Reconciliation and Equal Participation: A Human Rights Exploration of Reconciliation as Non-Alienation

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1. Introduction

This summer, after months in which public spaces in the United States were largely quiet, even desolate, protesters filled the streets of cities across the country. They were tear-gassed and pepper sprayed; they were bulldozed by police cars and beaten by batons. Alongside images of those brutal moments, images also began circulating on social media of very different interactions: of embraces between protesters, masked against the coronavirus, and police officers, encased in riot gear; of cops kneeling, guns stowed in holsters; of Black and white hands clasped. What inspired individuals to share and “like” these images of seeming rapprochement? Were these sources of comfort? Of hope? Objects of mockery? For those who found themselves touched by them, did these images represent a depiction of reality, or of some imagined future?

We might ask these same questions about the idea of reconciliation itself. For those who study it and for those who live it, the notion that there can be reconciliation after conflict represents, in various views, a political reality, a fanciful hope, or something to strive for. In her insightful essay, *Reconciliation as Non-Alienation: The Politics of Being at Home in the World*, Catherine Lu helps us sort through these difficult questions by providing an illuminating examination of reconciliation as a process that addresses the social condition of alienation. Focusing on what she calls “structural reconciliation,” which describes reckoning with “the alienation of agents from the social and political structures that mediate their activities and relations” (p. 4), Lu offers the reader not only a clarification of the concept of reconciliation, but also a defense of it.

With enthusiasm for Lu’s project of reconceiving and rehabilitating reconciliation while also recognizing the value of “exposing the neocolonial, domestication or legitimation functions of reconciliation discourse and practice in contemporary politics” (p. 11), this essay seeks to think through and respond to Lu’s arguments by exploring the human rights dimensions of reconciliation. The response begins by analyzing Lu’s vision of structural reconciliation by comparing it to the human right to political participation. It then considers what is missing from a vision of reconciliation as participation, focusing on the significance of Lu’s explanation of structural reconciliation as being “at home in the world.” The essay concludes by posing questions about the nature of alienation and access to the entitlement to be at home in the world, in hopes of opening up opportunities to engage further with Lu’s cogent and gripping arguments.
2. Reconciliation as Participation

Over the last three decades during which researchers, practitioners, and lay persons have struggled to understand how and whether individuals and communities can emerge from conflict, the meaning of “reconciliation” has often gone unsaid. Writing of South Africa, for example, James L. Gibson notes that one of two “themes [that] dominate contemporary discussions of the truth and reconciliation process” is that “no-one seems to know what ‘reconciliation’ means.” It typically is imagined to involve an interaction between two sides—victim and perpetrator, citizenry and regime—whether conceived as individuals or as collectives. It typically is assumed to require an exchange of remorse and forgiveness. And it typically is envisioned as an achievement that is arrived at, and then sustained.

In her essay, as well as in the compelling *Justice and Reconciliation in World Politics*, Lu offers a precise and careful clarification of reconciliation, developing three aspects of reconciliation—interactional reconciliation, structural reconciliation, and existential reconciliation (p. 4)—that are linked to the social condition of alienation, or the “experiences of disconnection, disruption or distortion in ‘the structure of human relations to self and world’ and ‘the relations agents have to themselves, to their own actions, and to the social and natural worlds’” (p. 4, quoting Jaeggi, *Alienation* 220). Lu is careful to note that alienation “functions as a critique of a social condition, in which subjects either have lost or are denied their standing as morally autonomous agents (and hence are dominated), or have lost or are deprived of their appropriate agency to participate meaningfully in the making of the social order (and hence are oppressed)” (p. 4). Focusing in the essay on structural reconciliation—which is “normatively fundamental, because it is the terms of structural reconciliation that establish the background conditions and frameworks that mediate any negotiated settlement on interactional reconciliation between agents” (p. 4)—the essay explains that reconciliation thus functions as a “regulative political ideal that aims to create a mutually affirmable and affirmed social/political order that can support the flourishing of non-alienated agents,” where agents “can understand themselves as the (co)-authors of those institutions and identify with them as agents” (p. 5, quoting Jaeggi, *Alienation*).

A central question Lu poses is this: “Under what terms and conditions might agents be able to affirm the social/political structures that enabled or produced (and still may be enabling and producing) social and political injustices, and which still may constitute so many of the options and limits of their lives?” (p. 5). In this, we are warned that the process of reconciliation is one that does not necessarily result in a transformation or overthrow of the prior structures; instead, it might be a process of creating agency within and respect to those structures.

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This vision of reconciliation resonates with the human right to political participation, a right recognized in every relevant major human rights instrument at the international or regional level. Though the right might be taken merely to involve the entitlement to vote and to run for public office, it consists of much more. In the early days of the international human rights movement, the right to political participation was included in the Universal Declaration of Human Rights in article 21, which provides, in full:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Once it was being drafted, the right to political participation was included as well in the International Covenant on Civil and Political Rights (ICCPR); while in the ICCPR the three parts of the right remain the same, the order is shifted, with the elections clause in in the second subsection rather than the third. The provisions for elections and voting garner a great deal of attention, but the full dimensions of the right—including the opportunity to engage in public service—are important for understanding the significance of the right, which is the opportunity of every person to have a full say in shaping the political institutions of their country.

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3 See Henry J. Steiner, Political Participation as a Human Right, 1 Hum. Rts. Y.B. 77, 78 (1988) (noting that the right to political participation involves “the relatively vague and abstract right to take part in the conduct of public affairs or government, and the relatively specific right to vote in elections.”)


6 The right to political participation carries with it elements that some describe as a right of self-determination. See, e.g., Kerstin Reibold, Can Naturalistic Theories of Human Rights Accommodate the Indigenous Right to Self-Determination?, in Moral and Political Conceptions of Human Rights: Implications for Theory and Practice 204, 215 (Reidar Malik & Johan Karlsson Schaffer eds., 2017) (noting that an individual’s “interest in individual self-determination in the broad sense” means “they want to have control over their life in such a way that they can lead it in accordance with their convictions and life plans. If one has an interest in having control over one’s life, this normally also means that one wants to have an effective say in the political decisions that shape one’s life.”). Under human rights and international law, however, self-determination is understood as a collective right for a people to determine, within certain conditions, the circumstances of their political, social, economic, and cultural lives, rather than one that provides an individual the guarantee of control over their life.
3. Two Visions of Political Participation

The right to political participation is conventionally understood as “fundamental” and “foundational,” but what makes it so is subject to at least two interpretations. In one view, it is “an indispensable building block” that is “an essential prerequisite to the enjoyment of all other rights” because “citizens will never attain sufficient power to advance their own welfare unless they possess a voice in the decisions of their government.” This understanding of the right focuses on the opportunities presented by political participation, and the presumably inevitable exclusion that would result without it. The Office of the U.N. High Commissioner for Human Rights explains that the right to political participation “is important in empowering individuals and groups” and “eliminating marginalization and discrimination.” In that view, to use Henry Steiner’s description, “the function of political participation must be to influence public policy, to gain governmental recognition of individual or group interests. . . . It is a means toward a goal rather than an end in itself.”

In a different vision, political participation functions as an affirmation of a person’s humanity, and an affirmation of each person’s equal status. Drawing on Rawls’s point that “[t]aking part in political life . . . gives [the individual] an equal voice along with others in settling how basic social conditions are to be arranged,” Josh Cohen argues that “the case for the importance of the political liberties is not founded on a view about the importance of the exercise of those liberties in the best human life. . . . The right to political liberties acknowledges our possession of that moral capacity and enables us to develop and exercise it. What is essential is not so much the good that flows to us from the exercise of the liberties as the affirmation of our equality that comes from acknowledging our right to the political liberties.”

This vision of voice as affirmation of equal humanity does not deny the consequentialist benefits of political participation; instead, it questions those benefits’ status as the core of the right. The 2016 report on political participation authored by Magdalena Sepúlveda Carmona, then the U.N. Special Rapporteur on Extreme Poverty and Human Rights, is instructive in this regard. Sepúlveda notes that while literatures in development and humanitarian aid address the

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8 Id.
9 Gregory Fox, The Right to Political Participation in International Law, 17 Yale J. Int’l L. 539, 595 (1992); see also id. at 595 n.298 (collecting comments of delegations during drafting of the ICCPR).
11 Steiner, supra note , at 100.
13 Joshua Cohen, For a Democratic Society, in The Arc of the Moral Universe and Other Essays 181, 208-09 (2010); see also Lu, supra note , at 200 (“Structural dignity is . . . an objective component of structural reconciliation. In part, it is because agents enjoy structural dignity that they are adequately enabled to participate in the social/political struggle over what constitutes a just and nonalienating social structure. An agent enjoys structural dignity when the social/political structure sin which the agent is positioned empowers her to participate in the making of meaning in the social world.”)
subject of political participation by the poor, scholars and practitioners less frequently employ a human rights framework. Accordingly, the report delves into what it means to think about political participation specifically from the perspective of human rights. The report begins from the premise that “the main aim of human rights is transforming power dynamics between individuals in society,” and it urges, accordingly, that participatory processes guided by human rights principles “must not accept power dynamics as they are.” When participation is “meaningful and effective” in this way, “people can exercise their agency, autonomy and self-determination.”

Sepúlveda contrasts “consultation” processes—“a higher authority giving information to or extracting information from members of the public”—from those that are designed and implemented from a human rights perspective. Those extractive processes not only are not based in human rights, but also “may in fact be disempowering, and serve to exclude or reinforce existing power structures.” Sepúlveda contends that, by contrast, “human rights-based participation” constitutes an opportunity to “set the terms of the debate,” which can serve as a tool of “empower[ment],” because it can “allow[ ] [individuals] to exercise their voice to influence relevant decision-making processes.”

The right to political participation, then, can be understood as representing an opportunity to set the terms of a debate in a way that may fundamentally transform power relations and that affirms one’s status as equally and fully human. This seems to align in many ways with the version of reconciliation presented by Lu. To the extent structural reconciliation involves the exercise of voice—of “co-author[ship]” of social and political institutions—both for the purpose of reducing marginalization in those institutions and as a way of affirming one’s sense of inclusion in them, it represents activities recognized and protected under the right to political participation. The concerns at the heart of the right about the distribution of power are reflected, meanwhile, in Lu’s attention to the potential for reconciliation processes to “reprod[uce] . . . oppressive and dominating practices and relations in contemporary social structures,” and to do so “without much scrutiny” (p. 9). The concept of political participation as a right also resonates with Lu’s vision of reconciliation as a positive entitlement to participate in the creation of one’s home. Conventional views of reconciliation, which focus on forgiveness by victims, require self-abnegation—the sacrifice of one’s entitlement to anger and resentment and accepting that the purported societal need for forgiveness must prevail. In Lu’s version of reconciliation, there is no self-effacement, aligning with the idea of reconciliation as an assertion of one’s rights rather than the surrender of them.

15 Id. paras. 72, 74-75 A/HRC/23/36.
16 See also Lu, supra note , at 211 (discussing Fanon’s interpretation of disalienation as “a struggle . . . create our human voices”).
4. The Substance and Process of Reconciliation

Likening the right to political participation to the ideal of reconciliation also underscores Lu’s vision of reconciliation as a process, rather than as entailing a particular substantive outcome. Reconciliation understood as non-alienation has, Lu writes, an “uncertain end-point” (p.16). In contrast to the conventional view of reconciliation as closure, reconciliation as non-alienation is “open-ended in terms of the substantive kinds of social forms or institutionalized relations that agents may come to endorse and pursue” (22). Similarly, the right to political participation, does not necessarily guarantee a particular outcome; the right represents instead an opportunity to have a say, and the affirmation of voice comes from that opportunity. This openness is a source of great promise in this theory of reconciliation. The notion that individuals or groups can emerge from a conflict and be able to forgive and move on has proven, over and over, to be fanciful and often destructive. Lu’s understanding of reconciliation as open-ended in its temporal dimensions is powerful; reconciliation is not a moment that will be reached and moved past; it is a process, one that may involve “continued political struggle” (22).

At the same time, the open-ended nature of reconciliation as non-alienation prompts a number of questions. Lu writes that her conception of reconciliation “does not assume a homogenizing ideal or a conflict-transcendent form of social unity” (22). That is, reconciliation not only is an ongoing process; it is a process that does not have as its ideal end point “a substantive vision of what a reconciled social/political order should look like” (22). This sounds like a conceptualization of reconciliation that is grounded entirely in process, without any regard to what outcome may result.

But is that to say that there is no substantive outcome necessary for a process to constitute reconciliation? If reconciliation envisions the ability to see oneself in social and political institutions, then there must be something more than mere process at work. Lu describes the social or political home as “the setting that organizes meaning, coherence, and stability in individuals’ social existence, and the basis from which they flourish or flounder” (12), and she reflects on the complete and unavoidable ways in which a person’s identity and agency are tied up in their understandings of home. If reconciliation involves the capacity to be at home in the world—to see a world that reflects one’s judgments about the proper organization of social and political structures, of power and obligation, then it seems it must involve some sense of alignment with the world, not simply in the process by which the world is set up, but in the ultimate arrangement. Being at home in the world requires not merely participating in the discussions about decorating the place, but also feeling at home in the furnishings that are ultimately selected.

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17 See also Lu 211 (“[W]e might conceive of ‘disalienation’ as a process-driven (rather than substantive) concept. As Jaeggi has described it, ‘not being alienated would refer to a certain way of carrying out one’s own life and a certain way of appropriating oneself—that is, a way of establishing relationships to oneself and to the relationships in which one lives.””).

And indeed, Lu does seem to offer a vision of an appropriate outcome. Drawing on Lorraine Hansberry, Lu writes that the dazzling image of a galaxy of great and glorious stars may serve as an appropriate analogy for reconciliation. That vision of reconciliation, in turn, may be assessed based on “whether Indigenous peoples can effectively participate as equals in shaping their terms of association ‘without giving up who they are as indigenous peoples,’ and whether they are empowered to return Indigenous ‘ways of knowing the world to their rightful place in the landscape of human ideas’” (pp. 22-23). This conception of reconciliation looks more like one that does have “a substantive vision of what a reconciled social/political order should look like,” (22) to go back to Lu’s earlier phrasing. It may not offer a specific set of ideas about what it means to participate as equals, or what empowerment to restore the place of Indigenous thought within the world of ideas, but there is indeed a substantive backbone to these ideas. Indeed, it insists that there is a rightful place for those ways of knowing the world.

As a result, while Lu’s reconstructed ideal of reconciliation resonates with the human right to political participation, the contours of the right also seem inadequate, failing to fully capture the vision of reconciliation Lu describes. That is, while being the “co-author” of institutions may align with the entitlements entailed in right of political participation, to be able to “identify with [those institutions] as agents” (5) requires something more of the relationship between the individual or community and the social or political structures to which they belong or strive to belong. It is this more complex vision that seems to be at work in the idea of “being at home in the world,” which implies both a sense of comfort and one of control. At home (at least in the idealized vision of home), one is able to choose the furniture one wants and feel the ease of security.19 Michael Walzer used an analogy of hotel rooms and home to explore one’s relationship to their own moral values and practices. The two, he writes are different; it would be “confusion” to “take a hotel room or an accommodation apartment or a safe house as the ideal model of a human home. Away from home, one is grateful for the shelter and convenience of a hotel room.”20 But it is not a home. So, too, one may recognize the value of being included in a conversation from which one was previously excluded, and one may see that inclusion as a step toward reconstructing a relationship with the political and social institutions that once rejected them. But it would be confusion to take that mere opening of process for reconciliation itself. Perhaps that is the difference, too, between disalienation and full reconciliation.

This vision of reconciliation as—if this formulation properly represents Lu’s ideas—(a) a right to participation, plus (b) a substantive alignment between self and institutions that represents a state of being a home in the world, offers a detailed understanding of the place of the population I will refer to, despite the insufficiencies of this term, as victims of systemic abuse. But it tells us less about what is to be done with the perpetrators. Another difficulty of likening reconciliation to a right to political participation is that under human rights law, every person

19 This is, of course, to be contrasted with, for many, the reality of home as a site of violence. Feminist human rights scholars, for example, focused on the perversity of human rights law holding the home as outside the bounds of human rights, even while it is the locus of most human rights violations experienced by women—from malnutrition intentionally visited upon girl children to domestic violence endured within marriage. See, e.g., Hilary Charlesworth & Christine Chinkin, The Gender of Jus Cogens, 15 Hum. Rts. Q. 63,71-73 (1993); see also Jeannie Suk, At Home in the Law: How the Domestic Violence Revolution Is Transforming Privacy (2009).

should have equal access to that right by virtue of their humanity. But reconciliation as non-alienation cannot function if every party involved in the reconciliation process deserves non-alienation? The protesters have a right to make the world look like home—to abolish the police, to create a world in which it is safe to drive while Black, to birdwatch while Black, to sleep while Black, to paraphrase civil rights attorney Ben Crump. Do police officers, too, have a right to a world in which an unarmed Black man or boy is rightfully perceived as a deadly threat? As Lu explains, growing awareness of the histories of slavery and colonialism and of the legacies that endure has prompted protests voiced in the language of alienation on the part of those who feel estranged from that vision of those legacies and histories (pp. 18-19). For example, in his rant against the New York Times’s 1619 Project, which examines the role of slavery in creating and constituting the political and social institutions of the United States, Secretary of State Mike Pompeo embraced these ideas, as he warned, “They want you to believe that Marxist ideology that America is only the oppressors and the oppressed. . . . This is a dark vision of America’s birth. . . . It’s a disturbed reading of history. It is a slander on our great people.”

Lu’s concept of alienation, of course, represents a condition in which individuals do not have “standing as morally autonomy agents.” Structural alienation is not the condition of the officers who do not recognize the world in which they are criticized for killing an unarmed person who is begging for his life. It is certainly not the condition of the Secretary of State, even if he is genuinely troubled by the notion that anyone can think that the institution of slavery lies at the heart of the United States. But as lucid as Lu’s vision of reconciliation is, I continue to stumble over what happens to the power of the perpetrator in the process of reconciliation—and especially what happens to the power of the perpetrator who clings to at least a shred of rightness in what they have done.

The reality of power—and the fact that changing these realities will require structural transformation—complicates the capacity for reconciliation, to say the least. Is the embrace we see in the photos really a hug when the police officer is armed and wearing riot gear and the protester is at his mercy? A persistent source of struggle in thinking through reconciliation as non-alienation remains, as Lu concedes, how alienated subjects can become non-alienated without transformation of the alienated structures (p. 24). A useful point of reflection here is also perhaps the most devastating vision of what it means to be “at home in the world”: the writing of Jean Améry, who was detained and tortured during the Second World War. In At the Mind’s Limits: Contemplations by a Survivor on Auschwitz and Its Realities, Améry devotes one of five essays to the question “how much home does a person need?” But it is in an essay on torture that he also offers reflections on what home is:


Whoever has succumbed to torture can no longer feel at home in the world. The shame of destruction cannot be erased. Trust in the world, which already collapsed in part at the first blow, but in the end, under torture, fully, will not be regained. That one’s fellow man was experienced as the antiman remains in the tortured person as accumulated horror. It blocks the view into a world in which the principle of hope rules.24

The passage offers a vision of alienation, and of home. The victim of torture becomes “only a body, and nothing else beside that,”25 separated irreparably not only from the torturer, the antiman,26 but from everything; “[i]f from the experience of torture any knowledge at all remains that goes beyond the plain nightmarish,” Améry writes, “it is that of a great amazement and a foreignness in the world that cannot be compensated by any sort of subsequent human communication.” This “foreignness,” the impossibility of being at home in the world, corresponds to a complete extinguishment—indeed, extinction—of hope.

Home, meanwhile, is hope; hope of experiencing life again as a person, rather than a body. At its core, the central vision of human rights is about this very capacity for hope. Above all, the body of law is concerned with empowering individuals against the excesses of the state, and as a result of this central focus, power must never constitute the ultimate source of decision; even if some relationship or status derives from power at this time, the human rights regime dictates that we must see that relationship or status as necessarily subject to revision. Améry’s reflections on torture, and on home, signal that there is a limit to this hope, and to rights—brute force. Drawing on Giorgio Agamben’s concept of bare life, as well as on Hannah Arendt’s understanding of rights, Muneer Ahmad explains human rights as the “protective membrane poised between the state and the individual”:

A confrontation between the state and the individual unmediated by rights reduces the individual to bare life, or naked life, which is life without humanity. It is this unmediated, unmitigated confrontation that both requires and enables the rendering of the human inhuman, animal, and savage. It is this rights-free confrontation that permits torture—the hand of the state encumbered by no law other than the laws of physics.27

Thus to restore that humanity—if even possible—there must be some intervention that reclaims rights. Reconciliation as an act of voice, an act of affirming humanity and equality through participation in the authoring of social and political structures, might do just this. As a vision for what might be, Lu’s vision of reconciliation is modest in its rejection of reconciliation as closure. But it is ambitious, still, in its expectation that formerly warring groups can be at home in the world even if political and social structures are not fundamentally transformed. Améry’s vision

25 Id. at 33.
26 Améry’s depiction of this estrangement between torturer and tortured appears to align with Lu’s categories of interactional alienation, while its impact corresponds to existential alienation and structural alienation. See p. 4.
of torture might tell us that in some cases, when the pure power of brute force is revealed, that kind of reconciliation is impossible.

A final question concerns the significance of that act of striving for reconciliation—the expressions of “oppositional agency or resistance” that Lu points to as not equal to enjoying structural justice or freedom, but still meaningful in their capacity for agents to “make use of their agency to contribute to challenging and overturning structural injustices through collective action” (p. 24). But is there value, too, in those acts because they function to change a person’s sense of their own alienation? The question might be one about false consciousness, or the role of one’s experience of alienation as opposed to the existence of such alienation. Analyzing the South African Truth and Reconciliation Commission, Claire Moon explained how the larger story of reconciliation shaped individual narratives of participation in atrocities, narratives that could have been written with any number of different focuses and narrative arcs. In discussing the testimony of police officer Jeffrey Benzien, who was famous for a method of torture known as the “wet bag,” and who explicitly offered his confession before the Commission “based on today’s situation of reconciliation,” as he put it, Moon draws on Hayden White’s explanation of narrative:

Narrative is a particularly effective system of discursive meaning production by which individuals can be taught to live a distinctively ‘imaginary relation to their real conditions of existence,’ that is to say, an unreal but meaningful relation to the social formations in which they are indentured to live out their lives and realize their destinies as social subjects.29

Imagining reconciliation as a galaxy of stars, we might come back to the images from the summer of the embrace, of knees on the ground and heads bent reverently, of hands clasped. For those who accept these as meaningful, is this existential and interactional reconciliation without structural reconciliation, assuming alienation includes estrangement from political and social structures even without realizing one is estranged? If reconciliation as non-alienation is possible without true transformation, then perhaps those photos function as reconciliation might, to convince each person or community that their voice is indeed being heard, to affirm that one is equal, to tell a story of home.

5. Conclusion

This essay has offered a comparison of Lu’s concept of structural reconciliation to the right of political participation, in an effort to isolate some of the significant elements of this concept and explore their meaning, particularly in relation to the question of whether reconciliation and feeling at home in the world are possible for individuals who have been oppressed without fundamental transformation of institutions and upending of power dynamics, and what the significance is of feeling at home in the world without such upending of power

28 Moon, supra note , at 62.
29 Hayden White, The Content of the Form (1987), quoted in Moon, supra note, at 62.
dynamics. With all these questions, any doubt is accompanied by fervent agreement with Lu’s ultimate position that “[t]o give up on the struggle to be at home in the world . . . would be to give up on life itself” (p. 26), and with admiration for her essay’s sense of the urgency and care with which these questions must be examined.