifically analyzes how post-conflict legal reform should be used to limit the regression to conflict in the reconstruction phase. It may seem oversimplified to state that legal reform should strive to create sustainable peace in a nation-state where the previously mentioned aspects of legal reform are instituted. For that reason, this theory gives a more concrete

understanding of what post-conflict legal reform means, and more specifically how it can help to create a long term positive peace, which is described as sustainable peace. The following sections will provide more detail and clarify important concepts.

A. Theoretical framework

The framework for this theory is based on a prevalent view of conflict as proposed by Adam Curle in *Making Peace*, and further developed by John Paul Lederach in *Building Peace: Sustainable Reconciliation in Divided Societies*. In this analysis, conflict is a direct result of both an imbalance of power and the resulting awareness of it (Curle 1971). Curle's analysis, although preceding the sudden outbreak of internal conflict across the globe, seems to have been predictive, and is more valid today than it was when he first published his assumptions. In using his analysis of conflict, the primary cause for the eruption of violence is a power imbalance which is typically structural (Curle 1971). This perspective then labels conflict as normalizing and as a function of a rebalancing of power. Therefore, if there are no power imbalances within a dynamic institutional framework, it is highly unlikely that conflict will emerge.

This conceptualization is the basis of the Balance Theory. Curle and Lederach both espouse that institutions must promote a balance of power within an actively engaged framework of peace. The legal institution can be specifically applied to address the needs that Curle and Lederach required of a dynamic peace system. This can prevent conflict by preventing power imbalances, acknowledging areas of tension, and peacefully

addressing those issues. Using the legal system in this manner is likely to halt the need for a progression to conflict as explained by Curle. Also, the modern development of the nation-state as a territorial representation of national identity, when intertwined with the legal system, can create a foundation of a state with the ability to change and self-adjust, therefore preventing social tension through an inability to transform (Curle 1971).

The Balance Theory draws off this notion that achieving a balance of power, needs, and identity, and securing those balances will make conflict far less prevalent. Consequently, the Balance Theory draws its name from the desire to not only assist in creating those balances, but by perpetuating them using the legal system. Creating a system which fluctuates according to a combination of social transformation and government impetus, while retaining an institutional foundation, is the essence of the Balance Theory. Doing so allows the accomplishment of a number of requisites that Lederach and Curle attest will ultimately limit conflict and lead to a progression towards sustainable peace.

The modern expansion not only includes conflict as a power imbalance, but an identity balance caused by the contemporary perception of the nation-state. Moving beyond the political, economic, and structural power issues of Lederach and Curle forces the admission that identity imbalance is another cause for conflict. Identity imbalance and conflict are an especially crucial aspect in regards to the current nature of conflict. This identity balance is an aspect of the Balance Theory which places an emphasis on the legal system because of its ability to both represent the national identity within itself and subsequently permeate society.

Using the legal institution to address multiple areas of imbalance, perpetuate balance when it is achieved, and prevent potential imbalance, therefore makes a strong case. As the legal system is one of the only institutions able to achieve such a task, its application for peace should be actively pursued. The Balance Theory further defines how this pursuit can be addressed.

B. Application of the Balance Theory

The ultimate goal of the Balance Theory is to create a condition of balance that is difficult to disturb. In order to do so, the Balance Theory relies on the legal institution to assist in creating balance and functioning as a safeguard. Consequently, its practical usage is in the legal institution's ability to specifically address issues and reinforce areas which may become imbalanced. Having the national identity of the nation-state operating the legal institution mandates that issues concerning the nation as a whole are given special attention. In the post-conflict setting, issues of contention or imbalance which have arisen are supposed to be addressed and balanced. Only then do Lederach and Curle assert that conflict will cease.

The problem is that the concerns which caused conflict, which become somewhat balanced, are extremely easy to revert back to an imbalanced state. This causes conflict to arise again. Using the legal system to strengthen the balances achieved in the post-conflict environment can prevent the possibility of imbalances. Therefore, the Balance Theory supposed that specifically addressing points of contention, which have been

balanced through conflict, and using the legal system to maintain those balances will prevent reversion to conflict.

For example, a common cause for conflict is the distribution of resources across different groups within one nation-state (Collier *et al.* 2003). In applying the Balance Theory to this specific issue, the legal institution can be used to mandate the fair allocation of resources and attempts at subverting this equality can be considered criminal. This then has an effect on equalizing the national identity in regards to distribution of a certain resource and promoting egalitarianism in other similar situations. Although oversimplified, the same effect can be applied to more complex situations allowing the national identity to decide the area of focus, the solution, and its implementation by the legal system. In this regard, the legal system becomes an instrument toward peace.

5. Areas of improvement

As with all new ideas and theories, there are a variety of limitations and caveats. However, the possible inadequacies of investing in a potential alleviation of global conflict do not outweigh the benefits. The best course of action is to consider this reform, the Balance Theory, and its applications as the first step into moderately unknown territory. Although the details are not completely worked out, the theoretical framework of adjusting a necessary institution to become an active participant in peace should begin permeating the foundations of the modern-state as soon as possible. Doing this will

allow the legal institution to begin taking on the role defined herein, and begin the arduous advancement toward sustainable peace.

The most obvious limitation to the implementation of this reform as stated is its source of opportunity. The evolution of the nation-state to its current state has rendered this reform feasible; however, it is possible that continued development may limit its efficacy. If the foundations of the modern nation-state shift away from the importance of national identity, this reform will lose value. Without the legal institution's development and reliance on the national identity, it will lose its ability to prevent conflict as proposed. In that case, the legal system will be forced to draw on a different foundational aspect of the nation-state in order to give credence to its usage towards peace.

The ability of the legal institution to adequately characterize the national identity is also an issue. The legal institution is typically directly involved with the government, therefore, if the legal institution does not develop independently or with a barrier against authoritative coercion, the legal institution could essentially become hijacked. This could create a non-representative national identity designed to validate one specific group against another. This will inevitably lead to identity conflicts as this will create a power imbalance within the nation.

This theory also relies on a post-conflict atmosphere that desires peace. However, it is possible for a country or group to validate the usage of war and violence. In that case, the reform of the legal institution for peace is essentially lost. A nation with a united desire for conflict, especially one that had been drawn into conflict, will be especially difficult to prevent. The problem will only be exacerbated if the nation should

emerge victorious with little negative consequence. In this scenario, there is little desire to prevent conflict in the future. Therefore, it might be necessary to encourage international pressure to cease aggressiveness and push for reform.

Beyond that, the application of this theory to reality should act as expected. However, due to lack of understanding and research in this area, it is possible that there are major issues that will erupt upon practical application. Those issues will have to be addressed as they emerge, but nevertheless, the Balance Theory and legal reform will need to be instituted in order to discover the potential flaws. The unknown nature of the consequences of using this perspective should not completely impede the further understanding and application of it. The potential benefits are far too great to lose this opportunity for peace, especially due to hesitance. This theory is a potential stepping stone towards a creative solution to sustainable peace and should continue to be developed.

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