

SHUR Working Paper Series



Conflict and Human Rights: A Theoretical Framework

Emily Pia and Thomas Diez
University of Birmingham

SHUR WP 1/07
Jan. 2007

SHUR: Human Rights in Conflicts: The Role of Civil Society, a STREP project funded by the EU 6th Framework Programme. Contract number: CIT5-CT-2006-028815



**SIXTH FRAMEWORK
PROGRAMME**

1 Introduction

Human rights have become an ever more important aspect of policies designed to address so-called “ethno-political” conflicts: their violation is seen as an indicator for conflict intensification; their institutionalisation has become a widespread precondition for development aid to ensure an effective distribution of aid within a peaceful society; and the promotion of liberal democracy, including human rights, to spread peace has legitimised a series of even military interventions in the Middle East. These efforts assume a close link between human rights and what we will call positive conflict transformation, but often do not make this link clear, and do not carefully analyse the conditions under which it is effective, or the variety of forms it can take.

This paper is written as part of a wider project investigating the link between human rights and ethno-political conflicts, and the role of civil society in positively transforming such conflicts through the advocacy, institutionalisation and observance of human rights. Ethno-political conflicts, which we will define in more detail below, are usually conceptualised as “domestic” conflicts, but they often transcend the domestic/international divide through their genesis, consequences, location in a wider institutional context, or the involvement of mediators. Their successful transformation is therefore crucial not only to those immediately affected by conflicts in a particular region, but often to the international society as a whole. To the extent that the advocacy of human rights is becoming a preferred strategy of the international society to work towards such conflict transformation, it is important that the linkage between human rights and conflicts is theorised more thoroughly, and empirically evaluated.

In the following sections, our aim is to contribute to such a more thorough theorisation and to pave the way for an empirical assessment of the linkage between human rights and conflicts in a number of case studies. The next section introduces a discursive definition of conflict, central to which is the concept of “securitisation”. We link this to a literature review of different conceptualisations of conflict change, which we argue are, often implicitly, linked to specific, substantive understandings of the nature of conflicts. The third section provides a brief overview of different forms of human rights, and most crucially differentiates between individual and group rights. We argue that neither form of human rights can be reduced to the other, but that they stand in tension with each other, and that the challenge lies in the creation of spaces for the articulation of group rights that do not rely on a form of Othering and violate individual human rights. As will become clear in our final section, this is central to the relationship between human rights and conflicts, and indeed often neglected in interventions on behalf of a specific “ethnic” group. In this final section, we advance a series of hypotheses about the linkage between human rights and conflict, which we argue can be positive under certain conditions and if human rights are articulated without being intrinsically tied to a specific group. However, we also argue that in practice, the advocacy of human rights often has adverse effects if these conditions are not met.

2 Conflict and Conflict Transformation

Towards a definition of ethno-political conflict

Conflict is a struggle or contest between people with opposing needs, ideas, beliefs, values, or goals. Defined in broadest terms, conflict denotes the incompatibility of subject positions (Diez et al, 2006: 565). This definition emphasises the opposition or incompatibility at the heart of the conflict, and initially leaves open the exact nature of these incompatibilities, i.e. whether they are between individuals, groups or societal positions; whether they rest in different interests or beliefs; or whether they have a material existence or come into being only through discourse.

Given this initial definition, conflict is not always characterised by violence. Yet, conflict might escalate and lead to destructive results, in particular in the form of physical violence that is increasingly seen as legitimate as conflict intensifies. However, conflict can also lead to a new social or political organisation and therefore be productive if the parties involved are able to deal with their incompatibilities so that such a new organisational form is achieved. Conflict is present in generally peaceful situations, but it (a) remains confined to isolated instances and so does not take on societal significance, or (b) is dealt with within clearly defined and observed societal rules, or (c) is dealt with productively so that it generates a new form of socio-political organisation through peaceful change. This is not to say that violent conflict cannot eventually lead to productive change, but in order to do so, it ultimately needs to be desecuritized and therefore at least lead to peaceful change.

The focus of this project is on ethno-political conflicts. The specification of “ethno-political” implies a focus on conflict where the core incompatibility is one between different so-called ethnic groups and their political organisation. The term “ethnic group” is highly contested. *Ethnie* refers to a set of cultural characteristics that separate one group from another (Smith, 1986: 26-8). It can therefore be seen as the generic term that encompasses more specific groups such as the nation, which combines the characteristics of an *ethnie* with the political ideology of nationalism, which aims at the correspondence of nation and state (Smith, 1986: 129; Breuilly, 1985). The contested nature of the term *ethnie* relates to the exact ontology of the cultural characteristics it makes reference to. Primordialists argue that these characteristics lie in the nature of these groups and cannot be changed. This view continues to carry political significance in particular in ethno-political conflicts, where it is expressed in the dictum that two sides cannot live with each other; a stance that Campbell (1998) calls “ontology” in his critique of Western policies towards the conflict in Bosnia. However, the literature on ethnicity and nationalism today predominantly sees such cultural characteristics as socially constructed, rather than naturally given, and therefore emphasises the role of discourse in their construction. This does not mean that *ethnie* can easily be changed, but that their existence is an effect of their continued re-articulation as “imagined communities” (Anderson, 1983).

What defines 'ethnic conflict' as ethnic is the tendency for opposing groups to describe themselves using ethnic criteria like language, cultural elements, territorial claim, the myth of common ancestry, racial ties, and using this identity to claim equal status within a state or autonomy from it (Gurr, 2000: 53). However, ethnic identities are not fixed and transcendental. Ethnic identity, 'is not given; it can be chosen freely by an individual, imposed by others which have the authority and resources to do so, or socially constructed through interactions with others' (Gross Stein, 1996: 95). More importantly, ethnic identity is more likely to change in periods of economic and political instability, such as economic scarcity or political upheavals. Ethnic identities are contextual, adaptable to and activated by unexpected threats and new opportunities. When the boundaries between the 'in group' and the 'out group' are hardened, identities are formed in an antagonistic way where the Other is constructed as an existential threat through successful securitisation, and violence becomes more likely.

Such a discursive definition of ethnic and ethnic identity has consequences for our definition of ethno-political conflicts. Unlike in Burton's understanding of conflict, which we will explore below, such a definition emphasises not the inherent needs of human beings but the discursive invocation of particular groups as ethnic that oppose each other in a struggle or contest, and constructs their respective positions as incompatible. In the context of the modern system of nation-states, the articulation of ethnic groups will inevitably lead to political claims that pitch such groups against others. In peaceful situations, there are institutional rules that operate to provide effective conflict management. A resolution of the conflict would only be achieved if the values, habits and customs of a particular ethnic group are redefined in such a way that this ethnic group would either cease to exist, or that its construction would not rely on seeing other groups as an even potential threat. The positive transformation of an ethno-political conflict therefore relies above all on the re-articulation of ethnic groups in what we will below call increasingly de-securitised ways, in which the Other is recognised but not portrayed as an existential threat.

Conflicts, even ethno-political ones, are therefore first and foremost *discursive* in nature (see also Jabri, 1996; Bonacker, 2005: 273; Diez et al, 2006: 565). Incompatibilities can only be recognised as such if someone makes reference to them. This does not mean that there is no material side to conflicts. On the one hand, the distribution of land or other goods, or the clash of interests are core reference points for the articulation of incompatibilities. However, they do not constitute conflicts in and of themselves as Marxist or liberal theories based in materially defined interests would have it; they need to be discursively constructed in order to become effective as conflict matters. On the other hand, conflicts can bring about physical, psychological or emotional damage. However, these very real experiences do not depend on a material definition of conflict, but are inflicted by conflictual discourse or the actions legitimised through such discourse.

Securitisation and conflict

In the discipline of Security Studies, the so-called “Copenhagen School” has suggested the concept of “securitisation” (Wæver, 1995; Buzan, et al. 1998; see Huysmans, 1998). A “securitising move” is a speech act that constructs an Other as an existential threat to a particular group (the “referent object”), calling for urgent measures to combat the threat (Buzan et al, 1998: 21, 24). An issue is “securitised” if and when this construction is accepted by the majority of group to whom the securitising move was addressed, and the urgent measures called for become to be seen as legitimate and can be implemented. Analytically, securitisation therefore provides a formal-discursive definition of what security is. Normatively, securitisation is problematic because it raises the stakes of a political issue so that decisions can be taken that would normally not be seen as legitimate (it installs a “politics of the exception”), and because it intensifies the opposition of self and other and therefore has an exclusionary effect (Diez and Huysmans, 2007: 5).

Because of these features, the concept is a useful analytical tool to conceptualise the development of a conflict through different phases (see also Diez et al, 2006: 567-8). The self/other dimension inherent in the concept relates to the incompatibility between two groups in an ethno-political conflict (Roe, 2005). From our discursive definition of a conflict as much as from the Copenhagen School’s point of view, the differentiation between the identities of self and other, as well as the portrayal of the other as a threat is first and foremost a social, discursive construction and not a given (on this question, see also Williams, 1998, but wrongly McSweeney, 1996 and 1999). The more widely accepted securitising moves become, the more aspects of social life are captured by securitisation, and the more existential the threat constructed, the more intense a conflict becomes. Eventually, a successful securitisation will make conflict parties see extraordinary measures, including violence, as legitimate (Diez et al, 2006: 568). The increase in spread and depth of securitisation is therefore a good instrument to assess the intensity of a conflict, which will indicate to which extent human rights violations are seen as legitimate or illegitimate by a particular group, and which may have an impact on the possibilities of civil society actors as well as third parties to invoke human rights to transform the conflict.

Ultimately, a successful, positive conflict transformation from this angle will have the de-securitisation of the key incompatibility at the heart of the conflict as one of its core features. This does not necessarily mean that the incompatibility is resolved; a positive transformation can also, for instance, involve peaceful, institutional means to deal with the incompatibility so that the other is no longer seen as an existential threat but as a partner with diverging interests or with a different identity that needs to be respected. These different possibilities are reflected in different approaches in the literature on conflict resolution, to which we now turn. These do not necessarily share our discursive understanding of conflict, and they do not usually employ the terminology of securitisation and de-securitisation. However, their insights can nonetheless be made

useful for our endeavour to explore different avenues of desecuritisation, or what one may call conflict de-escalation and transformation, and the possible role of human rights in this process.

The three approaches that we discuss in the following are Conflict Management, Conflict Resolution and (in contrast to our more general use of the term so far, a more narrowly defined) Conflict Transformation. We should note at this stage that these labels are not always used consistently in the literature, and that there is significant overlap between the three approaches. Our interest lies however in drawing out the differences between various avenues of desecuritisation, and to this end, we believe there is hermeneutic value in reconstructing the three approaches as ideal types.

Conflict Management

Conflict management theorists base their research on the 'ideology of management' where conflict is understood as 'a problem of political order and of the status quo; violent protracted conflict is thus deemed the result of incompatible interests and/or competition for scarce power recourses, especially territory' (Reimann, 2004:8). The focus is on conflicts between states or communities aspiring to statehood, which under the conditions of anarchy in the international system are locked into a struggle for power.

Influenced by the rationalist consensus in the discipline of International Relations of the 1970s and 1980s, much of the research in this area is based on rational choice and game theory models where political and military leaders (Track I level) are characterised by their high status, rationality and ability to calculate interests and work together towards a mutually profitable goal. The methodologies employed for minimising the worst excesses of violence are limited to settlement strategies and 'range from official and non-coercive measures such as good offices, fact finding missions, facilitation, negotiation and mediation, to more coercive processes such as power mediation, sanctions and arbitration' (Reimann, 2004: 9).

Conflict management promotes intervention to achieve political settlements, mostly by those who have the power to exercise pressure on the conflicting parties in order to induce them to settle. According to Bloomfield and Reilly (1998:18):

Conflict management is the positive and constructive handling of difference and divergence. Rather than advocating methods for removing conflict, it addresses the more realistic question of managing conflict: how to deal with it in a constructive way, how to bring opposing sides together in a cooperative process, how to design a practical, achievable, cooperative system for the constructive management of difference

Conflict management approaches consequently see desecuritisation largely as a process of agreeing new institutional arrangements that allow for the peaceful management of

conflict through the provision of information and the stabilisation of mutual expectations through the codification of rules.

Conflict Resolution

Conflict resolution theories address the deep-rooted sources of conflict, which are taken to be structural (and therefore, in contrast to our understanding of conflict, not discursive) and cultural. Different to conflict management where the cause of conflict is a consequence of the anarchical nature of the international system, conflict resolution theorists 'argue that conflict has an ontological base in human needs, the denial of which causes violent conflict' (Fetherston, 2000:2). This interpretation of conflict has been greatly influenced by Burton's work on human needs theory. Burton distinguishes between needs that are universal human motivations conditioned by biology; values, which are ideas, habits, customs and beliefs characteristic of particular social communities and interests which are the aspirations of individuals or identity groups within a social system (Burton, 1990: 36-38). Interests can be negotiated while 'needs will be pursued by all means possible' (Burton, 1990:36) as they are ontological. The needs that seem to be important are security, identity, recognition, food, shelter, safety, participation, distributive justice and development (Burton, 1990).

Burton does not clarify the conditions under which these needs should be met but he does encourage theorists and practitioners to broaden up the scope under which they analyse conflict. In this vein, the focus is on getting the parties to recognise their common needs and he suggests that this is achieved

when parties to disputes are brought together in a face to face analytical dialogue, facilitated by a third party. Inevitably they soon discover that they have the same ultimate goals... Once it is discovered that goals are held in common, the stage is set for a search for means that satisfy all parties to dispute (Burton, 1990:42).

The methodologies developed to address the root causes of a conflict are non-coercive and unofficial activities such as facilitation or consultation in the form of controlled communication, problem-solving workshops or round tables. These activities are facilitated by a third party that does not seek to provide a solution to sides, but rather to create an environment where both sides can reflect upon their situations and create solutions for themselves. More importantly the key aspect of problem-solving is to deepen and broaden the analysis of conflict. This is done by including a greater number of actors involved in the process, like civil society groups, academic institutions, all forms of civil mediation or citizen diplomacy groups and local and international conflict resolution NGOs operating at Track II level.

The analysis as well as the broader participation of actors drawn in problem-solving workshops demonstrates that 'the parties do have a choice. They are not trapped by fate. They can control their own future' (Mitchell and Banks, 1996:45). Interestingly enough this approach shows that once the relationship between the parties 'have been analysed

satisfactorily, once each side is accurately informed of the perceptions of the other, of alternative means of attaining values and goals, and of costs of pursuing present policies, possible outcomes are revealed that are acceptable to all parties' (Burton, 1990:205). While the starting point of this approach is therefore largely non-discursive in its focus on needs, the proposition for conflict resolution relies on the transformation of conflictive discourse through self-reflection and a broadening of dialogue between conflict parties.

In other problem-solving theories, the focus shifts from tackling frustrated needs to the psychology of inter group relations. The work of Fisher and Keashly, for example stress the importance that,

once a conflict is initiated, the perceptions, attitudes and interaction of the parties become crucial elements of determining its further course. Typically, there is an escalating spiral of increasing intensity in which the relationship between the parties moves toward destructive competition and finally to a 'malignant social process' from which the parties are unable or unwilling to extricate themselves (Fisher and Keashly, 1996:32).

The focus here lies on the examination of subjective aspects of conflict as the main hindrances to resolution of interest-based issues. This implies that a third party intervention should take into account the mix of the objective and subjective elements that interact as the conflict escalates and de-escalates, this is also known as contingency approach.

Problem-solving as the main focus of conflict resolution is based on perceiving conflict 'objectively' and promotes more effective communication practices in order to resolve conflict. But it is not necessarily aimed at a fundamental transformation of the conflict as it bases desecuritisation on the minimum requirement of the satisfaction of the needs of both parties, although incompatibilities between needs of different conflict parties have to be redefined in order to achieve conflict resolution.

Conflict Transformation

Conflict Transformation in a narrow sense refers to the 'process of engaging with and transforming the relationships, interests, discourses and if it is necessary, the very constitution of society that supports the continuation of violent conflict' (Miall, 2001:4). It therefore refers not simply to a change in the structure of a conflict, but to fundamental changes in conflict discourse that effectively, in our terminology, involves their desecuritisation. In a different but related argument Baker (1996) distinguishes between "conflict managers" and "democratisers", where the former are focused on overcoming violence and establishing procedures for peaceful conflict management, and democratisers are attempting to establish justice as a way to tackle the root causes of conflict and allow "long-term reconciliation" as a "positive" peace (Miall et al, 1999: 208). Human rights are part of establishing justice, and in the logic of Baker enable the long-term healing of rifts, and are as such core to a new societal identity. At the same

time, while violent conflict is the problem to be changed, conflict as such is an important catalyst for change. Moreover, the role of the people within the conflict parties is of great pertinence because the peacebuilding comes from within rather from outside. As Lederach argues:

Conflict transformation must actively envision, include, respect and promote the human and cultural resources from within a giving setting. This involves a new set of lenses through which we do not primarily, see the setting and the people in it as the problem and the outsider as the answer. Rather, we understand the long term goal of transformation as validating and building on people and resources within the setting (Lederach, 1995).

The work of Galtung has been highly influential as he emphasised the relationship between conflicts and larger conflicts embedded in the structure of world society and the world economy. The resolution of a conflict needs to be based on a fundamental change to this structure and therefore the transcendence of the existing contradictions (or incompatibilities) (Galtung, 1996:116).

Azar's work (1990) on protracted social conflicts (PSC) has considerably influenced conflict transformation theory, taking conflict resolution a step further. The critical factor in PSC seems to be 'the prolonged and often violent struggle by communal groups for such basic needs as security, recognition and acceptance, fair access to political institutions and economic participation' (Azar, 1991:93). The dynamic relationship between the state and the communal groups is at the core of the problem (what Azar described as 'the disarticulation between the state and the society as a whole' 1990:7). His theory goes beyond simple structural or behavioural explanations and suggests how patterns of conflict interact with the satisfaction of human needs, the adequacy of political and economical institutions and the choices made by political actors. It also explores how different options could lead to benign or malignant spirals of conflict.

Rupesinghe's work (1998) makes the point for a conflict transformation approach that embraces multi-track interventions. He stresses the importance of involving peace constituencies at grassroots level and across the parties at the civil society level and also forging alliances with any groups able to bring change, such as the media, business groups and the military.

Last but not least, Lederach (1997) argues for the transformation of a war system to a peace system characterised by the values of peace, justice, truth and mercy. This transformation is seen in changing the personal, relational, structural and cultural aspects of conflict, in different time periods and different system level. The structure of this process is based on a pyramid where the elite leaders and decision makers are at the top, leaders of social organisations, churches, media in the middle level and grassroots community leaders at the bottom. Accordingly peacebuilding should take into account complementary changes at all these levels.

Conflict transformation understands conflict as an agent of both social control and change (Clements, 1998:138). It places primary emphasis on the question of social justice as it rejects the traditional aim of conflict management to restore the status quo and instead, develops a notion of conflict as a positive agent for social change. Moreover, it is multi-track and -dynamic as it combines Track I, II, III activities and it stresses the importance for creating new infrastructure for empowering underprivileged groups that will make it possible to address structural inequalities with the aim of long term social reconstruction and reconciliation.

More specifically, there is an urgency to examine which are the collective actions that could advance and solidify peace by avoiding a relapse to conflict. Even if scholars and practitioners have different understandings of conflict

there seems to exist a broad consent that a fundamental transformation of the war-torn society is needed. It is only by addressing the political, social, psychological and economical causes, as well as the effects of armed conflict that a recurrence of violence can be prevented and a viable peace established. This means that a variety of tasks has to be addressed and a multidimensional approaches are needed (Fisher, 2004:4).

Such a multidimensional approaches includes the following desecuritising strategies: Transformation of cultures of violence; establishment of tradition of good governance including respect for democracy, human rights and development of civil society; healing psychosocial wounds and long term-reconciliation; integration into co-operative and equitable regional and global structures; and the balancing of stable long-term macro-economic policies and economic management and locally sustainable community development (Miall, Ramsbotham and Woodhouse, 1999: 203). Not all of these strategies are unique to the Conflict Transformation approach, but it is here that the different elements of dealing with conflict come together.

Conflict Transformation approaches therefore represent the broadest approach to desecuritisation, at the heart of which are broader societal transformations, including fundamental shifts in how identities and interests are constructed so that they are no longer incompatible. Transformation is generally conceptualised as positive, but of course changes in the construction if identities and interests can in principle also lead to greater incompatibilities and the intensification of securitisation, although such changes would then not take the form envisaged by Conflict Transformation theorists and practitioners. We therefore suggest distinguishing between positive conflict transformation, where the transformation implies desecuritisation, and negative conflict transformation, where the opposite is the case.

Table 1 summarises the three ideal types of approaches to conflict resolution, including their different strategies for desecuritisation.

	Perceptions of Conflict	Aims and Actors	Strategies for Desecuritisation
Conflict Management	Problem of political order and of the status quo	Manage and contain conflict Political and military leaders as mediators and/or representatives of conflict parties	Coercive measures: power mediation, sanctions, arbitration Non-coercive measures: good offices, fact finding missions, facilitation, negotiation, mediation
Conflict Resolution	A natural result of unmet human needs	Address the underlying causes of direct, cultural and structural violence Academics, professionals, civil mediation, citizens diplomacy, international and local non governmental organizations involved in conflict resolution	Non-coercive measures: facilitation, consultation in the form of problem solving workshops and round tables
Conflict Transformation	An agent of social control and change	Transform the relationships, interests, discourses and the constitution of society that supports violent conflict Local grassroots organizations, local and international development agencies, human rights organizations and humanitarian assistance	Capacity building, trauma work, grassroots training, development and human rights work

Table 1: A comparison of different approaches to conflict transformation

It is evident from this table that human rights can play a number of different roles in the desecuritisation process. From a Conflict Management perspective, they primarily provide institutional safeguards against conflict intensification. They provide a codified boundary for possible securitising moves, and they limit the “extraordinary” policies that can be legitimised through securitisation. Conflict Resolution adds to this the mutual recognition of needs, including one’s basic human rights. In the most encompassing way, Conflict Transformation approaches link the institutional guarantee of human rights with a process of identity transformation and healing. Figure 1 summarises these different roles envisaged for human rights.

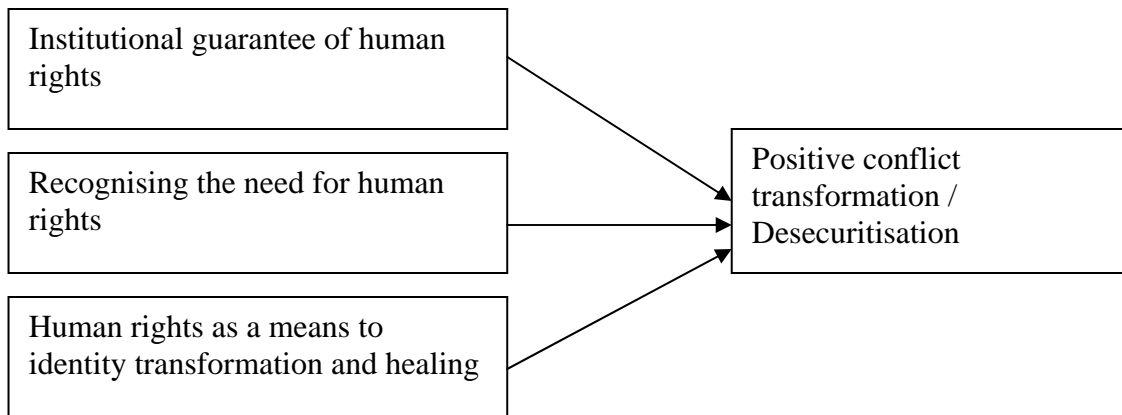


Figure 1: Human rights as strategies towards desecuritisation

The core question at the heart of the SHUR project is whether human rights do indeed play any, or indeed all of these roles in desecuritisation processes of ethno-political conflict, and under which conditions. We need to assess whether human rights facilitate the de-securitisation of the discourses constructing relevant ethnic groups and their political claims as well as the state response to those claims, and what role the reference to human rights plays in the actual articulation of the ethnic group and its political claims, and whether the invocation of human rights in this context has a securitising or desecuritising effect. Before we elaborate this framework, it is necessary to reflect further on our definition of human rights.

Human Rights

The idea of human rights rests on the premise of protecting people from political, legal and social abuses, initially and primarily by the state. The Universal Declaration of Human Rights provides all humanity with the right to life, liberty and security of person; to freedom of torture or enslavement; to protection from arbitrary arrest or exile; to equality before the law and to remedies for violations suffered; to a fair trial; to freedom

of thought, opinion, expression, movement, and peaceful assembly; to participation in the political and cultural life of the community; to remunerated work, free choice of employment, and protection against unemployment; to education; to social security; to a standard of life adequate for one's family health and well being (UDHR 1948).

The philosophy of human rights raises questions about the existence, content, nature, universality, justification, and legal status of human rights. The debate on human rights suffers from a dichotomy of the universal origin and applicability of human rights versus the cultural relativism of such principles. The advocates of the universality of human rights base their arguments in two traditions: metaphysical abstraction or legal positivism. The first assumes the formulation of natural rights as universal, timeless truths independent of social context. Influenced by the writings of Locke and Rousseau, 'modern universalist theories on human rights are based on natural law, justice, reaction to injustice, dignity, equality of respect and concern, human capacities, moral agency and self ownership' (Goodhart, 2003). Legal positivism supplements the above principles by developing the establishment and enforcement of human rights as international law. This is manifested in the signing of many countries to the Universal Declaration of Human Rights proclaimed by the United Nations in 1948, and most recently at the Vienna World Conference, where the Vienna Declaration placed the universal nature of the rights and freedoms beyond dispute (Alves, 2000).

For cultural relativists, 'no way of life is objectively the best or suits all, good life cannot be defined independently of the character of the individuals involved, and moral beliefs and practices cannot be detached from the wider way of life and abstractedly judged and graded' (Parekh, 1999:133). Human rights are perceived as social constructions bounded to the nature of particular cultures; for communitarians they are specific cultural forms that arise from strong and homogeneous communities based on nation states while for poststructuralists, the emphasis on plurality, difference and fragmentation denies any possibility of a 'meta-narrative' of universal human rights (Stammers, 1999).

As the debate focuses on the connection between the origins of the concept of human rights and its theoretical substance, it becomes increasingly difficult to engage in dialogue with both sides of the debate. But, with the hope of broadening the discourse on human rights and 'if universal values are to enjoy widespread support and democratic validation and be free of ethnocentric biases, they should arise out of an open and uncoerced cross-cultural dialogue' (Parekh, 1999:139). This presupposes respect and attentiveness to different and alien values and more importantly it should deny any given culture, but in particular Western culture the privilege to monopolise 'universal' truth. Moreover, a genealogical analysis of the development of the human rights discourse will show its interconnectedness with the institutions that fostered it as well as with the specific political and social situations out of which it developed.

The human rights movement has always had a close relationship with international organisations. Its ideology, norms, rules and principles are imbedded in institutions, some of them state and some international, as well as in international processes. The United Nations Charter fleshed out the demands of the 'human rights movement that began at the

end of the Second World War' (Steiner & Alston, 2000: 137). In what follows, the aim here is to present how human rights became an institutionalised part of international politics in order to define and contextualise the human rights that civil society actors can draw upon in conflict transformation processes.

The first steps to the Universal Declaration

The end of World War II and the acknowledgement of the horrors of Holocaust forced the Allies to deal with the delicate issue of how to deal with a regime that massacred their own citizens. Formally, the German government was legally liable for their treatment of citizens in occupied territories but in killing German nationals was considered as an exercising its sovereign rights. It was the Nuremberg War Crimes Tribunal that introduced the issue of violating human rights into the mainstream of international relations, by charging the German soldiers and officials responsible for offences 'against individual citizens, not states, and individuals who often were nationals, and not foreigners' (Donnelly, 2001:72).

Equally important was the United Nations Charter. In 1946 ECOSOC (Economic and Social Council) established the Commission on Human Rights, which prepared a draft of rights that would exert a moral and political influence on states. In 1948, the UN Commission adopted a draft Declaration, which in turn was adopted by the General Assembly as the Universal Declaration of Human Rights (UDHR) (www.un.org/rights). This was a decisive step in legalising the emerging view that the treatment of citizens by states had to comply with specific international standards.

The Universal Declaration was supposed to precede more detailed and comprehensive provisions in a single convention that would be approved by the General Assembly and submitted to states for ratification. However, the rise and intensification of the Cold War created a stalemate for the development of the human rights movement, and perhaps even more importantly, 'states were satisfied with an international human rights regime that included little more than a strong statement of norms' (Donnelly, 2001: 74).

The International Covenants on Human Rights

Decolonisation in the early 1960s led a new wave of human rights activity by the newly independent states of Africa and Asia. The International Convention on the Elimination of All Forms of Racial Discrimination that was adopted by the General Assembly in December 1965 addressed the specific concerns that were put forward by the Afro-Asian bloc (www.un.org/rights). Furthermore, the two principal treaties – the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) - made their way for signature and ratification. Together with the Universal Declaration, they provide a broad coverage of internationally recognised human rights.

However, it seems that the comprehensiveness took much of the necessity of additional normative work, as another decade passed before the two Covenants achieved the number of ratifications necessary to enter into force. This disappointment was also caused by the inadequate mechanisms of implementation. For example, the supervisory committees for the Covenants and the Racial Discrimination Convention were receiving periodic reports by states that were not authorised to find violations of the treaty, call for changes in state practices or provide help for victims (McGoldrick, 1999).

Human rights had entered successfully the international debate, but their implementation and enforcement remained to a great extent national. It was quite evident that the statist logic was dominating the procedural developments of the field.

The Third Wave

In 1973, the overthrow of the Allende government in Chile marks the beginning of intense investigations of human rights violations by the UN (Tolley, 1987). With the Covenants entering into force (1976) and the creation of a monitoring forum in the Human Rights Committee, the human rights advocates gained new legitimacy and inspiration for their work.

New countries like Netherlands and Canada became important actors in the development of the field and new treaties came into force. This includes the Convention on the Elimination of All Forms Of Discrimination Against Women (1979), The Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (1984) and the Convention on the Rights of the Child (1989) (www.un.org/rights). Continuing on the precedent of Chile, special representatives were sent to report the human rights situation in countries like Bolivia, Iran, El Salvador and Afghanistan. A rather important development was the consideration of human rights violations on a global or thematic basis by the Commission of Human Rights. For example the creation of Working Group on Enforced or Involuntary Disappearances in 1980 helped families to locate disappeared persons and handled more than 19.000 cases in its first decade work (www.unbisnet.un.org).

By the mid seventies, the human rights discourse was introduced 'into the mainstream bilateral foreign policy' (Donnelly, 2001:77). In 1973, the US Congress enacted a series of statutes declaring the promotion of respect for human rights to be a principal goal of United States foreign policy, and denying the foreign aid, military assistance, and the sale of agricultural commodities to states guilty of gross violations of human rights (Henkin, 1990). Similar efforts were taken at the same time in the aid policies of the Nordic countries, and the Helsinki Final Act in 1975 introduced human rights into the US-Soviet relations.

Equally important was the popularity that non-governmental organisations with human rights activity gained at that time. Amnesty International won the Nobel Peace Prize in 1977 by advocating the importance of protecting human rights and its campaigns for

raising consciousness against torture influenced immensely the drafting of the 1984 Convention Against Torture (www.amnesty.org).

It is evident that the achievements as well as the limitations of the past half century of international human rights activity deserve our attention. By the end of Cold World War, human rights had gained an important role in the international relations scene. The Post-Cold War developments that would be analysed below confirm that states nowadays are subject to a plethora of bilateral, multilateral and transnational monitoring procedures that could mobilise national and public opinion and the normative force of human rights (Kamminga, 1992).

The Post-Cold War Era

The global regime of human rights has seen an important deepening in the years after the end of the Cold War. Multilateral procedures are used more robustly, and the Human Rights Commissioner, established in 1993, has the potential to increase both the scope and the depth of multilateral monitoring (Minear & Weiss, 1995). Regarding bilateral relations, human rights continue to become a less controversial foreign policy concern and many human rights NGO's contribute to the shaping of the political landscape in countries of the Third World and former Soviet Bloc.

The 1993 Vienna World Conference on Human Rights marked a clear victory for advocates of the universality of international human rights obligations. The first paragraph of the Declaration asserts that 'the universal nature of these rights and freedoms is beyond question'. Also paragraph 5 stresses the interdependence and indivisibility of all human rights and paragraph 10 asserts that 'the lack of development may not be invoked to justify the abridgement of internationally recognised human rights'. Although there are huge gaps between principle and practice in most countries, the international normative consensus on human rights has deepened in the past few years.

Until the 1980s peace keeping operations were organised in a way to avoid direct reference to human rights. In recent years, however, the link between human rights and international peace and security has finally become a part of UN practice, following the now established consensus in the peace and conflict studies literature, as reviewed in the preceding section. For example, peacekeeping operations in Namibia, Cambodia, El Salvador, Bosnia and Guatemala have had explicit human rights responsibilities (Human Rights Watch, 1993). The importance of these operations should not be underestimated but also not overgeneralised. Most of these cases arose in a context of ending internationalised civil wars and cannot provide a precedent for UN action in the absence of peace and security. Nonetheless, it is the first time that we have a clear and consistent flow of coercive multilateral actions on behalf of internationally recognised human rights.

Last but not least, it seems that there is a contradiction between multilateral human rights activities and the activities of international financial institutions (Tomasevski, 1995).

Particularly in the UN, human rights have traditionally been segregated from political and economic development. Thus, it leaves Third World countries 'without a well established human rights argument against externally imposed structural adjustment programmes that require a reduction in the enjoyment of economic, social and cultural rights' (ibid, 53). The process of overcoming structural inequalities in the Conflict Resolution tradition therefore alerts us to the potential contradictions between different human rights in the process of conflict transformation.

Individual and group rights

Another controversial debate that characterises the discourse on human rights is the one between individual and group rights. Individual rights belong to the individual as a human being and are classified into two categories: I) civil and political rights and II) social, economic and cultural rights. Civil and political rights primarily act as constraints on those who govern. They include the right to life and dignity of the human person, the right to private and family life and freedoms of association, of religion, of expression, of movement, of assembly, etc. Here the emphasis is on the liberty that an individual should enjoy, while social, economic and cultural rights stress the equality that an individual can claim as a citizen. These rights include the right to education, to employment, to social security, to equal pay for equal work, to safe and healthy working conditions, the right to form trade unions and bargain collectively, etc.

The inclusion of social rights in the Universal Declaration has created much controversy as it is often proposed that they are not rights but desirable goals (Beetham, 1995). Social rights 'are usually subject to the political will of the managers of the state, ideological considerations, the resources available to the state and the level of development' (Osaghae, 1996:176). Economic, social and cultural rights are often classified as second-generation rights, while political rights and civil liberties are considered as rights of the first generation. Many have understood this not as a mere categorization but as a ranking that puts economic, social and cultural rights *after* political rights. Thus, the so-called second-generation rights have led a kind of shadow life until the late 1980s. This is more or less still true for cultural rights, which are mainly considered in the context of minorities. In contrast, economic and social rights have been part of the mainstream human rights discussion, although they have not yet received equal treatment as compared with political rights and civil liberties.

After the Universal Declaration of Human Rights had passed the General Assembly of the United in 1948, the distinction between the two groups of human rights quickly developed into a fierce ideological debate between the West and the Socialist states. Human rights became a major terrain in the battlefield of the Cold War. Although debate on human rights continues between North and South, the end of the Cold War has freed the human rights discussion from many ideological constraints and human rights voices and demands from the South that always have emphasized economic and social rights are now considered more seriously (Hamm, 2001).

Some of the individual rights already mentioned clearly have a group dimension to them. Indeed, while it is common to distinguish between individual and group rights, there are

no clear-cut distinctions between the two categories. This is because some standard individual rights like freedom of discrimination, freedom of association, freedom of religion are very important to ethnic and religious minorities. In this case, group rights have to do with 'the personality as identified and formed by group membership, by inter group relations, and by the status and the fortunes of the group within the society' (Glaser and Posany, 1979).

According to Howard (1992: 83),

the claim for collective rights is a claim for something different from human rights; it is a claim that reasserts the value of the traditional community over the individual. Human rights are an egalitarian means of allocating membership in a collectivity to all physical persons regardless of status. Collective rights imply permissible egalitarian ranking.

In other words, while individual rights refer to a universal citizenship, collective rights promote an exclusivist one. Other scholars claim that the individual rights are sufficient to deal with claims put forward by the group, which is not more than the sum of its individual members (e.g. Buchanan, 1989).

Human rights have always included some notion of group rights, if sometimes only indirectly. Examples are the right to cultural identity and practice, freedom of discrimination and the right to self-determination. These are rights that protect the continual existence of ethnic groups and guarantee their non-subjugation by others. As Stavenhagen argues: 'Universal individual human rights even when fully effective do not necessarily ensure the full enjoyment of rights by collectivities. Moreover, at times, the promotion of individual human rights in disregard of collective rights may lead to the violation of collective rights' (1992:135).

Although the individual can be seen as the ultimate beneficiary of the promotion and protection of human rights, sometimes it is only through the protection of the collectivity that an individual belongs to that these rights are meaningful. Individual and group rights should not be perceived as a binary opposition but as complementing and supplementing each other. As Dinstein argues 'collective human rights are afforded to human beings communally, that is to say in conjunction with one another as a group – people or a minority' (1976: 103). The difference between individual and collective human rights here lies in the fact that for the former, the measure of all things is the individual, but for the latter, is the group. Then what becomes problematic is that the group in question often does not possess an international legal personality, probably to avoid claims to secession and general threats to the sovereign nation-state. This is illustrated in article 27 of the ICCPR which refers to 'persons belonging to minorities' and not simply to minorities.

International law acknowledges three collective human rights to peoples: the right to physical existence, to self-determination and to utilise natural resources (Dinstein, 1976). Here, the fundamental reference point is the group. The same applies in the case of minorities that have gained the right to physical existence and the right to preserve a

separate identity which includes the right to enjoy their own culture, to practice their own religion, or to use their own language. These rights are to be held collectively, as a minority language, for example, cannot be used by an individual.

The UN Human Rights Committee has indicated that the right of an individual to participate in aspects of community life may be restricted if the relevant legislation reflects the legitimate aim of minority group survival and well-being, and if the restriction is not disproportionate to that aim (Dinstein 1976) Analogously, any restriction on the right of an individual member of a minority must be shown to have a reasonable and objective justification and be necessary for the continued viability of the minority group as a whole. But, most importantly group rights are not to be used from the group against one of its members but for these individuals to come together voluntarily and enjoy their rights together.

The question is how to reconcile group rights and individual rights without sacrificing some of the basic goals of human rights such as liberty, equality and social justice. But not to grant group rights perpetuates conditions of inequality and injustice. This is a basic dilemma faced by human rights approach to conflict resolution. By striving against cultural monism and entering into a sustained dialogue where differences are acknowledged and participants are willing to learn and change, we may find the space for a genuine global human rights discourse that redress the imbalances and inequalities among the various groups.

In this respect the creation of the High Commissioner on National Minorities (HCNM) under the auspices of the Organisation for Security and Co-operation in Europe (OSCE), marks the growing appreciation to promote a multicultural state committed to democratic pluralism, prohibiting coercive assimilation measures and actively supporting vulnerable minority cultures (Copenhagen Document, 1990). In negotiating state-minority relations, the HCNM forms part of the more innovative, intrusive human rights or human welfare monitoring mechanisms developed in the post Cold War era. While not a minorities ombudsman per se, HCNM diplomatic endeavours in constructing a regional peace based on civil society, curbing nationalism through constitutionalism, is certainly one that provides an environment supportive of distinct minority identity and autonomy. Human and minority rights are promoted as part of a larger political settlement of conflict borne of aggressive nationalism (Thio, 2003).

*

Figure 2 summarises the different types of human rights, the invocation of which can affect conflict transformation, and their possible contradictions.

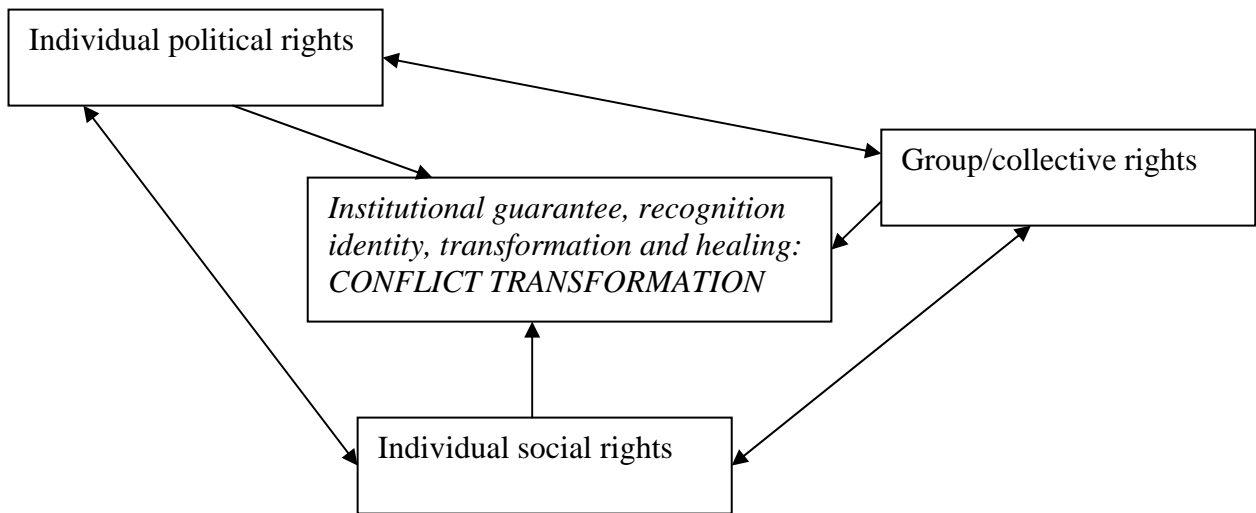


Figure 2: Different types of human rights and conflict transformation

The relationship of human rights and conflicts

Human rights and securitisation

Despite the possible contradictions between the articulations of different human rights, the literature sees human rights as an overwhelmingly positive, i.e. desecuritising, factor in conflict transformation. Our discussion has shown that there are a variety of human rights that civil society actors can draw upon, codified and institutionalised in a number of international treaties and organisations. However, the invocation of human rights does not always have a desecuritising effect.

On the most fundamental level, the invocation of a human right at least implicitly also always refers to a securitisation. The origin of human rights as protection against excessive interference by the authorities illustrates that the very articulation of a human right is also the articulation of an existential threat. The human right marks the border between the acceptable and the unacceptable; its invocation articulates the de-facto or threatened transgression of that border. At least in the early stages of a conflict, reference

to human rights will therefore often be a securitising move. In some instances, such a reference will take the form of the articulation of a human rights violation that previously had not been perceived as such. In such cases, the invocation of the human right only establishes the conflict. In other cases, human rights will be drawn upon as additional “ammunition” in an already established conflict. In both of these instances, the securitising effect of the invocation of a human right does not mean that the latter is always a bad thing – indeed, in many instances the articulation of a human right even if it instigates or intensifies conflict will lead to positive societal developments in the long run because of the undoing of injustices. However, in our analysis of the role of human rights in conflicts we need to keep in mind that especially in the earlier stages of a conflict, the invocation of human rights by civil society actors does not necessarily lead to desecuritisation in the short or even medium term, and actors may have to choose between the competing norms of maintaining peace and fighting what they perceive as human rights violations.

Even in later or post-conflict stages, the invocation of human rights still carries the securitisation with it. However, this can now take the form of an historical reference with a desecuritising effect. Such “historical” securitisations provide founding myths through which identities are constructed, but they are directed against an historical “self-as-other” rather than a contemporary Other (Diez, 2004; Wæver, 1996a for the case of Europe). Thus, many post-conflict constitutions inscribe the memory of violations of human rights in the past into the institutional framework and therefore the identity of a society. As such, this inscription can aid the healing of rifts as suggested in the third positive impact of human rights on conflict transformation set out above.

Another source of a securitising effect of references to human rights is the controversy about the nature of human rights. Different conflict parties can invoke different human rights, which in a particular conflict situation may not be easily reconcilable. Thus, as the debates of the 1970s showed, the invocation of the right to economic well-being may be articulated as overriding the right to free speech. Indeed, even political rights themselves are not unrestricted, and the right to free speech, for instance, can come into conflict with the right to religious expression. Civil society actors can also invoke human rights that others do not consider as such – property rights are an example that is relevant in a number of conflict cases, including Cyprus and Israel/Palestine. In all of these cases, the invocation of an ostensibly universal human rights serves the reinforcement of the position of one conflict party over another, and usually projects the other party as violating these rights and therefore presenting an existential threat to the integrity of the conflict party.

We are now in a position to formulate two working hypotheses and a number of conditions for the role of human rights in conflict transformation, which will finally lead us to outline the consequences of this discussion for the empirical work in the SHUR case studies.

Hypotheses on the role of human rights in conflict

The institutionalisation and regularised observance of human rights can contain conflict and move it into peacefully managed political processes, as the conflict management literature suggests. Such a focus on political institutions and the rule of law can also be found in Habermasian approaches to societal organisation. Within International Relations, Risse et al. (1999) for instance also suggest a linkage between international human rights norms, their domestic implementation and the long-term change of human rights practices. The institutionalisation of human rights may also bring about the recognition of individual needs expressed in human rights, and may lead to the healing of rifts and the transformation of a societal identity. Our first hypothesis on the role of human rights in conflict transformation is therefore that:

(H1) An institutional guarantee of human rights may constrain the escalation of ethno-political conflicts in that it acts as an institutional constraint, provides recognition of individual needs and may lead to the long-term change of socio-political practices.

This, of course, may be a rather obvious and uncontroversial proposition. However, although it may sound intuitively correct, its accuracy still needs to be assessed, not least because it relies on the assumption that norms, and in particular codified norms, provide boundaries of legitimate discourse and have an effect on conflict behaviour.

In contrast to the institutional guarantee, our discussion above leads to the hypothesis that:

(H2) The invocation of human rights by civil society actors, in particular in the early stages of the conflict, represents a securitising move, and therefore is likely to lead to conflict intensification rather than de-escalation in the short and possibly medium term, although in the long term, positive conflict transformation may well be based on human rights initially articulated in such securitising moves.

Whether or not the invocation of human rights leads to desecuritisation will depend, among other things, on the response from those who are accused of human rights violations. The first hypothesis suggests that this is more likely to be positive if human rights are codified and institutionalised. This discussion however leads us to the conditions that may influence the occurrence of the linkages between human rights and conflicts proposed by the two hypotheses.

Before we discuss these, we should note that we have not proposed a hypothesis on the relationship between human rights violations and conflicts. This is because we consider human rights violations as part of the conflict itself. In order for human rights violations to be considered as such, they need to be articulated in securitising moves, either as a response to such violations by civil society actors, in which case our second hypothesis applies, or as a legitimisation strategy in the run-up to human rights violations. We differ

on this point slightly from other attempts to link human rights violation with conflict, such as the Leiden-based Interdisciplinary Peace Research Programme on Causes of Human Rights Violations (PIOOM), which uses human rights violations as indicators for the likelihood of armed conflict (cited in Miall et al, 1999: 101). In our framework, armed conflict represents an escalation of a conflict, and we use the discourse about human rights violations as the crucial indicator for such escalation.

Conditions for the facilitation of conflict transformation through human rights

Perhaps more interesting than our two principal hypotheses are the conditions which may facilitate or hinder the impact of human rights on conflict transformation. Our discussion of the literature in the previous sections has thrown up a number of possible conditions, which we will now summarise.

(C1) *Openness*: A first condition facilitating the desecuritising impact of the invocation of human rights from the discussion above seems to be that human rights are articulated so that their prospective benefits do not serve the benefits of one conflict party only. While human rights are normally universal in principle, we have seen above that because of their contested nature, conflict parties may use them to bolster their position within a conflict rather than to work towards positive conflict transformation. Whether human rights are invoked to the benefit of all or only a specific conflict party will often be contested. It is this contestation however that can be treated as an indication of an alignment of human rights with the interests of one side of a conflict. Furthermore, we have argued above that human rights can have an integrative function in de-escalation or post-conflict reconstruction. Such integration may be facilitated if the articulation of a human right leaves the latter's exact interpretation sufficiently open so that it can be positively "appropriated" by different conflict parties (cf. Bonacker and Brodocz, 2001: 182). If the interpretation of a particular norm is all too fixed, conflict about this norm is more likely (see also Wæver, 1996b and Diez, 2006 for a similar argument regarding the progress of European integration). To the extent that human rights have an integrative function, they need to be sufficiently open to allow for different interpretations, while at the same time the demands of legal discourse are such that their formal meaning has to be specified sufficiently so that they bear legal force.

(C2) *Institutions*: We expect the design of a constitution and other societal institutions to have an impact on how successful the desecuritising effect of human rights is. Federalism, consociationalism, the guarantee of autonomy and other constitutional arrangements are all predicated on the assumption that the enshrinement of group rights in particular ways is able to channel political claims by (ethnic) groups and so to make the articulation of group rights less subject to securitisation (cf. Føllesdal and Butenschøn, 2006; Butenschøn, 2006). As states are hostile to the idea of self-determination as secession because it endangers territorial integrity, and because of the normative implications of secession in terms of "ontology", to use Campbell's term introduced above, other more accommodating arrangements seem to be preferable. These arrangements include federal government, decentralisation in which the units of local and

regional administration enjoy a large measure of autonomy, consociational instruments like quota systems, shared rule, segmental autonomy, protection of minorities and disadvantaged groups (Lijphart, 1977). Within these arrangements lies the possibility for a group to assert its right to partake in the affairs of the state to which it belongs.

(C3) *Actors*: Do different actors matter in different ways? What are the chances of marginalised groups articulating alternatives to become dominant? What are these alternatives? Are there correlations between the specific articulation of human rights and specific types of civil society organisations? This allows, and indeed implies a wide definition of civil society that is not restricted to non-governmental organisations that are specifically working towards positive conflict transformation. Terrorists can therefore be seen as part of civil society, but the way they articulate their political claims and (presumably: group) rights is securitising and therefore detrimental to (positive) conflict transformation. There is also the question of international involvement. Risse et al (1999) give prominence to the importance of international networks, but Newman (2002) argues that international actors can only assist local forces and actors, in introducing more forcefully the presence of international standards of human rights and accountability (Newman, 2002). Indeed, we also know that the involvement of outside actors can sometimes be counter-productive if those actors themselves are constructed in a securitising way, for instance as “imperialists” or “neo-colonialists” (see Demetriou, 2007 for the case of EU involvement in Cyprus, and Newman and Yacobi, 2007 for the case of Israel/Palestine).

(C4) *Timing*: Our second hypothesis already indicates that the invocation of human rights may have different effects, largely through different reactions by other conflict parties, depending on whether it occurs early in the conflict or at a later stage of already ongoing de-escalation. In terms of outside intervention, a strict chronological approach where relief assistance was followed by reconstruction and then development has recently been challenged (Fischer, 2004). However, even here the importance of timing as such has not been given up, but rather re-focused on the early recognition of degeneration, and early application of preventive measures to effective prevention of violence, resembling a ‘longer term approach, aimed at addressing the structural causes of conflict and fostering institutions which will promote the kinds of distributive and procedural justice that have been shown to make violent conflict less likely’ (Peck, 1998:3). This reflects an agenda for prevention that incorporates development, democracy, human rights and peace, and one that is based on the key principles of the recent debate on human security.

(C5) *Form of Articulation*: The invocation of human rights can take various forms, and the consequences may depend on this. There are at least three dimensions to this condition. Firstly, we have seen above that some rights can be articulated both as individual and as group rights, and it needs to be assessed whether civil society actors are better advised to pursue the individual or the group route. Secondly, while we have seen that the invocation of human rights implicitly or explicitly involves a securitising move, we should keep open the possibility that, other than in the instance of historical references, group rights in particular may be articulated in such a way that they do not represent contemporary Others as an existential threat. The literature suggests that this

may at least theoretically be an option, and that such articulations have historically been marginalised (see Ashley and Walker, 1990). Thirdly, on a more mundane level, the medium through which human rights are articulated may make a difference: A novel or movie that thematises human rights violations will presumably have a different effect than an academic report, a newspaper article will be different from a television documentary.

(C6) *Broader societal development*: Human rights articulations are of course not the only factor in conflict transformation, and other developments within a conflict society may also strengthen or undermine the impact of human rights. It is commonly assumed, for instance, that economic development helps positive conflict transformation, and may well make it easier to install human rights in the institutional framework of a society. At the same time, however, human rights may help economic development, for instance through the provision of a stable institutional framework that attracts foreign investment. Besides the economy, there are also other broader societal developments that are tied up with the articulation of human rights in similar ways, for instance the development of political parties, the dominant historical narratives of a society, or even successes in sporting events.

Methodological Implications

The theoretical framework for the analysis of the relationship between conflict and human rights outlined above has a number of methodological implications. Since SHUR is a collective enterprise of analysts with different backgrounds and expertise, we do not develop detailed instructions in what follows but rather a set of guiding questions with suggestions for the empirical basis for their analysis.

(M1) *Conflict reconstruction*: Our discussion suggests that the starting point of our analysis should be the reconstruction of the conflict history in terms of intensifying securitisation or desecuritisation, outlining the conflict parties and any third parties involved, and recording the most important events in terms of violence and efforts at positive conflict transformation. While in principle, the observation of securitising moves requires a detailed discourse analysis, this will not be possible due to time constraints, and so the level and content of securitisation will have to be inferred by and large from the secondary literature at this stage. This step of the analysis will also have to summarise present constitutional arrangements and any attempts to draft plans for future institutions (C2), as well as pinpoint the broad societal developments in which the conflict develops (C6)

(M2) *Identification of human rights invocations*: In a second step, we need to record the invocations of human rights. Who has made references to human rights in the context of the conflict (C3)? What form did this reference take – does it invoke individual or group rights; is it openly securitising; which medium is chosen (C5)? To whom was it addressed? Some articulations of human rights will be identifiable from the secondary literature. Others will require interviews, or the close reading of primary documents of

key actors or institutional contexts (for instance, a parliamentary debate may be an important source, but as it will not be possible to read through all debates in the conflict period, clues for which debates to look at will have to come from the secondary literature or other sources). In order to later assess the conditions for any impact of these human rights invocations, it will be necessary to consider the following further questions as they are identified:

- Are the human rights invoked clearly related to the interests of the articulating conflict party (C1)?
- Are they articulated as universal principles and as principles that allow some degree of interpretation, or is their meaning articulated as fixed and provides a partial understanding (C1)?
- Are human rights been articulated in a specific institutional context (C2)?
- Does the articulation make reference to an international context or a third party (C3)?
- At which stage of the conflict are human rights invoked (C4)?

(M3) Relating human rights invocations to conflict development in order to assess (H1) and (H2): Thirdly, the human rights articulations identified in (M2) will have to be related to the conflict development outlined on the basis of (M1). It will be difficult to trace the impact of specific human rights articulations on the conflict, but two methodological approaches in particular may provide significant clues:

- *Triangulation*: The impact of particular actors and human rights articulations may be initially assessed on the basis of interviews and/or other primary material, and then set against the assessment of other actors, newspaper material, other recorded evidence and the secondary literature.
- *Archaeology*: The impact of a human rights articulation may be traced through references made to such articulations in later policy decisions.

(M4) The findings of (M3) will have to be reviewed in terms of the conditions (C1-C6).

(M5) In order to allow for a comparative analysis, which is one of the main aims of SHUR, it will be necessary to standardise results in individual case studies at least to an extent that makes such a comparison possible. We suggest that in each case study, the main human rights articulations or codifications/institutionalisations (we assume these can be grouped rather than having to be dealt with individually!) are recorded alongside the following information:

1. What form did these articulations take (M1)?
2. Who are the actors that pursued these articulations, and when (M1/2)?
3. Did they have a securitising or desecuritising impact (M3)?
4. Was their impact dependent on their openness, particular institutional context, the actors who did the articulation, their timing, their form or the broader societal context in which they took place (M1, 2, 4)?

Whether or not it will be possible to infer any patterns from this comparison that exceed the individual case is an open question. However, we are confident that at a minimum,

this analysis will strengthen our knowledge of the role of human rights in conflict transformation, which at the moment remains curiously under-explored.

References

- Alves, Jose A. Lindgren (2000) 'The Declaration of Human Rights in Postmodernity' *Human Rights Quarterly*, vol 22, no 3, pp.478-500
- Anderson, Benedict (1983) *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, London: Verso.
- Ashley, Richard K. & Walker, R.B.J. (1990) 'Reading Dissidence/Writing the Discipline: Crisis and the Question of Sovereignty in International Studies' *International Studies Quarterly*, vol. 34, no. 3, pp. 367-416.
- Azar, Edward (1990) *The Management of Protracted Social Conflict*, Aldershot: Dartmouth.
- Baker, Pauline H. (1996) 'Conflict Resolution versus Democratic Governance: Divergent Paths to Peace' in C. A. Crocker & F. O. Hampson with P. Aall (eds), *Managing Global Chaos: Sources of and Responses to International Conflict*, Washington, DC: United States Institute of Peace, 563-572.
- Beetham, David. (1995) 'What Future for Economic and Social Rights' *Political Studies*, pp.41-60
- Bloomfield, David & Reilly, Ben (1998) 'The Changing Nature of Conflict and Conflict Management' in Harris, P & Reilly, B (eds), *Democracy and Deep Rooted Conflict*, Stockholm: International IDEA.
- Bonacker, Thorsten (2005) 'Die Konflikttheorie der autopoietischen Systemtheorie', in Bonacker, Thorsten (ed.), *Sozialwissenschaftliche Konflikttheorien: Eine Einführung*, Opladen: VS Verlag für Sozialwissenschaften, 3rd edition, pp. 267-91.
- Bonacker, Thorsten & Brodozc, André (2001) 'Im Namen der Menschenrechte: Zur symbolischen Integration der internationalen Gemeinschaft durch Normen' *Zeitschrift für Internationale Beziehungen*, vol. 8, no. 1, pp. 178-208.
- Breuilly, John (1985) *Nationalism and the State*, Chicago: University of Chicago Press.
- Buchanan, Alan (1989) 'Assessing the Communitarian Critique of Liberalism', *Ethics*, vol99, no4, pp.852-882
- Burton, John (1990) *Conflict: Human Needs Theory*, London: Macmillan
- Butenschøn, Nils A. (2006) 'Accommodating Conflicting Claims to National Self-Determination: The Intractable Case of Israel/Palestine' *International Journal on Minority and Group Rights*, vol. 13, nos. 2-3, pp. 285-306.

Buzan, Barry, Wæver, Ole & de Wilde, Jaap (1998) *Security: A New Framework for Analysis*, Boulder, CO: Lynne Rienner.

Campbell, David (1998) *National Deconstruction: Violence, Identity and Justice in Bosnia*, Minneapolis, MN: University of Minnesota Press.

Clements, Kevin (1998) 'A Field in Tension: From Alternative Dispute Resolution to Conflict Transformation' in Rosemary Pressis and Geoff Fougere (eds) *Politics, Policy and Practice: Essays in Honour of Bill Willmott*, New Zealand: University of Canterbury

Demetriou, Olga (2007) 'Catalysis, Catachresis: The EU's Impact on the Cyprus Conflict', in Diez, Thomas, Albert, Mathias and Stetter, Stephan (eds), *European Integration and Conflict Transformation*, Cambridge: Cambridge University Press, forthcoming.

Diez, Thomas (2004) 'Europe's Others and the Return of Geopolitics' *Cambridge Review of International Affairs*, vol. 17, no. 2, pp. 319-35.

Diez, Thomas (2005) 'Constructing the Self and Changing Others: Problematising the Concept of "Normative Power Europe"' *Millennium: Journal of International Studies*, vol. 33, no. 3, pp. 613-636.

Diez, Thomas (2006) 'The Paradoxes of Europe's Borders' *Comparative European Politics*, vol. 3, no. 2, pp. 235-252.

Diez, Thomas & Huysmans, Jef (2007) 'Securitizations and Desecuritizations: The Politics of Exception and the Politics of Unease', manuscript under review, Birmingham: University of Birmingham, midas project.

Diez, Thomas, Stetter, Stephan. & Albert, Mathias (2006) 'The European Union and Border Conflicts: The Transformative Power of Integration' *International Organization*, vol. 60, no. 3, pp. 563-593.

Dinstein, Yoram (1976) 'Collective Human Rights and Minorities' *The International and Law Quarterly*, vol.25, No. 1, pp.102-120.

Donnelly, Jack (2001) 'Human Rights' [http:// www.du.edu/gsis/hrhw/working/2005/23-donnely-2005.pdf](http://www.du.edu/gsis/hrhw/working/2005/23-donnely-2005.pdf)

Fetherstone, A. Betts (2000) *From Conflict Resolution to Transformative Peacebuilding: Reflections from Croatia*, Working Paper 4, Centre for Conflict Resolution, University of Bradford

Fisher, Martina (2004) 'Recovering from Violent Conflict: Regeneration and (Re-) Integration as Elements of Peacebuilding' <http://www.berghof-handbook.net>

Fisher, Ronald & Keashly, Loreleigh (1996) 'Potential Complementarity' in *Resolving International Conflicts: The Theory and Practice of Mediation*, Bercovitch, J. (ed), Boulder, CO: Lynne Rienner.

Føllesdal, Andreas & Butenschøn, Nils A. (2006) 'Do Minority and Group Rights Promote Just Stability in Non-Unitary Political Orders' *International Journal on Minority and Group Rights*, vol. 13, nos. 2-3, 141-52.

Galtung, John (1996) *Peace by Peaceful Means*, London: Sage

Glaser, Kurt & Possany, Stefan (1979) *Victims of Politics: The State of Human Rights*, New York: Columbia University Press.

Goodhart, Michael. (2003) 'Origins and Universality of Human Rights Debates: Cultural Essentialism and the Challenge of Globalisation' *Human Rights Quarterly*, vol 25, pp.935-964

Gross-Stein, Janice (1996) 'Image, Identity and Conflict Resolution' in Chester A. Crocker and Fen Olser Hamson, (eds) *Managing Global Chaos: Sources and Responses to International Conflict*, Washington: United States Institute of Peace Press

Gurr, Robert (2000) *Peoples Versus States: Minorities at Risk in the New Century*, Washington: United States Institute of Peace Press

Hamm, Brigitte (2001) 'A Human Rights Approach to Development' *Human Rights Quarterly*, vol. 23, pp. 1005-1031

Henkin, Luis (1990) *The Age of Rights*, New York: Columbia University Press

Howard, Rhoda (1992) 'Dignity, Community and Human Rights' in Na'im, A. (ed) *Human Rights in Cross-Cultural Perspective: A Quest for Consensus*, Philadelphia, PA: University of Pennsylvania Press.

Huysmans, Jef (1998b) 'Revisiting Copenhagen; or, On the Creative Development of a Security Studies Agenda in Europe' *European Journal of International Relations* vol. 4, no. 4, pp. 513-39.

Jabri, Vivienne (1996) *Discourses on Violence: Conflict Analysis Reconsidered*, Manchester: Manchester University Press.

Kamminga, Menno (1992) *Inter-State Accountability for Violations of Human Rights*, Philadelphia: University of Pennsylvania Press

Lederach, John Paul (1997) *Building Peace: Sustainable Reconciliation in Divided Societies*, Washington, D.C: United States Institute of Peace Press.

Lijphart, Arendt (1977) *Democracy in Plural Societies: A Comparative exploration*, New Haven: Yale University Press

Manners, Ian (2002) 'Normative Power Europe: A Contradiction in Terms?' *Journal of Common Market Studies*, vol. 40, no. 2, pp. 235-258.

McGoldrick Dominic (1991) *The Human Rights Committee: Its Role in the Development of the International Covenant on Civil and Political Rights*, Oxford: Clarendon Press

McSweeney, Bill (1996) 'Identity and Security: Buzan and the Copenhagen School' *Review of International Studies* vol. 22, no. 1, pp. 81-93.

McSweeney, Bill (1999) *Security, Identity and Interests. A Sociology of International Relations*, Cambridge: Cambridge University Press. Miall, Hugh, Ramsbotham, Oliver & Woodhouse, Tom (1999) *Contemporary Conflict Resolution*, Oxford: Polity.

Miall, Hugh (2004) *Conflict Transformation: A Multi-Dimensional Task*, Berghof Research Centre for Constructive Conflict Management, <http://www.berghof-handbook.net>

- Miall, Hugh, Rambotham Oliver, and Woodhouse Tom (1999) *Contemporary Conflict Resolution*, Cambridge: Polity Press
- Minear, Larry and Weiss, Thomas (1995) *Mercy Under Fire: War and the Global Humanitarian Community*, Boulder: Westview Press
- Mitchell, Cristopher & Banks, Michael (1996) *Handbook of Conflict Resolution: The Analytical Problem Solving Approach*, London: Pinter
- Newman, Edward (2002) ‘Transitional Justice’: The Impact of Transnational Norms and the UN, *International Peacekeeping*, vol. 29, pp.31-51
- Newman, David & Yacobi, Haim (2007) ‘The EU and the Israel-Palestine Conflict’, in Diez, Thomas, Albert, Mathias and Stetter, Stephan (eds), *European Integration and Conflict Transformation*, Cambridge: Cambridge University Press, forthcoming.
- Osaghae, Egosa (1996) Human Rights and Ethnic Conflict Management: The Case of Nigeria, *Journal of Peace Research*, vol. 33, No. 2, pp.171-188
- Parech, Bhikhu (1999) Non-ethnocentric universalism in Tim Dunne and Nicholas J. Wheeler (eds) *Human Rights in Global Politics*, Cambridge: Cambridge University Press
- Reimann, Cordula (2004) Assessing the State-of-the-Art in Conflict Transformation, Berghof Research Centre for Constructive Conflict Management, <http://www.berghof-handbook.net>.
- Risse, Thomas, Ropp., Stephen & Sikkink, Kathryn (eds) (1999) *The Power of Human Rights: International Norms and Domestic Change*, Cambridge: Cambridge University Press.
- Roe, Paul (2005) *Ethnic Conflict and the Societal Security Dilemma*, London: Routledge.
- Rupesinghe, Kumar (1998) *Civil Wars, Civil Peace*, London: Pluto
- SHUR (2006) *Human Rights in Conflicts: The Role of Civil Society*, Project contract, Technical Annex, February 2006, Rome: LUISS.
- Smith, Anthony D. (1986) *The Ethnic Origins of Nations*, Oxford: Blackwell.
- Stammers, Neil (1999) ‘Social Movements and the Social Construction of Human Rights’ *Human Rights Quarterly*, vol. 21, no 4, pp. 980-1008
- Stavenhagen, Rodolfo (1992) ‘Universal Human Rights and the Cultures of Indigenous People and other Ethnic Groups: The Critical Frontier of 1990’s’ in Eide, A & Hagtvedt (eds), *Human Rights in Perspective: A Global Perspective*, Oxford: Blackwell
- Thio, Li-Ann (2003) ‘Developing a ‘Peace and Security’ Approach Towards Minorities’ Problems’ *International and Comparative Law Quarterly*, vol. 52, pp. 115-150
- Tolley, Howard (1987) *The U.N. Commission on Human Rights*, Boulder: Westview Press
- Tomasevski, Katarina (1995) ‘International Development Finance Agencies’ in Asbjorn Eide, Catarina Kaue and Allan Rosas (eds) *Economic, Social and Cultural Rights: A Textbook*, Dordrecht: Martinus Nijhoff

United Nations (1948), *The United Nations Declaration of Human Rights*, General Assembly resolution, 217A (III), 10 December.

Wæver, Ole (1995) 'Securitization and Desecuritization', in Lipschutz, Ronnie D. (ed.) *On Security*, New York: Columbia University Press, pp. 46-86.

Wæver, Ole (1996a) 'European Security Identities' *Journal of Common Market Studies*, vol. 34, no. 1, pp. 103-32.

Wæver, Ole (1996b), 'Europe's Three Empires: A Watsonian Interpretation of Post-Wall European Security' in R. Fawn & J. Larkins (eds), *International Society after the Cold War*, Basingstoke: Macmillan, pp. 220-260. Williams, Michael C. (1998) 'Security and the Politics of Identity' *European Journal of International Relations* vol. 4, no. 2, pp. 204-25.