Between a rock and a hard place:
Violence, transition and democratisation.
A consolidated review of the Violence and Transition Project

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Introduction

Violence is an ongoing and prominent feature within South Africa and other countries emerging from violent, authoritarian regimes. As such, it constantly undermines and prevents efforts at reconciliation, healing and building sustainable peace. Violence also illuminates the limitations of, and obstacles facing, a new democracy. Traditionally there has been little research into, and consequently limited appreciation of, the factors that influence the relationship between violence and transition and their significance for processes of democratisation.[1] This has had implications for the ways in which violence is addressed (systems of justice) and how society understands democracy and reconciliation. While the past still impacts on present forms of violence, new trends, targets and perpetrators have also emerged within South Africa's democratic-era (some in direct response to democratisation itself).

South Africa's current experience of violence is not unique. Indeed, violence is a feature of most transitioning states. This is borne out by CSVR's regional peacebuilding work, (focused on building sustainable peace within Africa, especially Southern Africa, the Great Lakes region, Sudan and Sierra Leone); our Transitional Justice Programme, which has undertaken comparative studies with other countries emerging from transition (e.g. Guatemala, Sierra Leone, Ghana, Rwanda and the DRC) as well as an evaluation of transitional justice mechanisms within South Africa; our victim empowerment emphasis on working with marginalised groups, such as ex-combatants and refugees (informed initially by the VTP 1 research); and our focus on criminal justice and institutional transformation. Violence, in countries emerging from authoritarian regimes and armed conflicts, undermines the tangible benefits of democracy and constantly threatens the process of transition itself.

Over the last seven years, the Violence and Transition Project (VTP) at the Centre for the Study of Violence and Reconciliation (CSVR) has examined different faultlines and factors of violence in a trajectory over time. This, in order to better address the democratic deficits inherited from previous governance and to understand the changing relationship between political and criminal violence as part of a violence prevention agenda. Key to our analysis has been an engagement with violence in relation to the fields of transitional justice, criminal justice, peacebuilding and reconciliation. By bringing together these different areas of study (intended to grapple with violence in different ways), and by exploring how violence intersects with, and is shaped by, them VTP offers a unique multi-disciplinary analysis of violence in transition, one that tackles and conceptualises violence from a range of diverse perspectives.

Through this multi-layered analysis of the causes and consequences of violence, the project as a whole therefore contains key conceptual lessons about violence, lessons that this report seeks to extract and highlight. As South Africa continues to be a model for countries undergoing transition, and with regional and global conflicts impacting on

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[1]What constitutes, motivates and impacts on violence can be understood in many different ways and on a variety of levels, including the individual psyche (e.g. 'drives' of aggression (Freud), rage and envy (Klein) etc.), sociologically (with factors ranging from parenting to capitalism); in terms of motivation (e.g. political or criminal); through different typologies and categories (e.g. 'crime statistics indicate that (i) sexual violence, (ii) forms of robbery; and (iii) forms of assault; are the primary forms of violence in South Africa, and that all of these forms of violence are at high levels today' (Bruce, 2005)); as a trend that either increases or decreases overtime; as something that can be changed by specific spheres and institutions (for example the criminal justice system). This is clearly not an exhaustive list of the ways in which violence has been studied or understood. The point is rather to acknowledge that VTP comes with its own theoretical framework and perspective.

national democracy-projects, it is vital to lift the VTP focus to an international, comparative level, so that lessons can be learned and shared with other societies facing similar circumstances. This report will thus simultaneously identify gaps in the project, as well as possible avenues for future study. It does so in the recognition that VTP also plays a central role within CSVR. This is an integrating project that draws on and feeds into other projects and programmes. These lessons will therefore expand on and reflect a wider CSVR experience (locally and internationally).

Background and context

In September 1998, the Centre for the Study of Violence and Reconciliation (CSVR) submitted a proposal to the International Development Research Centre (IDRC) entitled: *Transition, Violence and Reconciliation in South Africa.* The funding was approved and - in early-1999 - the project, known as the Violence and Transition Project (VTP 1), started. Initially run over the three-year period 1999-2001, a second phase of the project (VTP 2), conceptualized in the proposal: *Obstacles to and Opportunities for Democracy* (2002), was heralded in 2003. As this phase nears completion (in December 2005) we have been afforded an opportunity to embark on a learning review of the project. This is an occasion to:

t   reflect on the evolving nature of the project;
t   extract key conceptual lessons about the relationship between violence, reconciliation and transition within South Africa and other countries undergoing democratisation;
t   explore the contribution of VTP to the emergence of CSVR as a leading organisation within the international fields of violence, transitional justice and peacebuilding.

This review starts from the premise that the VTP project itself has evolved over time. As such, it is a project in transition, much like its subject matter. In order to consolidate seven years of dedicated research, thirteen core reports, hundreds of primary interviews and focus groups, and a large archive of background and unpublished material into a meaningful set of lessons, this report will focus on the changes and continuities within the project as a whole. It will look for common threads and themes running across the different subject areas as another step within the iterative learning process that has marked the project overtime [iterative is used here to mean a process of learning and organic growth, achieved through building-on previous knowledge in a self-aware and consciously critical manner]. Through this process, this report will also identify key thematic gaps and set out possible areas for further research.

Given the huge volume of information and material collected, this review will not focus in detail on the individual sub-projects produced through VTP 1 and VTP 2. An overview of the VTP 2 sub-projects (their objectives, and variances between planned and actual activities) can be found in the report, *Violence and Transition 2: Obstacles to and Opportunities for Democracy, Final report to the IDRC* (December 2005). A similar overview of VTP 1 can be found in the earlier narrative report, *Violence in Transition: South Africa's Journey towards a post-conflict society? Final report to the IDRC* (April 2002).

The different constituencies examined through these sub-projects include:
t   Ex-combatants

Vigilantes
t	The taxi industry
t	Hostels and Hostel Residents
t	Foreigners (immigrants and refugees);
t	State Security Forces (police and military);
t	Kathorus youth in the aftermath of the violent conflict of the 1990s
t	The Peace Process in KwaZulu Natal
t	Gun control in Richmond
t	Community-State conflict and socio-economic struggles, and
t	Trauma and transition, with a focus on refugee women.

Evolution of the Violence and Transition Project: an iterative process

In the past seven years, the Violence and Transition Project has moved through two phases: VTP 1 and VTP 2. These phases can be distinguished from each other through rationales, foci, budgets, funding cycles, staffing, and, in some ways, the theory underpinning and driving each. But, although they are distinct phases, it is artificial to treat them separately. Rather, it is important to acknowledge that VTP 1 has fed into and informed VTP 2, which, in turn, has built on and expanded VTP 1; the phases are clearly related to each other. It is this *relationship* that reflects the evolution of the project in terms of the activities and premises upon which it is built. This is a relationship of sequence, best seen in:

t	A more focused approach over time, from three broad hypotheses to six thematic indicators and a set of faultlines;
t	The overt expression and articulation of violence in relation to democratisation and democracy, as well as reconciliation and transition;
t	An integrated approach, which places violence at the node of key themes and faultlines.

A more focused approach

VTP 1 set out to test three key hypotheses:
1. The nature and form of violence changes during transitions from authoritarian to democratic rule, although due to the legacy of the past political violence, the extent of the violence does not change.
2. Reconciliation strategies like Truth Commissions may have an impact on future violence prevention, but unless these approaches recognise the changing nature of violence, their impact on violence prevention is dramatically reduced.
3. There is a significant relationship between victimistion and violent offending; these are not separate social categories in historically violent societies (VTP 1 Proposal, 1998, p.8).

These three hypotheses, although over-simplified representations of violence, have proved useful starting points against which to problematise and explore the complex nature of violence. They are critically examined through the discussion below. Instead of speaking about violence in the general, sweeping terms of the hypotheses, the first

round of research pointed to a more targeted set of 'thematic indicators' through which to examine conflict and transition. These are described in the VTP 2 proposal as:

t   Demilitarisation (in civil society)
t   Institutional transformation (focus on policing)
t   Peacebuilding and reconciliation
t   Justice and accountability
t   Poverty, inequality and socio-economic factors
t   Politics, crime and violence (VTP 2 proposal, 2002, p. 3).

In planning the second phase of the project, the focus was also directed away from a general scan of violence within the different constituencies to very specific communities and processes. This, it was proposed, would allow for a more focused, nuanced understanding of violence within the project. These nuances, the 'thematic indicators' and hypotheses will be explored and re-examined through the discussion below with a view towards better understanding their relationship to patterns, trends and targets of violence in transition.

Democracy as a dangerous opportunity

The proposal for VTP 2 also brought to the fore the idea of democratisation in relation to violence. Although democracy[2] was an implicit aspect of the original proposal, VTP 1 research highlighted the extent to which violence and conflict threaten its consolidation. At the same time, VTP 1 revealed the ways in which processes of democratisation in South Africa are themselves impacting on and shaping patterns of violence. It is within this articulation of violence as key to our understanding of democracy (and not just reconciliation), that a project shift can be detected between the two phases, a shift that is reflected in the titles of the VTP 1 and 2 proposals: from *Transition, Violence and Reconciliation in South Africa* to *Obstacles to and Opportunities for Democracy*.

The increasingly overt articulation of violence in relation to democracy across the development of VTP is not surprising. This reflects the lifespan of the project and the society itself: over the last seven years South Africa has moved further and further from the old apartheid order, at least at the levels of legislation and formal processes of democracy, as well as popular discourse.[3] This was clearly illustrated with the rhetoric surrounding the third set of national elections in April 2004 and an accompanying '10 years of democracy' retrospective within state institutions and civil society bodies. In this way, VTP represents a violence and democratisation project, as much as it reflects on violence and transition.

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[2] Democracy within this report is understood as both an end point of the transition out of authoritarianism (a *state*), as well as an ongoing *process* of social engagement between (non) citizens themselves, and (non) citizens and the state.

[3] VTP is concerned with problematising the extent to which South Africa claims to have moved beyond apartheid, in terms of reflecting the past continuities within patterns of violence but also at a broader socio-economic level (cf. Mckinley and Veriava (2005) for an analysis of the continuities between past and present through the neo-liberal and globalised macro-economic policies of the present state), and through the ongoing relationships of inequality and prejudice (cf. Harris (2001) and Palmary (2005) for an overview of xenophobic relationships, Barolsky (2005) for insights into conditions facing young people living in Kathorus today)

One of the novel contributions of the project has been its ability to look at current expressions of violence through the lens of time and social change. A related strength of VTP has been to examine violence within the context of change itself; looking for its roots and continuities, as well as shifts, across the past-present period of transition, in order to better understand, predict and prevent future violence. Thus, through reflecting on VTP as a whole, it is possible to interpret violence as a *threat* to democracy and a *symptom* of the process of democratisation itself. This dual role – threat and symptom - can be glimpsed in the faultlines that reflect old and new social divisions within a transitioning society.

Articulating violence with reference to social faultlines represents a third shift in the project, an evolution that builds on and rearticulates the earlier phases, from broad hypotheses and thematic indicators towards a faultline analysis.

Faultlines of conflict: identifying factors that separate people and entrench division

Common to all of the VTP reports, although expressed in different ways, it the issue of division. Whether between individuals, communities, political parties, institutions, citizens and non-citizens, citizens and the state, or nation states, division is often a key feature of violence. How divisions are created and maintained, whether and how they mutate, what defines these dividing lines, how they intersect with each other, and what insulates or dissolves them – these are key questions that are implicitly raised and examined by VTP. Through this report, they are made explicit as faultlines, factors that separate people and entrench division.

It is difficult to neatly define or categorise social divisions and it is important to challenge assumptions of static or linear boundaries. At the same time, VTP research alerts us to entrenched, deep divisions, which can mutate into new rifts or re-divide social groups. Faultlines emerging from the VTP research include nationalism, race, ethnicity, gender, age, ex-combatants and masculinity, militarized civil society, the family, socio-economic conditions, land, justice and vigilantism, and development. These divisions, or faultlines, must be seen as flexible and fairly fluid. They are open to change and reinterpretation within different contexts and overtime. Rather than prescribing or curtailing our understanding of violence, they should be used as markers to show how far we have/have not come in the transition and consequently how violence threatens the very democracy of which it is also symptomatic.

Related to many of the faultlines, and division in general, is the theme of exclusion. A dividing line finds partial definition through who is included or excluded ('us versus them') and marginalisation can itself pose a fault-line for conflict. Many of the faultlines identified in this report intersect at the point of identity, which itself is multiple and subject to change (e.g. the identity of being an 'ex combatant' overlaps with a militarised society, where weapons are easily accessible). Other faultlines are defined with reference to structural, institutional and socio-economic factors. These also interconnect and cannot be looked at in isolation from each other or the related thematic indicators and assumptions about violence. As VTP has unfolded over time, the need for an integrated approach to understanding and tackling violence has emerged – one that links economic reconstruction to political inclusion, the politics of identity and human empowerment and security, as well as the impact of the approach itself.

An integrated approach

An important trend emerging from the VTP series is that of an increasingly complex understanding of violence in transition. The initial hypotheses (VTP 1), while helpful (and stepping stones for the later research), presented violence as fairly uncomplicated and simplified. As the research has evolved, so has our understanding of violence, which acknowledges that it is the intersection and combination of factors, as well as the individual thematic indicators and faultlines, which impact on violence patterns, trends and targets. Violence is related to and intertwined with these issues.

What does this mean for our understanding of violence? How has the evolution of VTP and the ongoing assumptions about violence taught us lessons that are applicable beyond the South African context and useful in building sustainable peace? Through this research, we have begun to extract common themes, differences and gaps in our understanding and analysis of violence.   In our framework, we have *compared violence with violence* by looking at its different expressions on various levels, for example:

- t *Over periods of time*
- n *Through the key roleplayers*: victims and perpetrators, institutions, nations
- t *Across space*: geographical location, local, national, regional, borders, movement of violence with people,
- t *Discursively*: looking at explanations and justifications for violence.

We have also looked at *violence in relation to other points of social reference and faultlines*, for example:

- t *Identity* and the intersection of psychological processes with the broader social positions created through transition;
- t *Structural, institutional* and *socio-economic* understandings of violence and a *'culture of violence'* argument;
- t *Inclusion-exclusion and marginalisation;*
- n *Fear*;
- w *Human Security;*
- n *Trauma* and its intergenerational repetition;
- t *Justice;*
- t *Reconciliation, Peacebuilding* and the *Development Agenda*.

Instead of keeping these reference points separate, or in binary opposition from violence, our research has shown that it is important to consider them as deeply intertwined. These reference points, together with the changing nature of violence and the faultlines along which it finds expression, form the basis of our analysis of violence. This is because they represent sites and relationships susceptible to violence within an already damaged social fabric, itself vulnerable to conflict (in the past, present and potentially, the future).

In this evolution, and as the project has unfolded, we have challenged our thinking about violence. Now that VTP 2 is complete, we can extract further lessons about violence in relation to the hypotheses, thematic indicators, various violence faultlines and the different sites of conflict that have made up the study as a whole. The project, through its scope and range, suggests multiple entry points into not only understanding violence

but also building durable peace. These entry points need to be defined and prioritised on the ground and in relation to specific conflicts.   However, conceptually, it is in understanding their possible connections and configurations, as well as each factor individually, that we can contribute to the transformation of conflict generally. For these reasons, we believe that VTP is uniquely placed (organisationally within CSVR, and through CSVR within the world) to connect the local to the global. We consequently believe that we have a growing role in contributing to reciprocal learning and strategic partnerships in our region, on our continent and in the global context. To this end, and as part of our bigger mission and broader programme work, the violence and transition project is key to linking us to the international stage – not as an international NGO, but as an NGO rooted in the South (with the unique insights this gives us) yet capable of operating in an international context.

Consolidating violence: key lessons and themes

Continuity and change

There are a number of ways to explore and understand violence. VTP has approached violence as an object that is itself changing (violence *in* transition) in a society undergoing change (violence *through* transition). It is therefore important to clarify what we mean by transition:

> Transition is defined as "a passage or change from one state or action or subject or set of circumstances to another." (Oxford English Dictionary) Consequently, it could be argued that as a result of evolving circumstances we [as a society] are in a permanent state of transition. Likewise, it may be argued that the process of deepening democracy will necessarily remain a 'work in progress'. (VTP 2 proposal, p. 11)

In this report, transition is used to denote an *ongoing process of change*. As such, it allows us to examine violence in relation to what has and has not changed, and what is changing, both within the society and the nature of violence itself. It is the continuities as much as the changes that are key to the VTP approach to violence. The following lessons about violence are therefore underpinned by a dual-sense of continuity and change.   Indeed, this is the first <u>lesson</u>: *violence in and through transition displays continuities and changes with its past expression, patterns and forms*. A word of warning though: within the VTP set of reports, as well as this analysis, there is a tendency to highlight the continuities, even when looking at the changes. This is largely a response to popular discourse and social policy, which tend to conceptualise violence as discrete and isolated from its pre-democratic form. Viewing contemporary violence devoid of its past trajectory(ies) can have dangerous consequences for how it is treated and addressed (for example, ifit will be difficult to treat violence rooted in the past through the criminal justice system alone, because it goes beyond the experiences of individual perpetrators and victims to the level of historical and social violent identities and forms of injustice). At the same time, however, it is important analytically to allow that certain forms of violence may erupt in complete disjuncture from the earlier order, or at least to ask whether this is possible and how it might come about? Whether it can display a complete break with the past or not, we must acknowledge that violence does change (for example, the emergence of xenophobia in relation to the nation-building rhetoric of

post-apartheid South Africa), alongside continuities and overlaps with the past (e.g. previous patterns of racism), and this similarly has consequences for policy and redress.

Politics and Crime in transition[4]

Lesson: A formal end to armed conflict, along with a negotiated political settlement, does not mean the end of violence within a 'post-conflict' society.

Lesson: Political and criminal violence are not mutually separate from each other but can be complexly inter-related, both in the past and through a period of transition.

Lesson: Categorising past violence as political, and new order violence as criminal, minimises the criminal nature of earlier violence, which itself may have been less visible during the earlier order for various reasons, including inefficiencies in the criminal justice system at the time.

Lesson: How a transitioning society chooses to define, view and address the violence of a) the conflict itself and b) the past in general, will have implications for the present and future manifestations of violence.

One key and consistent lesson emerging from VTP is that a political settlement is not a comprehensive or self-contained solution to violence. This is for a number of complex and inter-related reasons, some of which refer to the nature of violence during the pre-transition period while others illustrate the impact of a changing (political and social) context on the shape of violence through the shift to democracy. There are two separable issues at stake here: i) assumptions (implicit to political settlements) about violence before, during and after transition and ii) the impact that these assumptions have on how violence is itself treated in societies emerging from armed conflict (most commonly seen in remedies of transitional justice (such as Truth Commissions); reforms to the criminal justice system; and peacebuilding and development initiatives).

In South Africa's negotiated settlement, violence was treated in a fairly linear and specific way, as either something that was a cause, response and symptom of the political context and therefore, something to end through bringing about the political cessation of conflict, or as something that was completely unrelated to political motivation, as pure crime, to be treated through the criminal justice system (Simpson, 2004). A result of splitting *past* violence into these two neat categories of either political or criminal, has been that of keeping, indeed relegating, political violence to the past with the logic that a political settlement + new political order = end to political conflict. With this is a sense that it is only criminal violence, itself unrelated to past politics, that pervades the new political order. In this way, a trajectory is created between past and present *criminal* violence but this is a subtle and often overlooked relationship, one that is overwhelmed by the social, political and institutional prominence given to examining the past with reference to *political* conflict. This has the consequence of minimising or downplaying

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[4] This section of the report draws heavily on Graeme Simpson's (2004) book chapter, *'A snake gives birth to a snake': politics and crime in the transition to democracy in South Africa*. His chapter was developed through the VTP process and serves as an invaluable contribution to the project. It carefully explores and problematises the dichotomy between politics and crime, while simultaneously complexifying the 'blurred' line. Through his critique of the TRC's amnesty process, and by introducing it to the concept of violence in transition, Simpson is able to bridge the criminal and transitional justice fields, thereby offering us an expanded notion of justice as an avenue for addressing violence.

the criminal nature of earlier violence, which itself may have been less visible during the earlier order for various reasons, including inefficiencies in the criminal justice system at the time. As Injobo Nebandla (2005a) note,

> In a number of areas in [KwaZulu Natal], particularly in densely populated townships like KwaMashu the levels of crime were relatively high prior to the 1980s, even before political violence erupted in the province. To a large extent, however, much of this crime went unrecorded and consequently, unseen (Shaw, 2002) (p. 66).

A further consequence has been to create yet another layer of dichotomy, namely to see past violence as mostly (if not all) political, with present-day violence being framed as criminal (alone).[5] This dichotomy between past-political violence and present-criminal violence has a number of consequences for how violence is understood and labeled. For example, Simpson (2004) notes that,

> …such a clear distinction between political and criminal violence was only sustainable by constructing a somewhat sanitised version of the past. And this in turn was often heavily dependent on accepting the existence of a deep chronological divide – drawn along the line of South Africa's first democratic elections in April 1994 – separating an era of brutal political conflict from a new age in which political strife had all but ceased, only to be replaced by equally pervasive violence of a strictly anti-social and criminal nature (p. 2).

VTP research illustrates that the neat separation between then and now, political and criminal violence, is more complex than the division suggests. This 'blurred line' transcends and pervades different social layers and groups, ranging from individual identities through intimate sexual and domestic relationships to the transitioning state within a national and global economy. For example, writing about witchcraft killings during the apartheid-era, Simpson (2004) comes to the conclusion that,

> …on occasion, these culturally specific practices were manipulated for political purposes. In other cases, a political veneer was used creatively to rationalise killings that actually had their origins in much more local, or even intimate, social and domestic conflicts (p.12).

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[5] While there does seem to be a social tendency to re-frame and re-label violence through the process of transition *in very general terms*, a key question is where does this dichotomy come from? It is not necessarily from those who have direct experience of violence across time; through the VTP research (itself seeking to illustrate continuities with the past and argue against an unexamined dichotomy) most respondents were well aware of the continuities in their own lives, both in patterns and expressions of violence as well as key roleplayers, victims and perpetrators. This is starkly highlighted by Palmary's (2005a) respondents, women refugees, who frame and interpret their experience of genocide (and related war crimes) as personal, rather than political and consequently, display marked continuity in their presentation of violence in the post-genocide era as domestic and personal. In this way, they go against the grain of the conventional splitting of past-conflict into a political label and present-day violence into a criminal one. This level of dichotomy is perhaps clearer to see in the division between transitional and criminal justice systems than within the experience of violence itself (discussed under the *swinging the scales of justice* section below). As a background question, it is important to mull over whether we, as researchers, activists and social analysts, (as well as the society at large) have perhaps fed into or fueled the division by creating it as a way to organize and analyse the changes (rather than the continuities) across time? While this is a helpful analytical tool and is not necessarily problematic, it does risk us overstating the dichotomy itself and in this process, forgetting the continuities in people's lives and experiences of violence (see *continuity and change section* above).

Our work with ex-combatants similarly highlights a complex relationship between political and criminal violence. Gear (2002) notes that in the past, certain ex-combatant practices moved fluidly between criminal and political motives. For example, she points out that often '[c]rime was the methodology employed to gain food, guns and bullets' for members of the Self Defence Units (SDUs) operating in the Kathorus area in the early-1990s (p.67). Various amnesty applicants who went before the South African Truth and Reconciliation Commission (TRC) similarly spoke of their involvement in 'crime' as a means to fund their political activities (cf. Saino, 1998).[6] In a less 'noble' way, this dual characteristic of crime and politics was embodied in individuals known as 'comtsotsis', who used the political context to commit crimes for personal gain.[7] Even the label 'comtsotsi' itself 'explicitly acknowledged the relationship between 'tsotsi' (i.e. criminal) elements and 'coms' (i.e. political comrades)' (Injobo Nebandla, 2005a, p.67). Gear (2002) argues that past labeling and categorising of criminal behaviour underneath a political mantle continues to shape present manifestations of violence:

> The blurring between purely criminal and purely political activity makes distinctions difficult and has…impacted on current crime trends. Because of the merging of different scenarios under the label of political activity, many 'ex-combatants' who should have been sentenced have escaped conviction, and continue with their illegal activities instead (Gear, 2002, pp.68-69).

Relatedly, but operating at a different level of political control and criminal activity, were the 'political entrepreneurs' who benefited (and, in some places, continue to benefit) directly from the economics of the conflict,

> …political control was a crucial enabler for social and economic control, as well as the establishment of protection rackets, extortion and other criminal endeavours…[R]eferred to…as 'political entrepreneurs'…for some it was evident that conflict was 'good for business' and given the levels of conflict 'business was good' (NIM 1997). Complicating matters further, these political entrepreneurs were often protected from prosecution because of the close relationship they enjoyed with elements within the security forces and the apartheid state (Injobo Nebandla, 2005a, pp.66-67)

Similarly complex relationships between politics and crime can be seen in South Africa's taxi industry (cf. Dugard, 2001), relationships that took on an increasingly violent nature as the period of transition itself opened up spaces for power and control. Writing about

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[6] The TRC has been criticised for further entrenching this false division through its own 'schizophrenic' relationship with these stories (Valji, in personal communication). For example certain amnesty applicants from the Azanian People's Liberation Army (APLA) were granted amnesty for armed robbery, while others from Umkhonto we Sizwe (MK) were not because their party, the ANC, did not officially sanction 'crime' as political (Simpson, 2004).

[7] Although even here, the separation is difficult to make, with 'personal gain' (criminal) being closely tied to a set of socio-economic conditions (political) actively designed to disadvantage people at a material level. As a consequence of the political order, as well as individual self-interests, community members responded in different ways to contsotsis, depending on where and how they were committing their crimes. As Injobo Nebandla (2005a.) note, 'In some communities, a blind eye was sometimes turned with respect to crimes committed particularly if they were being committed against political opponents [or other communities]. In many situations, communities were simply dis-empowered, unable to hold these elements to account and having nowhere legitimate to turn to for safety and security, for law and order.' (p. 67).

the period 1987-2000, Dugard (2001) points out that, '[a]s the state's control over the economy and society has weakened in the course of South Africa's transition, taxi associations…developed as informal agents of regulation, protection and extortion' (p. 5).[8] Injobo Nebandla (2005a) note a similar trend at the local level in KwaZulu Natal:

> …shortly after the decline in [political] violence between the ANC and IFP in KwaMashu, reports began to surface that heavily armed residents of the hostel were hiring themselves out as assassins to taxi bosses who were caught in the internecine taxi violence plaguing KwaZulu Natal (p.55).

In an interesting aside, the following respondent (speaking about youth experiences in present-day Kathorus) reapplies the notion of 'political entrepreneur' to the democratic state itself:

> You need to understand that violent crime is a multi-billion rand industry. Violent crime is employing so many people that if it stops and there's no formal jobs out there, if it stops like, just phew, so many families, the gross reality is that even the government wouldn't want to accept, would actually suffer, if crime just one day stopped. (unpublished interview, Kathorus, 2005)

The politics and economics of exile

Lesson: political and criminal violence crosses national borders along with people who are forcibly displaced.

Lesson: political conflict at a regional level, or from another country, may directly penetrate and interrupt a host-society that is seeking to relegate its own political conflict to the past.

At a broader, regional level, Harris (2001a) identifies what can be called an 'economy of movement' (p.60) surrounding forced displacement. Within this economy it is difficult to separate politics from crime. Driven in large part by political conflict, the displacement of people, especially across national borders, opens up opportunities for economic benefit and criminal activity by those who are 'agents of movement' (the agents, institutional representatives, and others who 'assist' (legally and illegally) refugees to move into South Africa)

> …there is exploitation within this economy of movement…on two levels. On the first level, it denotes the intrinsic imbalance of power between travelers and local agents; the travelers who are both unfamiliar with the region and who want to reach South Africa, are in a weaker bargaining position than the agents of movement. On the second level, exploitation exists in the system over and beyond the negotiated rate of movement. It exists as crime, and sometimes violence, en route (Harris, 2001a, p.60)

Harris's (2001a) work also shows how political conflict, and sometimes violence, can move with people through forced displacement and exile. '[I]n certain situations, home-

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[8] For a large part of the period since Dugard's report (2001-mid-2005), there seemed to be a fall in taxi-related violence. However, in the last few months of 2005, an upsurge in incidents suggests that the industry is still facing major challenges and that systemic violence remains a threat.

nation conflict is transposed onto the South African landscape by asylum-seekers and refugees' (p.72). This can take the form of verbal abuse, threats, kidnappings, rapes, torture and sometimes murder, all related back to the politics and faultlines of the original home-based conflict. In this way, political violence can transcend political and national borders. At CSVR we have experienced this in various ways, for example, through the kidnapping of one of our refugee translators (working on the VTP xenophobia report), for his 'home politics' and, more recently, through the death threats, beatings and rape of Zimbabwean clients, who have been coming to the CSVR trauma clinic for counseling related to their torture in Zimbabwe. One result is the movement of violence from a conflict-based/pre-transition society to, in the South African case, a country that is in the process of transition.[9]   From the perspective of the 'host' nation, *a key lesson is that political conflict may directly penetrate and interrupt a society that is seeking to relegate its own political conflict to the past*. A related question is how much has the transitioning country's own political past impacted on forced displacement and regional conflict in the present? This is a particularly pertinent question for South Africa, given the apartheid state's 'total strategy' of regional destabilisation, but it may well have application in other contexts.[10]

The gender of violence

Lesson: Women experience war and peace differently to men and this has consequences for how a society addresses the past violence.

Lesson: violations of war (political conflict) are commonly interpreted as personal and domestic for and by women. Thus the discursive shift between political and criminal violence over a period of transition keeps war violence consigned to the realm of the private for many women.

Lesson: Because their own experience of the past is not politicised or understood as political for women, politically-based processes intended to address past-political conflict often exclude their experiences and thereby serve to reinforce uneven gendered relationships within post-conflict contexts.

Lesson: DDR processes – as political strategies - do not engage with violent war identities. One consequence is the displacement of violence, rather than its end, into the less visible realm of domesiticity.

Another way of critically examining the divisions between politics and crime is through the lens of gender. Palmary's (2005a) report on the gendered experience of war, forced displacement and exile reflects on ways in which the line between political and domestic violence is blurred, unclear and easily transgressed.   Linked to this, is the complex

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[9] Of course violence can also jump from one armed conflict situation to another when crossing borders, but this goes beyond the purposes of this report, which is looking for lessons about violence in the context of countries transitioning away from armed conflict.

[10] The blurred line between political (often documented and legal) and economic (often undocumented and therefore illegal) refugees entering South Africa shows yet another way in which politics and crime are not easily separable. As Harris (2001) notes, apartheid's regional 'total strategy' 'involved a range of actions, including cross-border raids, covert and direct participation in conflict in Mozambique and Angola, and an economic embargo to disrupt activity in the Southern African Development Community (SADC) (Human Rights Watch, 1998). As a consequence…many people were displaced and impoverished within the region.   Similarly, the destabilisation campaign initiated refugee-producing conditions of war and violent conflict, conditions that have not necessarily improved, or even changed, with time')

relationship between the public (aligned to political) and the private (aligned to personal); spheres kept strictly separate from each other in the ways that the refugee women participants in her study relate their experiences of violence. While the women themselves kept these spheres separate, Palmary (2005a) shows that the relationship is more fluid, moving between a complex set of related factors, including access to resources, ethnic and nationalist discourses and expectations that the women themselves had of 'being good wives and mothers'. She explains that,

> …gender roles shaped these women's access to resources. This was continuous from times of peace although it often took on new forms during the war. For example, women spoke about how their inability to inherit after the deaths of their husbands rendered them particularly vulnerable to the violence of war and shaped their decisions about whether or not to return home. Similarly, women's inability to own land meant that they were easy targets for militia groups who were dispossessing people of land when their husbands were away or killed. In this way women's social position that denies them access to resources both in war and peace shaped the nature of their violations and meant that they often were focused on economic resources (Palmary, 2005b).

She also considers how the women understood these kinds of violations based on economic resources but used as active political strategies in the genocide:

> What was clear was that they considered the…violence to be personal and to fall outside of the conflict. This suggests significant opportunities for intervention both with the women in the study but also with service providers who also often work with an artificial division between domestic or personal violence and political violence. The kind of experiences that the women had fundamentally undermined these kinds of divisions and suggest a need to reconceptualise a range of peace building and other interventions (2005b).

A related lesson emerging from Palmary's (2005a) gender-reading of conflict reveals that *the common discursive shift between political and criminal violence over a period of transition serves to reinforce uneven gendered relationships within post-conflict contexts, by consigning war violence to the realm of the private for many women and thereby keeping them distanced from politically-based processes intended to address past-political conflict.*

Similarly, Gear's (2002) analysis of demobilisation, demilitarisation and reintegration (DDR) processes – when they do occur in post-conflict settings – shows that they do not take into consideration the impact of militarised and violent identities taught through conflict. One consequence is that these identities often continue to play out in the domestic sphere, translating into high levels of violence against wives, partners and children. Here, violence is displaced and rendered less visible but it is not stopped through these formal political remedies.

The politics of atrocity

<u>Lesson:</u> Transition can bring an intensified, excessive and atrocious form of violence, with vulnerable targets. Although complex, such atrocity is linked to the formation of a nation state**.**

Barolsky (2005) sidesteps the politics versus crime division in her attempt 'to establish a new interpretive framework for the violence of the pre-1994 period' (p.45). This she does by situating violence within a 'politics of atrocity' (p.45). Building on Humphries (2002), she notes that atrocity, visibly displayed in South Africa's conflict on the East Rand/Kathorus in the run-up to the first democratic elections, includes excessive, transgressive, horrifying and spectacular acts of violence. These use and produce the individual body as a 'political sign', resulting in both 'subjective and social' effects (p.46).

> In South Africa during the pre-1994 period, much of the violence was profoundly transgressive in character. It directly, purposively and extensively violated categories of people who had remained largely 'protected' in preceding political conflict: the 'non-combatants' – the very young, women, the very old. The targets of violence were frequently the most vulnerable in society…generally unarmed. The violence violated boundaries between public and private spaces, invading the 'private' realm of home, the assumed zones of normalcy…The violence perpetrated was often extreme in the bodily mutilations it delivered, babies were hacked to death on their mother's backs, pregnant women were disemboweled, and skulls were crushed. (Barolsky, 2005, p.46)

The cause of this extreme, atrocious form of violence, for Barolsky, is embedded in the very process of transition, a period in which South Africa 'was irrefutably a nation state in formation. In this context, social and political membership is contested and diffuse, and forms of belonging and social identity are complex and ambiguous' (p.46). She ties this to ethnic identity ('the monolithic collectivities of 'Zulu' and 'Xhosa') in particular and notes that,

> Unlike conflicts between nation states, in which states often attempt to conceal the 'body horror' of war, in the internalized conflicts where 'ethnic cleansing' takes place, the bodies of the ritually violated are purposively and spectacularly displayed as part of a political strategy of horror. In a context of internalized conflict, this violence is profoundly concerned with boundaries and the constitution of new unambiguous social identities, 'purified' of the contamination of social ambiguity. It thus intends social separation, a rendering of complete homogeneity of identity (p.50)

It is beyond the scope of this report to fully explore Barolsky's (2005) assertions, which are complex and need further examination within the context of peace as well as transition. For example, while she links excessive violence directly to transition, it is important to acknowledge that atrocity and sheer gratuitous violence are often a feature of conflict in general, both during armed struggle and into new political orders (cutting off of ears and noses in Sierra Leone, the brutality of the violence in Rwanda's genocide).

Although clearly highly complex, for the purposes of this discussion, there are two key <u>lessons</u> in Barolsky's (2005) analysis, *Firstly, an acknowledgement that transition can bring an intensified, excessive and atrocious form of violence, with vulnerable targets and secondly, that such atrocity is linked to the formation of a nation state***.** While it is thus 'political', its diffuse and diverse form suggests a much more complex

understanding of 'political violence' in and of itself, as well as its relationship with individual and group identity. Additionally, a politics of atrocity and the process of nation state formation allow us to grapple with what has appeared as a contradiction for many commentators, namely, as South Africa was moving towards democracy away from the repression of apartheid, violence intensified, rather than diminished (although, as Pigou (in personal communication) points out, 'this was not necessarily an organic development – indeed the hard evidence on how external elements stimulated and fanned the violence is still contested'). The idea of nation state formation as a future-looking political process therefore problematises the sterile division that has presented past political violence as giving way to rising crime in the present.

Rising criminal violence

Lesson: The intersection of a violent culture with the appropriation of a human rights discourse frames criminals as having more rights than victims and thereby sanctions and supports institutional and individual practices that have not, in essence, transformed.

Lesson: *contemporary violence has come to be represented as not just criminal in nature but as something on the increase, a rise in violent crime*. This reframing does not take into account the complexities of violence historically or its links with the present. Instead, it simply blames the state and democracy for high levels of violent crime.

Lesson: a discourse of rising crime fuels social fear of 'the other' and with this creates new, yet racialised, barriers to reconciliation.

Just as much of the past is simplistically described, understood and re-written in un-complex political terms alone, so today, in post-apartheid South Africa, there is generally an uncritical description of violence with reference to crime. One consequence of this has been *a new discourse that allows for the proliferation and continuation of violent practice*. This is a discourse that surrounds the rights of criminals, who are seen to 'have too many rights, more rights than the victim'. This discourse allows for/lends justification to violent vigilantism in the name of 'fighting crime' and 'protecting ourselves', as well as the continuation of certain forms of police abuse of power (Harris, 2001b). In 2004, there were over 700 deaths in police custody (Hoskens, 2004). Of these almost half were a consequence of initial vigilante action at the hands of the public (Hoskens, 2004). This suggests ongoing police abuse of power within the democracy, as well as violent actions by the public. As Pigou (in personal communication) notes, the political/criminal dichotomy also relates to abuses of criminal suspects (both then and now). 'Criminals' have been effectively 'ring-fenced' from the discussion about state and police violence and criminality during the apartheid era and this allows for these practices to continue, unexamined and often undetected today.

The intersection of a violent culture with the appropriation of a human rights discourse frames criminals as having more rights than victims and thereby sanctions and supports institutional and individual practices that have not, in essence, transformed. This lack of institutional transformation is allowed to go unnoticed and neglected in many cases. In others, practices of torture and abuse are actively rendered invisible, supported by popular anti-criminal sentiment. Violence is the extreme thread that unites these practices across time. Accompanying such violent expression (and extending beyond

violence itself) are acts of impunity and accountability, which, in many ways, represent the flip-side of the violence coin in this context.

In addition, another lesson is that *contemporary violence has come to be represented as not just criminal in nature but as something on the increase, a rise in violent crime*. At this point of social representation, the discourse surrounding crime does re-introduce a politicised, yet simplistic understanding of violence, where current manifestations of violent crime are related back to the new government and seen as symptomatic of democracy and a new political order[11] but often without the sophisticated linkages with the past. This reframing does not take into account the complexities of violence historically or its links with the present. Instead, it simply blames the state and democracy for high levels of violent crime. In South Africa, this is commonly accompanied with reactionary racist rhetoric that allocates blame to a 'black government' and thereby shows continuity with apartheid attitudes of prejudice (cf. Gear, 2002 for insights into the complex ways that former white conscripts and members of the South African Defence Force understand their role in past conflict and the current context of violent crime). It also 'demonstrates how removed/insulated white people were (in general) from the terrifying violence (highlighted by Barolsky, 2005) that engulfed many black communities in the late 1980s and especially in the early 1990s: a reflection of how successful apartheid really was?' (Pigou, in personal communication).

Valji, Harris and Simpson (2004) link the discourse of rising crime to social fear of the other and with this new, yet racialised, barriers to reconciliation

> A further consequence of the fear of crime has been an accelerating retreat of middleclass communities behind high walls and private security, prompting a withdrawal from public space and precluding the possibility of relationship-building. Although there is a growing Black elite who can now afford to join the 'laager', a recent survey reveals that only 2% of Blacks have a private security or an armed response system – in contrast to 45% of Whites – demonstrating that the preoccupation with criminal violence and victimisation plays out in racially, as well as economically, defined ways. Viewing the new South Africa through a prism of fear creates an identity of victimhood that is linked to race; reinforcing the divided and racialised identities of the past. Ironically, the construction of high walls, intended to protect, tends to fuel the cycle of fear and crime. Walls and fences have become the visible face of exclusion; a barrier between the haves and the have-nots (p.3).

The legitimacy of violence: political and socio-economic change

Lesson: Questions of legitimacy, of who commits, defines and speaks about violence, feed directly into the ways that we understand and redress it. This has direct implications for development and reconciliation strategies, as well as systems of justice.

Lesson: violence finds meaning in a neoliberal global economy. In this context, democratisation can take on a specific, narrow form and this contains the kernel for new forms of conflict. Although such conflict will find expression in a seemingly bilateral way

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[11] This report also sees violence as symptomatic of the processes of transition and democratisation but in relation to the past, not in direct or absolute disjunction there-from.

between the state and local communities, it is important that big business, multinational corporations and 'the market' are considered as part of a larger triangle of conflict agents (state, communities and the global order).

While public discourse may draw on political language to talk about violent crime as symptomatic of democratic failure in South Africa, at times, the state uses the language of crime to talk about and tackle new forms of political conflict. This is markedly clear in its reaction to the new social movements concerned with (poor) service delivery and (in)access to water, electricity, housing and basic socio-economic rights. McKinley and Veriava (2005) show how the present-day state has actively criminalised and thereby isolated these social movements from mainstream political and social life,

> …the immediate response of the ANC [African National Congress] state to the emergence and activities of the new social movements was to portray the movements and their activists as 'criminals' and 'anarchists' rather than as concerned/frustrated citizens making use of the only avenues left for their grievances to be heard (p.64).

This has allowed the state to,

> …launch a co-ordinated 'law and order' crackdown…backed up by a concerted campaign aimed at caricaturing the emergent and collective voices of poor communities and delegitimising the right to utilize hard-won democratic space to engage in peaceful oppositional activities centred on basic socio-economic grievances (p.64)

At the heart of this response, which has included violence at the hands of the state and community members, is the state's ability to present itself as political and legitimate, and community protest as criminal and illegitimate. *Questions of legitimacy, of who defines and speaks about violence, feed directly into the ways that we understand and redress it* (lesson).[12] As Barolsky (2005) observes,

> What we do and don't understand as violence, or more specifically, *violation*, is constructed and bound up with questions of legitimacy. A complex process of interaction between protagonists, antagonists, the state, intellectuals and others defines and redefines the fact of violence, its meaning, its legitimacy. (Barolsky, 2005, p.37, emphasis original)

In the relationship of 'legitimacy' between the state and the new social movements, McKinley and Veriava (2005) explain that the state has shut down all space for communication and peaceful dialogue. This, they suggest, links directly to the new

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[12] This relates more generally to cases involving liberation movements and armed struggles, where 'legitimacy', morality and the faultlines of the conflict (racism in South Africa) feed into and justify violent actions. Through transitional justice processes – such as 'truth seeking' – certain violent actions (e.g. authoritarian state repression) are de-legitimised, while others are given credibility. This can cause a dilemma for the post-conflict society, which seeks to create a completely non-violent society. As a former combatant from Kathorus notes: '[in 1994] When Mandela's convoy came in, all over the stadium there were gunshots – it was hectic…I think the MC for the day, 'hey comrades Nelson Mandela says he is gonna leave if you don't stop shooting'. Ey! We were angry, why is this guy – we are happy for him to come to the warzone, and when we welcome him according to the warzone style, he doesn't like our style, you know'. (Barolsky, 2005, p.94)

state's economic policy and the creation of a false disjuncture between socio-economic reform and political processes.

> [O]nce negotiations had begun in the early 1990s, the ANC used its position to manage (including the suspension of) bread and butter struggles. The effect of this process was to institutionalise a narrow post-apartheid vision of the ANC and a negotiations-centric polity…The context of the economy would also see the ANC's commitment to the abandonment of an anti-capitalist front codified in the formal unveiling of the overtly neoliberal Growth, Employment and Redistribution (GEAR) macroeconomic programme in 1996, reinforcing class inequalities and social unevenness. Anticipating massive opposition to the policy within its own ranks the policy was dubbed 'non-negotiable' (McKinley and Veriava, 2005, p.1).

McKinley and Veriava (2005) also suggest that the trajectory between past and present, politics, economics and crime, goes beyond the boundaries of the transitioning state itself, through the emergence of a specific form of democracy within a neoliberal global economy.

> The first phase of South Africa's 'transition' has witnessed the ANC's political and ideological acceptance of the broad framework of a globally dominant, neoliberal political and economic orthodoxy. In turn, this has led to the institutionalised (and false) separation between political and socio-economic change, such that democracy has come to be seen as synonymous with the capitalist market. The result has been a perpetual 'crisis of democracy' wherein institutionalised practices of representative democracy such as elections make little difference since the key societal decisions are taken by the 'market'. In this context the emergence of new social movements is a contestation of this narrow vision of democracy. (McKinley and Veriava, 2005, p.3)

McKinley and Veriava's (2005) analysis of the false separation between political and socio-economic change, along with the space for conflict that such a division introduces, holds a valuable lesson for other countries moving through political transition: *violence finds meaning in a neoliberal global economy. In this context, democratisation can take on a specific, narrow form and this contains the kernel for new forms of conflict. Although such conflict will find expression in a seemingly bilateral way between the state and local communities, it is important that big business, multinational corporations and 'the market' are considered as part of a larger triangle of conflict agents (state, communities and the global order)*.

A critical mass of violence

> The nature and form of violence changes during transitions from authoritarian to democratic rule, although due to the legacy of the past political violence, the extent of the violence does not change (Hypothesis 1, VTP 1 proposal, 1998).

Although there are multiple ways to interpret past and present violence, the general trend to assign political violence to the past and criminal violence to the present, suggests that

during South Africa's transition, the society has unwittingly and tacitly developed what might be termed a 'finite amount/critical mass of violence' type explanation, one that suggests a certain amount of violence inherent to society, to be shared between the criminal and political realms. If this is initially weighted in favour of political violence (as South Africa's past has come to be represented), then, the equation suggests, it must automatically increase in the criminal sphere when its political expression declines (as the present explanations for violence propose). In essence, this framing supports Hypothesis 1 originally proposed in the VTP 1 proposal that the form of violence changes with transition but not its extent. However, in the absence of statistical evidence and clear definitions, it is very difficult to know whether violence has changed in its extent. How can this phenomenon be measured in its totality? What constitutes violence? The lack of quantitative analysis is a shortcoming of the VTP process to date (not that the comparison between past and present manifestations would necessarily show whether violence in its totality is on the increase or not). For a range of reasons, it would be very useful to complement the huge body of qualitative information already collected within the project with quantitative information (especially at the level of economic indicators and a survey of 'ordinary' attitudes to, and experiences of, violence – and this is an avenue to discuss for the anticipated VTP 3 research). But, although it would be useful to explore whether violence has increased, decreased or merely shifted beyond its original 'quantity', in the absence of clear measures to do so, and even if it were possible, it is also important to consider what this framing of violence means, i.e. the consequences of the language and social understandings of violence in this dichotomised framework.

Swinging the scales of justice

Lesson: The tendency to assign past conflict to the field of transitional justice and present, future-looking conflict to the criminal justice is an artificial separation; transitional and criminal justice processes are intertwined despite the ways in which they operate separately.

A simplistic, if crude, result of the dichotomy between political violence and violent crime can be seen in two separate approaches to dealing with violence: i) the development of a *political remedy* for (past) politically-motivated violence, and ii) for the category of 'pure crime' to be treated as anti-social and a-political, and therefore something to defer to the criminal justice system, which itself is kept separate from the remedies for past 'political violence' (Simpson, 2004). At the heart of this division is the tendency to assign past conflict to the field of transitional justice and present, future-looking conflict to the criminal justice realm. This highlights and reinforces an already-existing separation between the fields of transitional justice and criminal justice – both institutionally and through their approaches to dealing with violence. Simpson (2004) explains that,

> It is not merely on the basis that one is seen as retrospective and the other as forward looking that the priorities of transitional justice and criminal justice reform have been dealt with as if they were entirely detached from each other. It is perhaps more significant that this detachment is also based on the implicit assumption that, while one is concerned with dealing with past violence of a political nature, the other is viewed as the solution to current problems of crime in general, and criminal violence in particular (p.3).

This separation is artificial and dangerous. Simpson (2004) highlights this through his critical examination of the South African Truth and Reconciliation Commission (TRC) as an instrument of transitional justice and a mechanism intended to foster reconciliation.

> In its attempts to separate politics and crime for the purposes of building reconciliation at a political level, one of the greatest flaws of the TRC was its failure to properly engage with the complex nature of criminality. Not only did the amnesty process ignore many of the complexities consequent upon the historical criminalisation of political amnesty, but it was also incapable of accommodating the extent to which the politicisation of crime represented the other side of the same coin (pp.2-3).

Simultaneously, Simpson (2004) argues, the conventional criminal justice approach to violence is narrow and restricting. In the South African context, this is for two reasons. Firstly, the new democratic state inherited the institutions, including those of the criminal justice system, that were directly and widely complicit in the past conflict. Secondly, it is important to understand that violence reaches beyond individual victims and the institutions intended to serve them (Simpson, 2004). Therefore, it is not enough to only locate violence-remedies at an institutional level. This report now turns to each of these reasons in some detail because, although they are interrelated, they contain separate key lessons for how we understand and respond to violence in transition. They also show how closely transitional and criminal justice processes are intertwined despite the ways in which they operate separately.

Institutional continuities and changes: the case of the criminal justice system[13]

Lesson: The legacy of public mistrust, suspicion and fear of the past criminal justice system continues to impact on its efficacy today and is an obstacle to dealing with violence.

Lesson: Violent victimisation must be understood as a societal problem rather than a purely individual experience. It is not solely the product of institutional failings and cannot, therefore, be remedied by institutional transformation or formal political processes alone.

Lesson: justice as a whole must be understood as itself in transition and this must translate into a more complex approach to both past and present conflict.

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[13] Institutional transformation, as a key component of transitional justice (see glossary), is not exclusively concerned with transforming the criminal justice system. All institutions, but particularly the public bodies that actively supported the previous regime in its oppression, violence and administered injustice, would fall under the reform spotlight (in most transitioning countries, this would primarily/initially include the security cluster of state security forces (the police and military), the judiciary, and the penal system) (Valji & Harris, forthcoming). This is not just because of their past roles but also because of the crucial interface they occupy between newly formed citizens and state. This report also focuses on the criminal justice system because the VTP research 'has highlighted the shortcomings of the contemporary criminal justice system, and in particular of the police. Problems with contemporary policing were raised in almost every research focus area…. Although no longer an instrument of repression, institutional transformation has had limited results, as the police struggle to realise their mandate, and levels of community trust remain low' (VTP 2 proposal, 2002, p.4).

Understanding why violent crime remains so significant during South Africa's transition is further complicated by issues relating to police legitimacy, integrity and broader concerns about a fundamental lack of accountability. Despite significant shifts in terms of policy and procedure, any agencies of law enforcement have to prove their legitimacy through effective operation. There is no clear case of any society in transition being able to successfully build a legitimate policing agency in a post-conflict phase (Shaw, 2001)….Furthermore, communities struggle to hold public officials accountable and appear unable to root out crime and violence, often appearing under virtual "siege" from criminal elements. The police service lacks capacity and credibility and –rightly or wrongly – is regarded in many communities as an integral part of the problem. Community policing initiatives in many areas have failed to realise their local level objectives and as a result have been largely abandoned by government. As VTP research on vigilantism and revenge violence has illustrated, in a vacuum of meaningful alternatives, violence has come to be regarded by many as an acceptable and legitimate means of 'problem-solving' (VTP 2 proposal, 2002, pp.10-12).

In order to understand some of the present-day weaknesses in the criminal justice system (and by extension, its inability to fully grapple with and solve the full ambit of present-day violence), it is important to acknowledge that the previous criminal justice system was a primary instrument of the apartheid regime (cf. Rauch, 2004). Used to perpetrate, promote, administer and support the injustices of the past, the system, along with the individuals embedded in it, was discredited as illegitimate and generally regarded with mistrust and fear during the old order. *This has resulted in high levels of public mistrust and lack of confidence in the rule of law, perceptions and experiences that have not necessarily changed with the transition* (cf. Harris, 2001b. for an overview of vigilante action in relation to the criminal justice system). These stand as central obstacles to dealing with violent victimisation. Inefficiencies and inherited weaknesses within the criminal justice system link back to the compromises attached to South Africa's negotiated political settlement, which included a sunset clause that protected the jobs of all incumbent civil servants for at least the first five years of democratic rule.

Initially at least, the state inherited a set of old order institutions and bureaucrats, and this essentially allowed the criminal justice system to remain untransformed during the first vital years of the democracy (something that further affected public perceptions and experiences). Valji and Harris (forthcoming) note that,

An important component of reestablishing a relationship between state and citizen, and rebuilding a foundation of credibility in the institutions of the state, should be to remove from positions of authority and power those who were complicit in the oppression and human rights violations of the past. The practice of vetting - scrutinizing the individual role played by various state personnel in order to determine whether they should be removed from public service – or that of lustration – a wholesale purge of the civil service of the old regime - are options that have been employed by transitioning states in the past. Vetting which employs individualised scrutiny and due process may further the aims of institutional reform in some situations. Lustration or purging however without due process threatens to build reform on the foundations of injustice.

South Africa did not choose either of these paths. This was seen as a necessary compromise as to threaten lustration or prosecution of the civil service could potentially destabilise the negotiations process, threaten the transformation to democracy, and launch the country into chaos through the massive loss of skills this would entail.

> There is no doubt that members of the security establishment would have scuppered the negotiated settlement, had they thought they were going to run the gauntlet of trials for their involvement in past violations (TRC Final report, 1998, Vol 1, Ch 1, para 22).

While the immediate trade-off may have been a less chaotic, more stable transition, countries looking to the South African model need to consider the longer-term impact of such a course of action. When it comes to patterns of violence and the complex ways that institutions (in this case, particularly the criminal justice sector) contribute to sustaining and directing these, it is important to recognise that,

> Research in transitioning states in Latin America demonstrates that there is a direct relationship between belief and trust in the judiciary and belief in the success or utility of democracy itself; making the reform of the legal sector a vital element of long-term democratisation and stability (Valji and Harris, forthcoming).

Everyday Violence: a missed opportunity for the TRC

<u>Lesson:</u> It is crucial to avoid duplication between the different mechanisms intended to address past abuses and transform institutions. This is a key area where there is scope for integration between transitional and criminal justice processes and, the absence of such complementary work at research and policy levels, severely weakens the impact of both.

Another reason for ongoing public mistrust and certain other weaknesses within the criminal justice system rests with the ways in which past violence has been dealt with, most noteably through the TRC process itself. It goes beyond the scope of this report to engage in a detailed critique of the TRC. Rather, the following areas are signposts, simply marking a few aspects of the relationship between the TRC and the complex ways that it has affected violence in the realm of institutional transformation.

The TRC has been criticised for missing an opportunity to acknowledge and expose the extent to which apartheid was a systematic, bureaucratised, institutionalised experience, operating through the day-to-day racialisation, dehumanisation and control of people via the pass laws, forced removals, mixed marriages legislation, Bantu Education system etc. (cf. Mamdani, 1996; 2000; Fullard, 2004). This missed opportunity, it is argued, was largely a consequence of the TRC's restrictive mandate, which saw the Commission focusing on the 'excesses' of the apartheid order (the gross human rights violations) and deciding amnesty on the grounds of whether or not acts were politically motivated (Promotion of National Unity and Reconciliation Act 34 of 1995). In this way, the TRC failed to comment on the endemic and institutionalised nature of racism, oppression and 'everyday' violence, instead feeding into the perception that the past conflict was political, high profile and removed from everyday life; something to therefore address at

a political level through the amnesty process or, if this failed, to follow the criminal justice route by prosecuting the few 'bad apples' who refused to cooperate. This also had the consequence of allowing (mostly white) beneficiaries to distance their daily privileges and expressions of racism from the ways in which apartheid was represented by the human rights violation and amnesty hearings and in this process, to continue these very practices and attitudes (some culminating in violent hate crimes – cf. Harris (2004) for an overview of racist hate crime in post-apartheid South Africa) in an unexamined way within the new order.

Not only did the TRC miss a chance to make the links between institutions and the daily violations that were the apartheid system, it also missed the opportunity to intersect with related policy debates and changes that were being implemented in the field of criminal justice to bring about sector reform (cf. Rauch, 2004 for an overview of institutional transformation within the police). In this way, the Commission did not dovetail with, or complement, related processes in the criminal justice sector. Valji and Harris (forthcoming) recommend that,

> Given the limited time and mandate available to truth commissions, the specifics of reform should be left to the experts in each field, with the commission making more general recommendations and setting strategic goals. Keeping recommendations at a more general level will also ensure that time is not wasted on areas where there should already be initiatives aimed at transformation taking place during the lifespan of the commission. In the South African experience for example, policy recommendations made by the TRC, particularly in the policing sector, were hastily compiled and out of sync with initiatives already taking place in that sector. Targeted recommendations should be made around embracing specific human rights principles, the concern here however is that a truth commission not become ineffective through a mandate that stretches it beyond its capacity.

It is crucial to avoid duplication between the different mechanisms intended to address past abuses and transform institutions. This is a key area where there is scope for integration between transitional and criminal justice processes and, the absence of such complementary work at research and policy levels, severely weakens the impact of both (lesson)**.**

Another common critique of the TRC is that it has fed into and sustained a culture of impunity.[14] Set up to address past violations through granting amnesty on condition of full disclosure, the real experience for victims at the TRC has been one of feeling unheard and marginalised in relation to perpetrators, who often 'got off scott free', often without bringing any further knowledge to victims and their families. Through the amnesty process, perpetrators were literally seen to 'get away with murder'. That is, those perpetrators who even applied for amnesty. Rauch (2004) reports that,

> In an attempt to evade the amnesty process, former members of the [South African Police] SAP Security Branch put together a 'collective application' for amnesty, on behalf of the entire group of Security Branch personnel…Few police officials voluntarily came forward to seek

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[14] This is not unique to the South African Truth and Reconciliation Commission, rather, it is a general worry about truth commissions which often include built-in trade-offs between truth and justice, amnesty and impunity. These are complex and cannot be fully explored here.

amnesty…of approximately 1500 individuals who applied, approximately 300 applicants came from the security forces (a term denoting both the police and defence forces). (pp.33-34)

At the same time, because the TRC located past policing within political extremes, the 'ordinary', non-political practices, for example the torture of criminals (as opposed to political activists), went unacknowledged and unexamined (Pigou, in personal communication). Consequently, little is known about such past police crimes and the ways in which these may reflect continuity with present abuses of power. This is a gap within the field, one that raises key questions about accountability, impunity, torture and legitimacy.

For a range of complex reasons, public mistrust and weaknesses – perceived and real – in the criminal justice system stand as obstacles to democracy and sustainable peace. 'Considering the magnitude of the task of transforming and rebuilding popular confidence in inherited criminal justice institutions, it is particularly clear that strategies to deal with violent victimisation cannot operate exclusively within the sphere of criminal justice' (Simpson, 2004, p.5). Additionally, and regardless of these challenges, it is not enough to simply locate solutions to violence within the criminal justice system alone. This is because violence must also be understood at a social-level, one that moves beyond individual experience (Simpson, 2004). Remedial mechanisms thus need to go beyond the institutions aimed at assisting individual victims:

> In South Africa, attempts to address the experiences of violent victimisation are conventionally framed by reference to the extent to which the existing criminal justice process either fails or alienates those victims who encounter it. This is usually understood in terms of the experiences of people inside the criminal justice process, rather than by reference to the wider impact of unresolved residual trauma, ongoing cyclical patterns of violence, shifting patterns of social conflict and the embedding of identities in which violence is a way of life. The more expansive popular perceptions of the role of institutions of criminal justice must be situated in this wider context…violent victimisation must be understood as a societal problem rather than a purely individual experience. It is not solely the product of institutional failings and cannot, therefore, be remedied by institutional transformation or formal political processes alone (Simpson, 2004, p.5).

The examples listed above do not comprehensively illustrate the full range of ways in which crime and politics are intertwined historically and through the process of transition. Similarly, they are not exclusively about the relationship between politics and crime. But they do show that a mutually exclusive dichotomy between politics and crime is artificial. They also suggest that this division is dangerous because it can prescribe different, sometimes competing, remedies. However, once the division has been created, it is equally dangerous to ignore it by simply promoting a 'blurred lines argument' (cf. Simpson (2004) for a critical engagement with Stanley Cohen's (1996) contention that 'the remote prospect of democracy lies in a radical *separation* between crime and politics' (cited in Simpson, 2004, p.22, emphasis original)[15]). Similarly, it would be

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[15] Cohen (1996) writes, 'In analytical terms, the original enterprise of looking for the links between crime and politics was justified. But do we really want a social order where there is no distinction between the two? The atrocities that have become daily life in so many parts of the world are an appalling expression of *precisely* the obliteration of any distinction between political dispute and criminal violence' (p.18, emphasis

dangerous to collapse all remedies into the same basket. Although there are continuities between past and present violence, the changes and differences point out the need for a multi-pronged strategy in addressing it.

A key lesson from the VTP body of work is that just as violence cannot and should not be neatly divided, so too, justice is not as easily separated. Indeed, to compartmentalise justice into different categories and institutions can result in competing and contradictory approaches. Instead, *justice as a whole must be understood as itself in transition and this must translate into a more complex approach to both past and present conflict* (lesson). This approach must not be restricted to the positioning and dilemmas of the criminal justice system, or to that of the transitional justice field. The VTP research, by exploring violence at different levels, sets the groundwork for introducing a methodology that goes beyond both criminal and transitional justice systems, to include reconciliation and peacebuilding as 'thematic indicators' against which to measure violence and violence prevention.

Violence, Reconciliation and Peacebuilding: approaches to understanding and dealing with violence

Lesson: the apparent upsurge in violent crime, so common in transitioning countries, suggests that dealing with political conflict through a truth commission will leave most violence un-addressed and therefore un-prevented.

Lesson: Reconciliation strategies need to carefully define the faultlines of division that they are seeking to reconcile, in order to ensure that these are actually addressed.
Lesson: Reconciliation as a vehicle for mending old divisions can create new divisions and, as VTP research suggests, these strategies can themselves fuel discontent and conflict

Lesson: The starkly uneven benefits of economic citizenship post-conflict contribute to the experience of sustained social and economic injustice which underpin high levels of frustration. This presents a risk for both violent politics and crime. When initiated from the margins within these unchanged circumstances, violence can be interpreted as a coping strategy and a source of resilience, albeit negative in form.

Lesson: Reconciliation strategies must take on board issues of justice, instead of being seen as 'softer alternatives,' if they are to have a chance of successfully tackling the faultlines of earlier conflict and producing meaningful reconciliation and healing.

Lesson: At a broader level, links must be made between reconciliation and restoration, reparation, and social redress. The concept of reconciliation needs to expand beyond Truth Commissions to include an armory of institutions.

Lesson: Frustrations surrounding lack of access to water, housing, electricity and the 'lack of state service delivery' point to a new site of political violence in South Africa (and many countries undergoing change).

> Reconciliation strategies like Truth Commissions may have an impact on future violence prevention, but unless these approaches recognise the

original).

changing nature of violence, their impact on violence prevention is dramatically reduced. (Hypothesis 2, VTP 1 proposal, 1998)

This hypothesis, initially suggested in the VTP 1 proposal, assumes that reconciliation is a conduit for violence prevention. However, this assumption needs careful interrogation and examination. Firstly, it begs the questions, 'Is violence prevention articulated within Truth Commission agendas? And if so, how?' In the South African case, reconciliation was implicitly held up as antithetical to violence.   Fostering reconciliation seemed to be the level at which violence prevention was assumed. However, no clear strategy was articulated or set out beyond the general truth commission dictum of 'never again'. 'Never again', while intended to include the gamut of past atrocities, is usually addressed through the narrow confines of a political settlement and therefore involves narrow political remedies. So focused on one form of conflict (the political form), it is easy for truth commissions to lose sight of the violence itself (Valji, in personal communication). As discussed in the crime and politics section above, the focus of Truth Commissions on political conflict also means that violence prevention will be targeting violence in political terms, with the aim of entrenching a political settlement and ceasefire. Additionally, *the apparent upsurge in violent crime, so common in transitioning countries, suggests that dealing with political conflict through a truth commission will leave most violence un-addressed and therefore un-prevented* (lesson).

Secondly, in examining this hypothesis, it is important to raises questions about the level of reconciliation that strategies such as truth commissions can and do address (and relatedly, the level of violence that can be addressed). It is generally accepted that the South African TRC brought about national, political-level reconciliation, seen in the relatively stable political climate of post-apartheid South Africa (Harris, Valji, Hamber and Ernest, 2004). At the community and individual levels, however, reconciliation is much more complex and largely incomplete. This is evidenced by the VTP body of research, which points to the layers of conflict and division between different groups (e.g. South Africans and foreigners, racially segregated neighbourhoods, political and ethnic divisions between ANC and IFP supporters, intergenerational conflict, unintegrated and marginalised ex-combatants) and the sense of exclusion by individual victims, coupled with a de facto amnesty for many perpetrators, all embedded in a context of highly unequal socio-economic circumstances.

Indeed, such *strategies need to carefully define the faultlines of division that they are seeking to reconcile* (lesson), for example, in South Africa, reconciliation is commonly understood to mean racial reconciliation although *the* institution of reconciliation (the TRC) did not directly tackle racism but rather focused on political divisions, motives and the narrow category of gross human rights violations. As a (partial) consequence, racial divisions remain largely intact and unaddressed, with racial reconciliation operating superficially, if at all, easily disturbed by a single inflammatory incident. Additionally, the interface of racial and ethnic identities with that of a national identity carefully crafted through the Mandela-Tutu era of rainbow nationalism, has also translated into high levels of xenophobic hostility, primarily expressed towards African refugees and asylum seekers.

Reconciliation as a vehicle for mending old divisions can create new divisions and, as VTP research suggests, these strategies can themselves fuel discontent and conflict (lesson). For example, the South African Truth and Reconciliation Commission (TRC) unintentionally resulted in:

Social Fatigue and Disengagement (this led to a loss of social interest in the issues of the past and with that, a limited ability to make connections between present circumstances and past circumstances, including violence. See for example, the dismissive comments about the TRC made by ex-combatants, from across the political spectrum (Gear, 2002)).

t   Alienation of victims and division over who qualified as a 'real victim' both in terms of authenticity and access to reparations.

t   Impunity, lack of accountability and a de facto amnesty for a large number of perpetrators.

t   Xenophobia and hostility towards foreigners, particularly black Africans, through the nation-building rhetoric of reconciliation (Cf. Harris (2001a) for a detailed overview of this process).

More generally, South Africa's *national reconciliation enterprise has failed to permeate divisions between people* (lesson).   Rather, it has been a fairly superficial and problematic process. This has not been assisted by the ANC government's own actions, for example, its 2004 courting of the new National Party (the ANC's morally and politically corrupt predecessor) seemingly in favour of promoting real reconciliation through embracing credible organisations and social movements with the interests of the black working class at heart. Additionally, the state's 'trickle down' economic policies, which prioritse the 'accumulative 'needs' of corporate capital (the first economy) [in order to] provide the means to address the needs of the poor (the second economy)' (McKinley and Veriava, 2005, p.67), indicates that socio-economic divisions, as well as (unholy) political alliances, are being firmly entrenched. Indeed, as Harris *et al*. (2004) point out,

> …for some, despite the merits of the TRC, 'reconciliation' is merely a euphemism for the compromises made during political negotiations – compromises that ensured continued white control of the economy. From this perspective, reconciliation is meaningless without structural change. A related, more cynical view is that the rapproachment between the old and new regimes was a strategy to consolidate a new black elite under the banner of reconciliation. (p.vii)

The benefits of economic citizenship have yet to reach those most in need. In the context of a Black Economic Empowerment discourse and strategy that services a small elite (without 'trickling down' to the poor) *the experience of sustained social and economic injustice continues to underpin high levels of frustration. This presents a risk for both violent politics and crime* (lesson). CSVR's work with young gangsters and certain former combatants (cf. Segal, Pelo and Rampe, 2001; Gear, 2002; Barolsky, 2005) reflects this complex relationship between sustained injustice, frustration and the concomitant risks for violence (whether political or criminal): past violence conducted by young, largely male, individuals was labeled as 'political' and therefore justified and accepted in many communities; now, such violence committed by young, largely male, individuals (some the very same people as before) is termed 'deviant' and criminal by the same communities and nation at large.[16] Although the discourse, and in certain cases, the target, has changed there has been no change to the economic and educational opportunities available to many young people. *When initiated from the margins within*

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[16] In certain cases this re-labeling of young 'criminals' seems linked to the direct experience of violent crime by communities previously protected by, and therefore insulated from, these actions and individuals. For example, in the Kathorus youth project, a number of community members told us that today crime is committed by perpetrators living within the community itself, unlike the (political) violence (including political 'crime'), which was targeted at 'the other' in the past (e.g. hostel residents or white suburbia).

these unchanged circumstances, violence can be interpreted as a coping strategy and a source of resilience, albeit negative in form (lesson)**.**

Alongside the older manifestations of violence in these re-labeled expressions of marginalisation, new forms of conflict also exist at the margins, centred on the new social movements (cf. McKinley and Veriava, 2005). Based around socio-economic and health rights, these movements are comprised of various civil society groupings, some more and others less organised. Since the release of McKinley and Veriava's (2005) report early this year, there have been an increasing number of violent incidents, spread across the country, between community members, the police and private security companies. Based on frustrations surrounding lack of access to water, housing, electricity and the 'lack of state service delivery', this form of conflict points to a new site of political violence in South Africa (and many countries undergoing change) (lesson). What gives McKinley and Veriava's (2005) work a cutting edge is their exploration of the links between conflict, politics and socio-economics; links that others in the field are not making. Even if they perhaps overstate the case in terms of current manifestation of state repression, all indications are that this will remain and grow as an area of conflict and contestation. At the same time, it is important to acknowledge the complexity of these social movements and groups. They are not homogenous and require further study. For example, it is difficult to compare the actions of a dissatisfied white right bombing campaign with the labeling of long-time activist, Fathima Meer as a 'trouble-maker' by the state for her involvement with the Concerned Citizens Committee on water issues. However, these actions do point out new spaces of political conflict.

Reconciliation must be justice-driven (lesson): strategies must take on board issues of justice, instead of being seen as 'softer alternatives'. As the Truth Commission example illustrates, in the absence of a link between justice and reconciliation (and when reconciliation is consequently prioritised over justice) impunity is entrenched (and with this, the assumption is, violence in entrenched – whether changing or not[17]). *At a broader level, links must be made between reconciliation and restoration, reparation, and social redress. The concept of reconciliation needs to expand beyond Truth Commissions to include an armory of institutions* (lesson) – such as the Land Commission, Gender Commission etc. The links must be made between reconciliation, violence and social justice. As discussed above, reconciliation strategies like truth commissions must incorporate the need for institutional transformation (they cannot just be located at either national or victim-perpetrator levels of change). At the same time, these strategies themselves should not just be located at the level of Truth Commissions and (where possible) related institutions. Just as violence permeates all layers of South African society, so too, reconciliation strategies need to intersect with the spaces of division and hostility, if they are to feed into a violence prevention process. This does not mean that society should ignore or sidestep the TRC or institutionally-based reconciliation.[18] Rather, it is an opportunity to integrate the issues of the TRC into

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[17] Whether there is a relationship between impunity and violence and what this looks like remains a largely untested assumption internationally. We are hoping to explore this in VTP 3 through a case study based on gender in particular, looking at the relationship between transitional justice and gender justice in Rwanda and the impact of widespread post-conflict impunity on new forms of violence.

[18] For example, the TRC can and should be used as both an instrument of history (this is currently the case, cf. Dieltiens, 2005 for details about the relationship between education and the TRC) as well as an opportunity to make the connections between South Africa's past and young people's present circumstances (as Valji, Makhalemele and Molewa (in Harris, 2003) have noted, there is a 'gap' between past and present, which is commonly filled with explanations located at the level of personality and individual characteristics).

mainstream society, to show that reconciliation did not end with the Commission but rather just began.

Remembering violence: memory as peace builder or conflict sower?

Lesson: Memorialisation can be used as a tool of reconciliation and peacebuilding but it can also sow the seeds for further conflict. Who is remembered, how the past is recalled, what constitutes local history – these are all difficult processes that can lead to community division and exclusion, often along the original lines of the conflict.

Lesson: It is usually the male combatant who is heroised and remembered. This exclusion reflects both the act of marginalision within conflict and the ongoing exclusion of women and non-combatants from the post-conflict context

Memory and memorialisation initiatives transcend institutions and can create 'living spaces' and 'sites of conscience' where reconciliation, violence and justice intersect. It goes beyond the scope of this report to evaluate the many initiatives that have been put in place in post-apartheid South Africa (for a comprehensive engagement with memorialisation, see Naidu, 2004a; 2004b). What is important here is that while such sites are intended to remember the past (including past violence) and thereby create social healing, they can themselves become points of contestation. In other words, *memorialisation can be used as a tool of reconciliation and peacebuilding but it can also sow the seeds for further conflict. Who is remembered, how the past is recalled, what constitutes local history – these are all difficult processes that can lead to community division and exclusion, often along the original lines of the conflict* (lesson). For example, respondents in the Kathorus youth project explained that the Thokoza monument excluded their experience because of their political involvement (either as SPUs, or as low-profile SDUs, or as residents of Katlehong (on the one side of Khumalo Street), as opposed to Thokoza (on the other side of the street), etc.

The divisions of memory can also reinforce broader social faultlines. As Nieftagodien (2005a) points out, women are marginalised from history, from how a society remembers and memorialises its past. This is similarly borne out in how we remember past violence. It is the male combatant who is heroised and remembered.[19] This exclusion reflects both the act of marginalision within conflict and the ongoing exclusion of women from the post-conflict context. A similar critique could be made of the VTP research process, where a large part of the focus has been on the male soldier.[20] This does not mean that a male perspective is unimportant though. Nieftagodien's objection is less directed at the voices that are included in the national history project than the narrowness of this focus and its intersection with a nationalist discourse that further reduces the representation of history to a set of different stories that tell the same Story – one that valourises a liberation struggle in a very particular, prescriptive way and which, as a consequence, has an impact on the current processes within society now.

CSVR's work on memorialisation also raises the difficulties and complexities of development with its potential to fuel conflict. For example, the process of determining a

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[19] Nieftagodien (2005a) does not suggest that women alone are marginalised through processes of memorialisation – indeed, he explains that the nationalist, official processes of remembering exclude a range of roleplayers, including political minorities and non-soldiers.
[20] Palmary's (2005) report contradicts this trend through her focus on women in conflict and exile.

memory site raises difficult questions about not just who qualifies as a victim and whose story is remembered but how the site will be used, what the accompanying resources will be and how any benefits (including jobs and money through, for example, the tourism that might surround a site) will be shared. In thrashing out these questions, the potential for conflict and division within the very group intended as beneficiaries is real, warning of the dangers of an unexamined development approach.

Lessening the likelihood of violent conflict during reconstruction and transformation processes

Lesson: conflict over development and reconciliation initiatives is closely related to the lack of consultation with, and exclusion of, key stakeholders at a local level

Over the last decade, there has been an internationally growing awareness of the relationship between development and conflict, along with the recognition of the need for a conflict sensitive development agenda. In South Africa, we too are recognising that development can be as much a destructive process as it is a creative one, particularly when coupled with the dynamics of transition. The VTP research highlights that old patterns and relationships of privilege, often sustained by violence, are unsettled with development. Similarly, development can bring new beneficiaries and privileges. This can destabilise the pecking orders, sub-economies, relationships and individual identities of war resulting in tension and sometimes violence. For example, within the housing sector, there has been resistance on the part of single-sex male hostel residents to the introduction of family-unit housing because of their reluctance to relinquish the dual identities that they have forged through their migration between rural and urban areas, often with accompanying families in each location. Similarly, slumlords with vested interests in renting out living space by the metre are resistant to more equitable housing programmes. Development, particularly uneven development (in one area and not another, or, in the case of underdevelopment, at the expense of another) can also create conflict between community members and reinforce not only socio-economic inequalities but social faultlines such as race or ethnicity. For example, in Kathorus we were told by many individuals (from across the political spectrum) that a certain housing project 'favoured Xhosas' and that other 'ethnicities' could not access houses there. In a context emerging from a form of conflict based strongly on ethnic and political divisions, this perception is inflammatory and dangerous.

In KwaZulu Natal, Injobo Nebandla (2005a) note that,

> A key-determining factor in the peace process has been the evolving shift
> in competition between the ANC and IFP from the politics of violence and
> confrontation, to competition around the politics of development and
> service delivery. (p.37)

This shift from the 'politics of violence' to the 'politics of development' has impacted in varied and localised ways on peace and violence within the region. In some areas, such as the "A" Section Hostel in Kwamashu, it has translated into an uneasy 'peace', one that is still fraught with political mistrust and tension. Development, or rather attempts at development, have reinforced old allegiances and undermined plans to upgrade the hostel. In turn, the lack of development has fed into resentment and political mudslinging over already-poor facilities and high levels of crime within the area, leaving residents

feeling increasingly marginalised and further exposed to violent crime. In contrast, violent conflict in KwaMashu's "L" Section (between different factions within the ANC, exacerbated by inadequate housing and limited services) is finally being resolved now that,

> the ANC, together with local and provincial government departments, [has] embarked on a two-pronged strategy, the first of which [has] entailed intensifying peace talks between the warring factions, and the second focusing on a development programme to address inadequate housing and overcrowding. A large-scale housing programme was subsequently introduced with considerable success, and a number of "L" Section residents have been relocated to new sites and houses at Mount Royal, Duffs road near KwaMashu. This process is ongoing (p.54).

What seems crucial in this example is the 'two-pronged' nature of the strategy, which has included both peace talks and development. Consultation and community buy-in are central to the success of development projects. Indeed, from across the range of VTP reports, *conflict over development and reconciliation initiatives is closely related to the lack of consultation with, and exclusion of, key stakeholders at a local level* (lesson). For example, in Kathorus, SDU and SPU ex-combatants felt that the failure of early demilitarisation initiatives (such as the Community Constable Programme) was related to top-down, imposed processes in which they were not consulted or given an opportunity to shape the outcome. This has created a sense of bitterness and resentment for many who feel a double-layer of betrayal by the state, politicians and democratisation in general: 'first they used us to protect and fight for them, then they used us to stop the violence and when it was over, they simply threw us away' (cf. Gear, 2001; Barolsky, 2005). The relationship between a lack of consultation; development, democracy and demilitarisation; and feelings of exclusion and betrayal is highly complex and cannot be fully explored within this report. However, it is important to note that there is a relationship and this layered interaction contains the kernel for new expressions of conflict. The concept of 'human security' is useful for highlighting some of these links, particularly in relation to demilitarisation, which is one of the key indicators posed in the VTP 2 proposal.

Demilitarising security: human security and demilitarisation[21]

Lesson: frustration with a lack of participation in, and exclusion from, the processes of democracy can result in conflict, with people falling back on alternative, sometimes violent, methods to (re)assert a sense of power, while simultaneously signaling their discontent with the new order and 'democracy' itself.

In recent years, the peacebuilding field has redirected our understanding of security from a state-owned, militaristic concept to one that focuses on *human* security. Although human security does not preclude state security, it offers us an expanded, more holistic way to engage with security as both protection for, and empowerment of, individuals (Tadesse and Smith, 2005). The *Commission on Human Security* defines human security as a process,

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[21] This section draws on inputs made by participants at the VTP review workshop (29 November 2005), particularly Richard Smith, Ephrem Tadesse, Mpho Matlhakola (all of the CSVR Peacebuilding Programme), Malose Langa (Victim Empowerment Programme), and Sasha Gear (Criminal Justice Programme). With Thanks!

…to protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment. Human security means protecting fundamental freedoms—freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build in people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity. The vital core of life is a set of elementary rights and freedoms people enjoy. What people consider to be "vital"—what they consider to be "of the essence of life" and "crucially important"— varies across individuals and societies. That is why any concept of human security must be dynamic.' (Ogata and Sen, 2003, p.4).

And with this, the concept of reconciliation needs to be seen as an inter-personal, participative process. As, Archbishop Tutu, in his Foreword to the Human Security Centre's (2005) *Human Security Report* explains, '[h]uman security privileges people over states, reconciliation over revenge, diplomacy over deterrence, and multi-lateral engagement over coercive unilateralism' (p.III).

The VTP research illustrates that *frustration with a lack of participation in, and exclusion from, the processes of democracy can result in conflict, with people falling back on alternative, sometimes violent, methods to (re)assert a sense of power, while simultaneously signaling their discontent with the new order and 'democracy' itself* (lesson). This is clearly highlighted in McKinley and Veriava's (2005) report on the state's relationship with, and response to, social movements,

> The fact that most social movements are presently outside the mainstream of South Africa's institutional framework indicates that an increasing number of poor South Africans no longer see active participation in the present institutional set-up of representative democracy as being in their political or socio-economic interests (p.4).

It is not just the 'increasing number of poor South Africans' who feel marginalised and deliberately excluded from representative democracy. Other social faultlines, for example gender, race and ethnicity, also mark spaces for exclusion, disempowerment and therefore human insecurity:

> Development theorists argue that if a gender dimension in development practice is not included the consequence will be to increase gender inequalities. The DAC (1998) guidelines for gender equality and women's empowerment in terms of development co-operation make plain that promotion of gender equality is a broad societal issue that women and men need to address in partnership. With respect to women and armed conflict, it has been accepted by international practitioners, most notably the United Nations in its adoption of Security Council Resolution 1325 on women, peace and security in 2000, that gender equality is central to peace building and reconstruction. (Hillyard and Ward, 2004, pp.2-3).

At the same time, development and human security are not just about the relationships between (gendered, racialised, ethnicised, class-based, etc.) citizens, and citizens and

states. In the context of a neoliberal global order, where the weakened nation state is driven in response to and by the market (cf. McKinley and Veriawa, 2005), multinational corporations (MNCs) also pose a number of challenges to a peacebuilding agenda. Their actions and policies, like conflict itself (as discussed in the *politics of exile* section above), transcend national borders. It is beyond the parameters of this report to engage with the complex intersection of MNCs, regional and collective state bodies, states, citizens, development, human rights (including socio-economic rights) and peacebuilding, but it is important to flag these concepts here, as areas for future exploration within the VTP process, because of their links to violence and violence prevention.[22]

Regional inter-state bodies, such as the African Union, SADC and NEPAD also complicate the relationship between human security and violence. On the one hand, they are important vehicles and spaces for peacebuilding at a regional level and, in certain cases, South Africa has played a significant peacebuilding/keeping role through these bodies. Their potential to transcend national divisions is particularly important because conflict can traverse national boundaries and thereby threaten human security across these borders too. Conflict in this form demands a consolidated, regional remedy. However, on the other hand, these bodies are limited in their ability to tackle regional conflict as the South African government's position of silence in relation to the serious human rights violations taking place in Zimbabwe illustrates. This 'national-level' response, one that has coincidentally unfolded alongside South Africa's internal celebration of democracy, threatens the integrity of these very organisations, as well as durable peace within the region and South Africa's democracy itself.[23] The regional movement of conflict similarly has implications for demilitarisation and human security strategies across borders, as well as within them.

Demilitarisation: the need to harness the experience of conflict in a way that actively promotes peace

Lesson: Narrow institutional understandings of DDR are frequently pursued due to pressures of political settlement, and tend to focus solely on formal armed conflict at the point of transition. Informal and paramilitary forces are usually excluded, creating an additional faultline for future violence. In this sense, the threat of violence is located less within the armed forces themselves, and more within militarized civilians

Lesson: It is important that any peacebuilding strategy does not unwittingly alienate ex-combatants further by only seeing them as a 'potential threat for violence'**.** Instead, former combatants can often come to occupy significant peacebuilding roles within the post-conflict context – either within the formal structures of the new democratic government/state security forces or, at more local, immediate levels, within their particular communities

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[22] This is an area that we would like to take forward in VTP 3 by exploring the intersections between peacebuilding, development and human rights in relation to human security and violence in transitioning countries.

[23] On the opposite side of the coin, nations, because they are limited to national-level solutions, may find it difficult to address the regional effects of conflict. For example, a country moving towards democracy may implement a transitional justice process and national reconciliation strategy that seeks to repair damaged relationships. This will not, however accommodate refugees living in exile, and these groups of people will automatically be excluded from the internal national focus on reconciliation. This holds the potential for conflict when such exiles eventually return home. The relationship between national solutions to violence and the regional displacement of people and conflict has been identified as a key area for future VTP work.

<u>Lesson</u>: It is important for development and reintegration strategies to assist ex-combatants with identifying their transferable skills as often they feel that they only 'know war' and therefore do not look beyond the security and arms sectors for employment (which can itself fuel a cycle of violence)

Demilitarisation is conventionally understood as one component of the demobilisation demilitarisation and reintegration (DDR) triangle implemented with negotiated settlements as part of the formal processes for moving from armed conflict to peace. However, Gear's (2001) research with South African ex-combatants holds two additional lessons: i) it is crucial not to adopt a narrow, institutionalised understanding of DDR, although this often happens with the pressures of a political settlement and the related focus on formal armed conflict at the point of transition; and ii) to acknowledge the informal and paramilitary forces within armed combat, forces that are not conventionally included in DDR processes. Relatedly, it is important to look at the ways in which weapons continue to circulate within society in the shift from politics to crime (cf. Injobo Nebandla, 2005b for an analysis of gun control through transition).

Gear (2002) points out that there are many challenges for integrating former combatants into a singular army and/or back into civilian life. These challenges, if not properly understood or dealt with, can produce conflict and violence. Challenges to creating a unified, integrated armed force include: structural problems with the process, inflexible methods of training and lack of mechanisms to 'facilitate the delicate process of integrating diverse armed forces' (p.29), different levels of experience and expectations about the rigidity of 'army life' (particularly for members of less formal structures, such as the South African SDUs who did not receive the same levels of training as their 'army' counterparts and who were unfamiliar with the formal structure of living in the military), lack of discipline, and racist attitudes and prejudice (with former enemies having to work together in the very institutions (the army and police) historically designed to kill each other). Challenges for integrating into civilian life are vast and include facing community stereotypes and prejudices about 'ex-combatants', loss of social status, difficulties in personal relationships, anger, depression, a loss of identity and purpose, loss of income and difficulties in finding employment, particularly beyond the private security sector[24], and feelings of abandonment and betrayal (cf. Gear, 2002, Barolsky, 2005).

More generally, *military training – both during the earlier conflict and through the integration process itself – can create a faultline for future violence* (<u>lesson</u>). This is a complex assertion, one that needs to take into account a range of different aspects. For example, integration offers combatants insights into the functioning of the new military and police forces and this has the potential to leave them even more militarised than previously (Gear, 2002). The risk presented by 'hyper militarised' (largely) men in transition can be compounded through badly planned and un-consultative processes of integration: integration does not guarantee secure employment or a long-term future for members (due to a range of reasons for example, retrenchments, medical discharges, dismissals) but when badly planned and un-consultative (for example the Community Constable Project in Kathorus), integration/de-integration can result in skilled men *unwillingly* having to leave the formal security sector. If coupled with high levels of betrayal, abandonment etc. (see Gear (2002) for a range of emotions and experiences, mostly negative, related to the transition from military to civilian life), moving into civilian life can be traumatic, difficult and dangerous for former combatants. *In this sense, the*

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[24] Gear (2002) notes that many ex-combatants have sought employment in this sector, although not all have found it welcoming.

threat of violence is located less within the armed forces themselves and more within militarised civilians (lesson)*.*

At the same time, perceptions and stereotypes about what it means to have been a combatant, and simultaneously, an ex-combatant, 'impact fundamentally on the nature and experience of their attempts to reintegrate into their communities' (Gear, 2002, p. 30). *It is important that any peacebuilding strategy does not unwittingly alienate ex-combatants further by only seeing them as a 'potential threat for violence'* (lesson). Instead, former combatants can often come to occupy significant roles within the post-conflict context – either within the formal structures of the new democratic government/state security forces or, at more local, immediate levels, within their particular communities.   For example, Thokoza SDU members point out that they 'continue to represent substantial political capital in the community' and are called on to occupy leadership positions, commonly centred on peacekeeping and conflict resolution, e.g. mediating domestic conflict (Gear, 2002, p.31). While this might be because of the qualities that they possessed prior to engaging in conflict (qualities that prompted them to take up arms initially), leadership qualities could also develop through the process of combat. It is thus important to find ways to tap into and harness the leadership skills of individuals post-conflict. Linked to this, a way must be found to harness the experience of conflict in a way that actively promotes peace.

Of course, the range of ex-combatants, drawn from different forces and backgrounds, means that developing former soldiers as community peacebuilders and leaders is not a uniform solution or necessarily one that communities will understand, appreciate or accept. For example many of Gear's (2002) white conscripted respondents point out that there was a culture of secrecy and denial on the part of the apartheid state regarding their active involvement in conflict, and this has ensured that their communities were not very aware of their actions or experiences 'on the border'. Rather than being welcomed as heroes on their return, many felt alienated and distanced from the very people they were seeking to protect. In the absence of any community appreciation for their skills (and therefore no opportunity to distinguish themselves as leaders or peacebuilders), their reception has not allowed for any leadership role to emerge in the post-conflict context.

More generally, the development and emergence of certain skills in combat should not be restricted in their application to conflict resolution/knowledge skills in a post-conflict society. Rather, the challenge is how to apply and transfer these skills to a range of careers and activities in a context of peace. *It is important for development and reintegration strategies to assist ex-combatants with identifying their transferable skills as often they feel that they only 'know war' and therefore do not look beyond the security and arms sectors for employment (which can itself fuel a cycle of violence)* (lesson) (Gear, in personal communication). This process would also ease the transition into civilian life by giving ex-combatants a source of identity that extends beyond that of war and would form part of a strategy to *demilitarise masculinity in a post-conflict society* (lesson).

Within the overarching identity of ex-combatant, more specific identities exist; this is not a uniform or homogenous group and this has consequences for how former soldiers reintegrate into civilian life. Those who take on high profile, or well-paid jobs and who feel a sense of social acknowledgement for their involvement in the past conflict generally seem to have a very different experience as 'ex-combatants' to those who can't find employment and feel betrayed, angry and unacknowledged by society and the

political system (cf. Gear, 2002). *It is the marginalised, excluded, yet militarised forms of masculinity that present a risk for future violence. The challenge is how to demilitarise masculinity by providing alternative, positive role models for men in peace-time* (lesson) (Gear, in personal communication).

Identities of Exclusion

Militarised masculinity

Lesson: It is the marginalised, excluded, yet militarised forms of masculinity that present a risk for future violence. The challenge is how to demilitarise masculinity by providing alternative, positive role models for men in peace-time.

Lesson: Many identities are primarily shaped in war and these impact on identities of peace, often through the expression of violence. Identities of exclusion, common in so many DDR processes, can feed into violence.

Lesson: Identities of exclusion can feed into violence, which is a means to power and status.

Lesson: Identity feeds into and shapes the experience of particular types of violence during and after the war. This has implications for the ways that trauma is processed, expressed and experienced by people, which can in turn affect the way that identity itself develops

One lesson emerging from the VTP research is that *many identities are primarily shaped in war and these impact on identities of peace, often through the expression of violence.* Another lesson is that *identities of exclusion can feed into violence.* This is most visibly seen in the case of young men who identified themselves as 'soldiers' and 'combatants' during the past violence and who today still define themselves with reference to that war-time identity, as 'ex-combatants' (cf. Gear, 2002; Barolsky, 2005). Moving from combatant to ex-combatant has not been an easy process. The change in identity has meant a loss of social status and purpose. Once respected and/or feared as fighters, protectors and 'men with guns', today many former soldiers feel that they are the 'laughing stock' of their neighbourhood, family, or nation.[25] This is for various reasons, including their inability to find employment and the means to lead a 'fancy' lifestyle with fast cars and designer clothes. This sense of displacement and loss of social status and power in the transition from soldier to ex-combatant can create the grounds for violent crime perpetration. For example, some feel that it is the 'fancy' lifestyle that will allow them to recapture the 'hero' status and power they once held within communities. With this, comes the risk that they will become involved in crime. Gear (2002) explains that for certain ex-combatants,

> Moves into crime cannot therefore simply be reduced to unmet needs. The immense power of the materialist youth culture in which these youth

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[25] In the case of the SDU and SPU members their neighbourhoods were the very spaces that they once controlled and protected. Violence, as Barolsky (2005) indicates was completely embedded in their immediate, day-to-day experience and with this, their status as community protectors and heros. Consequently, their reintegration into civil society has taken on a very different form to that of returned exiles and members of the South African Defence Force (themselves with differing identities depending on why they joined the military and what their experiences were).

find themselves also feeds criminal involvement today. This culture effects youth more generally and is not restricted to militarised youth. It is also not a new phenomenon…*Crime [including violent crime] pays for status and respect and not only material goods: it is the means to a powerful identity* (lesson) (Gear, 2002, pp.71-72, emphasis added).

For others, there is a tendency to romanticise the violence of the past and to resort to such violence in new circumstances. This can be seen in the consistency of violent vigilante methods over time (cf. Harris, 2001b). 'Ironically, some [ex-combatants] look back at the apartheid era as 'better times' for dealing with crime and criminals' (Gear, 2002, p.49). This can translate into harsh violence against suspected criminals. Vigilante and criminal violence are not unique to ex-combatants. However their overtly militarised backgrounds clearly reflect the range of violent possibilities for post-conflict identity and the changes and continuities that shape and channel this. This can be a subtle process. For example, although the SDU and SPU units have been officially disbanded, interviewees told us that there are still clear allegiances, networks and a sense of brotherhood amongst former members (This cohesion is similarly borne out by the special forces interviewed by Gear (2002)). At any sign of 'trouble' (e.g. a bar-brawl or criminal incident), the Units quickly re-band and work together, often in violent ways, to 'protect each other' and the related identity of being an old 'comrade'.[26] In other situations, admitting to a war-identity can be dangerous, especially when moving through spaces that were once those of the 'enemy'. Old identities can feed into violent acts of revenge and the settling of personal scores linked to the past conflict.[27]

Gear (2002) explains that violent masculinity can translate into violence within the domestic context:

> Ongoing aggression and violence [can[28]] play out in a variety of social environments. Bars and taverns, for example…But…the most commonly reported site of this aggression is the home or personal environment. [This was confirmed by focus groups with female partners/relatives of ex combatants] (p. 87).

Violent perpetration against their partners and relatives was linked by various interviewees to the experience of demobilisation and thereby, it was firmly located within South Africa's transition away from a clearly defined notion of militarised masculinity (with clear combat roles) to one that is much more murky and less articulated; caught up in marginalisation, high levels of unemployment and feelings of betrayal and alienation (Gear, 2002). The articulation of domestic violence as a product of and response to transition suggests a complex link between identity and what it means to be a man, social discourse (itself in transition) and space (a displacement of violence from the military battlefield to the domestic setting). It could also be an attempt to justify current-day violent behaviour. Partly due to the emphasis on past *political* violence, it is difficult

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[26] This sense of loyalty and commitment to the 'unit' reflects similarities with gang identity.
[27] This raises interesting questions about the relationship between justice and identity – for example, is it simply expedient for former combatants to accept or reject their 'old' war-identity as and when it suits them (with the tacit assumption that they have a 'new' identity, potentially one that divorces them from any past complicity in conflict?). Can justice in transition allow for identity in transition or should it take a less flexible stand?
[28] Gear (2002) stresses that not all ex combatants engage in violence or aggression when they return to civilian life. Her report debunks the myth that ex combatants are "violent" simply because of their ex combatant status and she cautions against the perpetuation of such stereotypes, not only because they are inaccurate but also because they fuel feelings of betrayal and alienation amongst ex combatants.

to know whether there has been a *displacement* of violence to the domestic arena or whether previous such incidents took place but were not discussed, documented and explored. For example, speaking about past risk-taking sexual behaviour, a former SDU member explained that they had 'easy, sometimes violent, access to women' because of their valourised/feared status. Redefining these actions today, he reflected: 'What we did, I guess you could call it rape'.

Despite the occasional acknowledgement of violent perpetration beyond the 'accepted' targets (such as the rape above), most male ex-combatants described their past roles as protectors, defenders, and active warring agents. This was in contrast to their general interpretation of women as caretakers, homemakers and objects within the conflict. In the rare cases where women were spoken about as active combatants, they seemed to 'lose' their femininity and become desexualised, man-like aberrations in the eyes of their male counterparts. As a former SPU-member told us: 'there was a woman who could carry two guns. She led us in the conflict. But we didn't see her as a woman. We called her: 'he' (unpublished interview transcript, 2005). What it means to have been a man in conflict and what it now means to be a man in a post-conflict situation, play out in the complex ways that these men relate to each other and to women today.

Similarly, Palmary (2005b) notes that *identity feeds into and shapes the experience of particular types of violence during and after war. This has implications for the ways that trauma is processed, expressed and experienced by people, which can in turn affect the way that identity itself develops* (lesson). For example, she explains that,

> …rape was considered a particularly significant trauma because of the social expectation that holds women centrally responsible for their sexual purity. That women fear shame, stigma and social isolation after rape made it particularly traumatic. It was also one of the reasons that several women mentioned pressure to marry their rapists. This underscores the responsibility that is placed on women for rape and that it therefore makes an extremely effective form of violence to humiliate and degrade women of the opposing ethnic or national group. In addition, women emphasised a continuum of sexual violence and exploitation that included sex work as a result of poverty, taking a husband out of poverty, others, such as landlords forcing them into sex or sex work when they could not pay rent and so on. Women experienced this as contrary to the social expectations of what was appropriate for a woman and mother and this was a significant part of the reason for emphasising sexual violence as a particularly traumatic experience.

Identities of trauma and suffering

Lesson: Suffering is experienced as a whole for individuals and cannot be neatly compartmentalised into 'then' and 'now', which continues to raise significant challenges for trauma service providers operating in the post-conflict context

It is also at the level of identity that the intersection between violence and trauma is perhaps most clearly revealed (lesson). For example, Palmary (2005b) notes that,

...motherhood and the expectations that society has of mothers were a defining feature of the narratives the women told. Their inability to provide for their children given the desperate conditions of forced displacement, on one hand and the social expectation that motherhood should be an unambiguously positive experience, on the other was a central source of their distress. Having children often made women less able to receive protection and support and the burden of this care, and the feelings of guilt and distress when they were unable to provide it, shaped their experience of violence. In this way, the deaths of children in the course of the violence were central to the women's experience of trauma.

Similarly, Barolsky's (2005) exploration of children in conflict and the impact that war trauma has on how they see and articulate themselves as young adults illustrates the intersection of violence and trauma through identity. Palmary (2005a) and Nieftagodien (2005b) argue that it is also important to contextualise war identity and violence within the structures, relationships and systems that *preceded*, as well as those that proceed, such conflict. In this way, the continuities and changes in patterns of violence across time will be better understood and contextualised. This also allows for an intergenerational reading of trauma and its transmission.

At the same time, suffering changes through the transition, to include new forms of pain, particularly that of HIV/Aids, along with unchanged circumstances of poverty, deprivation and structural inequalities, as well as old war trauma. This has implications for service-providers who explained that any efforts to address past trauma should not be separated from the current forms of suffering that people experience. Similarly, it is difficult to address current suffering without understanding the impact of past trauma. *Suffering is experienced as a whole for individuals and cannot be neatly compartmentalised into 'then' and 'now', which continues to raise significant challenges for trauma service providers operating in the post-conflict context* (lesson).

Victims and perpetrators: revisiting the third hypothesis

Lesson: There is a relationship between victimisation and violent offending in historically violent societies but this is extremely complex and cannot be reduced to a crass victim-offender cycle.

> There is a significant relationship between victimistion and violent offending; these are not separate social categories in historically violent societies (VTP 1 Proposal, 1998, p.8).

A key challenge for the VTP research process has been to reflect on and acknowledge the complexity of the victim-perpetrator relationship. Rarely are these simple identities, split between different groups or individuals and subsuming all other aspects of identity. It is not often (if ever) that someone is 'all' perpetrator or 'all' victim. Rather, individuals may be victims or perpetrators or *both*, alongside other aspects of identity, such as 'mother', 'father', 'black', 'white' etc. The language of war does not readily accommodate multiple-identities, however. For example, 'combatants' are usually seen as perpetrators, 'refugees' as victims, and ethnic and race groups as either victims or perpetrators, depending on which side of the faultline and conflict they fall. Transitional justice processes such as truth commissions similarly risk repeating these false, simplified divisions (see Mamdani, 1996; 2000 critique of the South African TRC

reinforcing a 'perpetrator', 'victim', and 'beneficiary' divide, which allowed for white beneficiaries to absolve themselves from responsibility for the past). Similarly, traditional western approaches to trauma also threaten to repeat these categories and social positions:[29]

> One of the main critiques of understanding trauma only in terms of the symptoms people display is that the emphasis is on the consequences of the notion of long-term effects of suffering…the problem with this approach is that it recasts people as victims and as helpless to change without expert intervention (Bracken, 1997). (Palmary, 2005, p.51).

Obviously it is important not to relativise past conflict or dilute the moral line implied in the victim-perpetrator divide but VTP research does reveal that identity is more complex than these divisions suggest. Identity also comes with certain values and this is reflected in the ways that people choose to represent themselves. As Palmary (2005) notes, her position as a service provider with access to various resources and networks, impacted on the way that the women in her study presented themselves, which was slightly different to how they presented their situation within the asylum system.

Outsiders and newcomers: opportunities for violent identities

Lesson: it is important to consider that part of the continuity within violence through transition is demonstrated through the level of identity, through how people see themselves and how society sees them. Violent identities carry over into the new context and the new context creates opportunities for violent identities

Identities forged in the violent past and reinforced through the transition continue to impact on present manifestations of conflict, peacebuilding and justice. These are not only the identities directly linked to the language of conflict (victim and perpetrator) but also those that initiate and fuel the conflict (the social faultlines of race, ethnicity, nationalism etc.[30]). Additionally, democratisation has introduced 'newcomers' and

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[29] Transitional justice and traditional trauma conceptualisations of 'victims' and 'perpetrators' are not neutral or unpolitical – for example, there can be a strong imperative to emphasise a victim's suffering (through a post traumatic distress diagnosis) in order to claim reparations (on the opposite side of the spectrum, perpetrators in the amnesty hearings have also fallen back on PTSD diagnoses to illustrate their 'remorse' and buy sympathy for their actions). One of the problems with this strategy is that 'whoever cries the loudest' gets the most and not all victims present their victim status in the same way, or necessarily see themselves as victims at all.

[30] This report has not discussed the residual and changing ways that race in the South African context continues to impact on patterns of conflict (for further details, see Harris, 2004 for an overview of hate crimes in post-apartheid South Africa and Valji, Harris and Simpson, 2004, for an examination of the relationship between race, fear and reconciliation). This is a key area for further study, with a number of lessons to be shared and learnt from other contexts where similar faultlines have underpinned past conflict and social change. Collins (in email communication) points out that 'The issue of identity in the context of conflict is further complicated by the juxtaposition of perceptions of identity, both self and external, and the undeniable parameters of identity. South Africa, ironically through its historical strict categorisation of individuals, has contributed to the idea that identity directly correlates to opportunity and is thus prone to manipulation, within the physical parameters that traditionally define it. For example, some people changed from categorisation as black to coloured and now back again, responding to apartheid and now black empowerment opportunities. However, the fact that the parameters have always been physically defined limits the amount one can control perception on a racial basis. It encourages pragmatic identity choices on the grounds of less obvious facets of identity, such as political affiliation, or ethnic alliances (although the latter also has quite strict parameters premised on language and notions of appearance). *The transitional identity continuum associated with the cycle of conflict is thus also shaped and influenced as much by the*

'outsiders', those on the margins, with new or transformed identities. Refugees, asylum seekers, members of the new social movements, ex-combatants, vigilantes, criminals – these are all identities that can be examined and reflected through violence. They can also be understood through the processes that create and sustain them. While complex, these processes reflect continuities and changes across the period of transition too. For example, the nation-building rhetoric of the Mandela-Tutu/TRC era has fed into a (new) xenophobic South African identity but this is not completely removed from the (old) racism of the apartheid order, as seen in the targets of this hostility, namely black Africans (cf. Harris, 2001a for a discussion about the relationship between race and nationalism). Identity formation and expression are complex and cannot be fully explored within the confines of this report. However, it is important to consider that part of the continuity within violence through transition is demonstrated through the level of identity, through how people see themselves and how society sees them. *Violent identities carry over into the new context and the new context creates opportunities for violent identities* (lesson). A key lesson emerging from the VTP reports is that identity (in many different forms: masculine-feminine; race-based, class-based, religion-based, migrant identity, etc.) – is, in certain and important ways, self-explanatory. It transcends but also complements structural, socio-economic, and justice explanations for the sustenance of patterns of violence in changing societies. Identity can also be a barrier to reconciliation and peace, through the suspicions, fears and social responses that such faultlines can initiate (for example, the building of high walls and gated communities to keep out 'the other', cf.Valji, Harris and Simpson, 2004):

> 'This guy says as I stroll down the streets of Gauteng, in my presence they could never feel safe, handbags and purses change position when my suspicious body approaches them.'…So it's that feeling of...if you meet this guy in town and you don't know anything about him, yet, when you look at him you just see a tsoti. (unpublished poem and interview, Kathorus, 2005)

Integrating Violence

The Violence and Transition Project occupies a unique niche. It grapples with the changes and continuities of violence over time and through transition. In this way, it straddles and integrates a range of different fields that rarely engage directly with each other, and sometimes work in competition or at cross-purposes. These include: transitional justice, criminal justice, victim empowerment, trauma, peacebuilding, development and identity-studies. The project's ability to make connections between these different areas in the external environment is mirrored within CSVR too. Here, VTP sits between and across the organisation's central programme areas (Transitional Justice, Peacebuilding, Victim Empowerment, Youth and Gender – see glossary for Programme definitions of terms). As part of our forward-looking strategic planning process, CSVR has identified three broad arenas in which we need to integrate and deepen our work in order to build the kind of human security that is essential to preventing violence in its various forms and to building sustainable peace in the coming decade. VTP, as *the* integrating project, has directly shaped and informed the identification of these strategic areas. They are:

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non-changeable facets of identity as by the pragmatic identity choices available to one (lesson).'

Reconciliation: the rebuilding of relationships

Neither the formal political transition, nor the Truth and Reconciliation Commission, nor the strategies for black economic empowerment, have adequately addressed the rebuilding of human relationships as the key element of our social fabric that needs to be re-stitched. Whether these are racial, ethnic, religious or gender-based relationships, the enduring associated issues of identity continue to play a critical role in the evolution of conflict and potential for violent perpetration and victimisation in South Africa. Nor are these trends unique to South African society, but rather they have a global relevance. The ongoing endeavour to rebuild damaged social relationships extends from the most basic unit of socialisation – the family and domestic relationships – to the most expansive relationship between citizens and the state. Real reconciliation in the decade ahead, resides in the ongoing endeavour to re-craft all of these relationships and the momentum of the identities with which they are associated. Practically, this work includes an engagement with the devastating phenomenon of gender-based violence and masculine identities, it includes the issues of race and reconciliation, the identity issues associated with trauma, victimisation, forced migration, youth risk and resilience, the reintegration of ex-combatants, etc. It also demands that we attend to the consequences of the relationship between citizens and the state, including the state's responsibility to serve in the provision of safety, the delivery of justice and the rehabilitation of offenders.

Institutional transformation

If one arena of our engagement is in the way people relate to other people, then another must be the engagement in changing the patterns and power relations in the institutions in which ordinary people live out these relationships and much of their lives. In part, this is embedded in the relations between citizens and the state and the need to deepen the transformation of state institutions. CSVR will therefore continue to engage in critical partnership with government to this end, whether it is in the criminal justice institutions, the educational arm or the departments dealing with welfare, culture or heritage, to mention just a few. But the engagement must reach well beyond just the institutions of state, to include the vital contribution that CSVR can make to civil society organisation, civic activism and the role of non-state actors, particularly in situations of conflict and potential violence. In particular, the importance of this work will lie not only in the outputs and the outcomes of the next decade, but also in the methodological commitments – particularly to acting as a conduit for marginalised voices from below and to re-forging relationships between non-governmental organisations on one hand and community-based organisations and emerging social movements, on the other.

Social Justice

 "Positive peace" in South Africa and the region is premised on more than just the absence of violence. The durability and sustainability of this peace therefore demands that we tackle some of the continuities in the lived experience of ordinary people, which have historically underpinned much of the violence that has played itself out – whether criminal or political. For CSVR this entails a commitment to social justice and the

realisation of social, economic and cultural rights – the effective redress of historical inequities that is not inherently achieved through formal political or constitutional equality. In this vein we are not naïve about the contested nature of the development agenda. Indeed, we recognise that whilst development and economic growth may well play an important role in resolving many of our social problems, competing access to developmental resources may equally generate its own patterns of conflict and potential for future violence. It is precisely because of the complex relationship between development and conflict – and because of our critical commitment to social justice and non-violence – that CSVR plans to specifically position itself at the interface between development and conflict in the coming years. This understanding and these goals are inherent in our approach to human security and development as conditions for durable peace in our societies.

Consolidating Violence: a way forward

Conventionally, violence is understood in oppositional terms, as the (negative) antithesis of (positive) social processes such as peacebuilding, reconciliation, development, democracy, justice and human security. One consequence of this dichotomy has been the tendency to measure violence simplistically against these 'indicators': e.g. the more democracy, the less violence, the more peacebuilding the less violence etc. This 'equation' is suggested in a recent report by the Human Security Centre,

> Over the past 30 years the collapse of some 60 dictatorships has freed countless millions of people from repressive rule. The number of democracies has soared, interstate wars have become increasingly rare, and all wars have become less deadly…the fact that wars have been getting less frequent and less deadly is good news for the developing world, where most armed conflicts now take place. The *Human Security Report* argues that peace and development are two sides of the same coin – that equitable development helps build security, while war is 'development in reverse'. (Foreword, p.III)

The Violence and Transition Project challenges this 'equation'. It shows that violence mutates and transmutes with transition (and the accompanying indicators of democracy) in a complex way. The end of war is not the end of violence. Continuities between past and present forms of violence can be seen on different levels: in residual and new identities; in the everyday spaces of work, play and school; in the ways that communities interact; at the level of the state; and across national borders, into regional and global manifestations. Violence carries through the gendered experience of conflict, relationships between political and domestic violence, ongoing impunity across transition, political entrepreneurs, the regional displacement of people, demilitarisation strategies, marginalised identities, nation-building projects and blurred lines between crime and politics. The VTP approach is not restricted to the positioning and dilemmas of the criminal justice system, or the transitional justice field. Rather, by tracking the fluid movement of violence across time, the project is an opportunity to complexify our understanding of the very indicators that are so often presented as uncritically positive and antithetical to violence. A simplistic or isolated understanding of these democracy indicators, when kept separate from the patterns, trends and expressions of violence, risks creating new spaces and faultlines for future violence. By bringing together these different perspectives, VTP offers a unique and complex examination of violence and this

has application internationally. As South Africa continues to be a model for countries undergoing transition, and with regional and global conflicts impacting on national democracy-projects, it is vital to lift the VTP focus to an international, comparative level, so that lessons can be learned and shared with other societies facing similar circumstances.

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Facilitator: Shelley van der Merwe
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Glossary

Criminal Justice: This is a field of study and practice dedicated to critically examining the Criminal Justice System and Criminal Justice Process (see below). CSVR's Criminal Justice Programme argues for a better refined and managed set of techniques within this field (e.g. clearer systems of police accountability, rights-based training for officials, integrity management etc.), as well as an expanded application of the criminal justice system to include less formal forms of justice, such as restorative justice practice.

Criminal Justice System (CJS): Comprises the formal criminal justice structures through which criminal justice is administered. These structures will depend on the arrangement of a particular state but traditionally they include the police, courts, and the body that administers sentence (e.g. correctional services).

Criminal Justice Process: This is the process for dealing with crime, a process that spans *viz.* the commission of crime through investigations, arrests, the court system, dealing with witnesses and victims, sentencing and rehabilitation of perpetrators, to their reintegration into society. This is the process followed in order to manage and administer criminal justice.

Human Security: The Commission on Human Security defines human security as a means 'to protect the vital core of all human lives in ways that enhance human freedoms and human fulfillment. Human security means protecting fundamental freedoms— freedoms that are the essence of life. It means protecting people from critical (severe) and pervasive (widespread) threats and situations. It means using processes that build in people's strengths and aspirations. It means creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity. The vital core of life is a set of elementary rights and freedoms people enjoy. What people consider to be "vital"—what they consider to be "of the essence of life" and "crucially important"— varies across individuals and societies. That is why any concept of human security must be dynamic.' (Ogata and Sen, 2003, p. 4). CSVR's Peacebuilding Programme similarly argues that Human Security is about 'protecting vital freedoms' and empowering individuals to become equal participants in decision-making. This is essentially a people-centred approach, one that shifts the debate from security as a state-centred, militarised concept, to an appreciation of the need for compassion, caring, sharing and mutual respect based on the recognition that people are first and foremost human beings.

Institutional Transformation: 'also referred to as institutional reform or sector transformation, is the process of reforming the organs of the state (public institutions) and broader society (private institutions) from repositories that generated and upheld discriminatory policies and systematic human rights abuses to democratic institutions that endorse and promote a culture of human rights and the rule of law. Reforming the institutions of a state during a country's political and social transition is crucial to ensuring that the violations of the past are never again permitted to occur. By exposing and removing the structural factors that facilitated the conflict/ oppression/ authoritarianism of the past, institutional transformation is an integral component in securing a sustainable peace, promoting a sense of justice amongst citizens, and reconstructing the severed relationship between the state and its citizens.' (Valji and Harris, forthcoming)

Transitional Justice: 'The boundaries of this field…are controversial. For some, it is exclusively concerned with truth-seeking mechanisms designed to deal with past violations of human rights. For others, transitional justice also entails concerns with domestic and international prosecutions, an engagement with the issue of reparation for victims, and/or broader issues of national reconciliation and institutional reform' (Simpson, 2004, pp25-26). The Transitional Justice Programme at CSVR defines transitional justice through five interconnected strands, namely: Truth Seeking; Reparation, Rehabilitation and Reintegration; Accountability; Institutional Transformation; and Memory and Memorialisation. This report uses and advocates the more expanded definition of transitional justice.

Transitional Justice Mechanisms: These are the structures and processes put in place to 'do' transitional justice. In an expanded definition of the field (see above), these include (but are not restricted to) the following different levels of intervention. International level: tribunals and the International Criminal Court; national level: Truth Commissions, Reparations, Amnesty, Prosecutions, (CSVR argues that justice must extend beyond truth seeking and the individual victims and perpetrators defined through this level. Therefore, other instruments such as South Africa's Chapter Nine Institutions: the Land Commission, Gender Commission, Human Rights Commission, etc. must be incorporated as key to the transitional justice process), institutional transformation, remedial measures such as affirmative action; Community-level: Gacaca, memorialisation initiatives, revised history-teaching; Individual level: Mediations between victims and perpetrators.

Peacebuilding: Driven through our Peacebuilding Programme, CSVR understands this field as an integrated and holistic approach to building durable and sustainable peace. This involves working collaboratively in partnerships with others, and practicing principles of mutual respect, symbiotic lesson learning and long-term commitment to social transformation. Our approach is aimed at understanding the roots of violence and injustice and forging actions with local communities that transform social relations and the systems and structures that inform them. We argue for an understanding of 'peacebuilding' (one word) that extends beyond traditional approaches to 'peace-building' or 'peace building' by integrating trauma healing, conflict transformation, restorative justice, early warning and violence prevention, and reconciliation. This integrated concept recognises that lasting peace can best be achieved if it is embraced, driven and implemented by local stakeholders, civil society formations and community-based peace practitioners.