

SHUR Working Paper Series



Conflict and Human Rights: A Gender Analysis

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SHUR WP 2/07
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**

With the end of the Cold War and the recrudescence of ethnic conflicts throughout the world, the focus of conflict studies has shifted from realist paradigms to a more complex and multifaceted way of understanding war, introducing variables previously underplayed, such as gender and race. Feminist scholarship, moreover, has expanded to the domain of international relations; until very recently highly resistant to gender as an explanatory tool for inter state relations and conflict. It is widely, if still insufficiently acknowledged therefore that gender is a key variable for explaining, understanding and ultimately transforming armed conflict. Gender is also a key dynamic for the intersection between understanding and halting conflict, defining and securing human rights in conflict situations, as well as postulating and explaining the role of civil society in the context of war. Gender, therefore, is a productive analytical lens within the SHUR project, building theoretical and empirical bridges between the three pillars of this endeavour: conflict, human rights and civil society.

In the analytical paper that follows a definition of gender for the purpose of SHUR will be formulated with particular attention to the interdependence between this key marker of identity and the definition of conflict in the Diez and Pia paper. A problematisation of the three main approaches to halting conflict, management, resolution and transformation from a gender perspective will follow, providing a literature review of feminist critique of these frameworks. A contextualisation of ethno-political conflicts with regards to gender will be discussed, stressing the importance of gender in the very construction of *ethnie* and the symbolic role of women's bodies as markers of ethnic borders. A review of the literature on gender and human rights and conflict will then be presented, teasing out critical issues and mapping out gender concerns on two key debates, the cultural relativism debate and the individual vs group rights question. The relations between human rights conflict and civil society will be finally analysed, exploring the different hypothesis presented by Diez and Pia.

Gender and Conflict: Definitions

Gender has been theorised by a number of different schools of thought, liberal, Marxist, postmodern, and many others. Definitions of gender, therefore, vary considerably depending on the emphasis placed on different issues, political, socio-economic, racial and geographical.

For the purpose of this paper gender will be defined as a *set of norms and practices constructed in a specific location and time, shaping individual, symbolic and structural subjectivities (Reiman 2002), and constructing and governing hierarchical relations of power within political communities*. This definition raises a number of key issues. Norms and practices encompass socially accepted constructions of masculinity and femininity (Connell, 2001), that permeate individual and collective identities as well as social spaces. Gender constructs subjectivities (Butler, 2005) on an individual, symbolic and structural level (Reiman, 2002). It shapes individual identities and it is also symbolically mapped out on a set of binary oppositions e.g. public-private masculine/feminine, culture/nature, rational/emotional, mind/body, formal/informal etc and on an institutionally sanctioned sexual division of labour. At a structural level gender legitimises a web of power relations based on these dualism (Reiman, 2002). Masculinity and femininity as structures of social practice (Connell, 2001) exist in hierarchical relations of power, with each other and also within. There is not one but multiple femininities and masculinity hierarchically ordered on a spectrum, whose apex can be defined as a hegemonic or dominant masculinity/femininity.

Both the horizontal, individual to collective, and vertical, devalued to hegemonic, dimensions of gender are key to the intersection of gender with conflict. Diez and Pia define conflict as “the incompatibility of subject positions”; conflict becomes violent as a consequence of a securitisation move, consisting in the positing of the Other as an existential threat to the subject. In Diez and Pia’s understanding, securitisation is mainly a discursive practice. As it happens, subject positions as well as securitisation are highly gendered discourses.

In the context of conflict, gender is a marker of subjectivity and a subjectivity that is constructed and mobilised to perpetuate the war effort. It has been widely documented (Goldstein, 2001) that in the context of conflict a strict division of sexual labour is enforced, and strong, highly dichotomic understanding of femininity and masculinity becomes hegemonic.

Securitisation is therefore also the mobilisation of hegemonic understanding of gender, which are enforced on individual, symbolic and structural levels to sustain the war effort. Gendered dichotomies, self and enemy; masculinity femininity, “just warrior” “the beautiful soul”(Elhstain 1987), contribute to postulate the Other as an existential threat.

In a society mobilised for conflict the blurring of gender identities is seen as an existential threat and securitisation implies a hardening of the gender borders, as well as repression of non hegemonic masculinity and femininity. Hegemonic genders are necessary to sustain the conflict itself. The warrior, the conflict’s hegemonic masculinity, is a “male identity” (Karner 1998) shaped by purging, on an individual, symbolic and structural level, typically feminine characteristics, such as compassion, feeling and forgiveness. Conversely securitised femininities relegate women to the role of cheerleaders, home makers and more crucially physical and symbolic reproducers of the nation. In women the existential threat posed by the Other becomes embodied. So called “deviant” models of femininity and devalued masculinities, warrior women, homosexuals and conscience objectors are demonised and constructed as the enemy within (Kesic, 1999), as the blurring of the masculinity-femininity binary implies the blurring of the Self-Other binary at the root of the securitisation.

The rigidity of discursively constructed gender identities which sustain securitisation moves does not negate *a priori* a conflict’s potential to bring about gender change, even progressive gender change. When patriarchal societies, where women are often confined to the private sphere, are subject to the strain of war, women trespass into the public space, becoming breadwinners and heading households. They actively invade masculine domains and gain durable independence. The world wars, for example have been a catalyst for women’s mass entry in the workplace and feminist struggles in Europe and The United States.

The likelihood of conflict to advance the rights of women and alternative sexualities in a given society is a key question for the SHUR project, and in order to understand which conflicts, and most importantly which models of conflict resolution bring about gender change an analysis of the literature on gender, conflict management, resolution and transformation is useful.

Gender and Conflict Management, Resolution and Transformation

In its attempts to bring gender on the agenda of the understanding and practice of conflict, feminist scholarship has engaged with the three main schools of thought on conflict change, management, resolution and transformation.

The conflict management school of thought and practice, which refers intellectually and practically to realist and state centred international relations theories has been the target of feminist critique. Realist theories of war understand conflict as inherent to the international state system (Waltz, 1959) and constituted essentially by the clash of interests and power struggles. According to conflict management theories interests are negotiable according a rational choice model.

From a gender prospective, realist understanding of war and the practice of conflict management are problematic. Firstly, in realist theory the social, economic and cultural dimensions of conflict situations are underplayed, and gender mostly ignored, offering therefore a one-dimensional and reductionist understanding of the key factors in a conflict. Secondly, the concept of interest is unproblematically posited, with the assumption that the most important interest is the aggregated interest of the state. This interest is often linked to patriarchal, racist and exclusionary power relations which do not reflect the interests of women, devalued femininities and ethnic minorities, who play a key part in conflict but are excluded from the analysis. These subjects are often only identified as victims and or “beautiful souls”, never as interest holders, brokers and active shapers and interested parties in conflict. In the practice of conflict management, since women and sexual minorities interest are unacknowledged in negotiations, gender concerns and struggles are never on the agenda of the conflict management process resulting in immobility or even regression of gender equality in the post conflict phase. Gender concerns (e.g. the legal status of women in the context of say Sh’aria law) are ignored and some times even sacrificed to reach an agreement. Whose interests are accommodated and whose negated within this kind of settlement is insufficiently analysed with in conflict management theory.

Equally gender-blind are rational choice theories, where a certain understanding “rationality” posited as universal and unchanging hides a strong white, male, middleclass bias.

Women and men, heterosexual and homosexuals, racial minorities and different social classes may have different interest and different understanding of what is “rational” to them, in relation to their interests. The binary, male, female, mind-body, nature-culture, returns in the concept of rationality, where the rational, the mind erases the body from the theoretical concept of conflict management. Within a war context, bodily experience is strong, as women’s and also men’s bodies are constantly signified and trespassed, armed, disarmed, wounded, raped, killed, in parallel with the body of the society, of the state and/or group involved in the conflict. Rational game theory eschews this key bodily dimension and is therefore significantly hampered in explaining and resolving this important factor of conflict.

Conflict Resolution approaches are more nuanced than management but still present some problems under a gender perspective. Conflict resolution theorists, such as Burton, base conflict not in interests, but in needs, which are ontological and inherent to human nature. Feminist scholars have argued, that if this approach deepens the understanding of social, economic, political aspects of conflict, but its still problematic because it remains essentially gender blind (Reiman, 2002). Burton understands needs as an ontological given, not as a social construction, therefore negates the possibility of difference and change between and within gender identities which are essentially social constructs. Needs are therefore a-historical, invariable and universal according to Burton and so is their hierarchy. But gender, race, class, ethnicity, location inevitably shape needs and wishes whose deprivation triggers securitisation moves. Reiman, moreover, argues that Burton’s choice of essential need carries a strong male, white, middle class bias which may not reflect at all the needs of groups such as women within a conflict. Material needs are underplayed in Burton’s analysis, and the body, site of the most acute physical and psychological suffering within conflicts are absent, therefore reducing the potential of conflict resolution to progress gender concerns and bring durable peace.

Conflict transformation approaches are more promising from a gender perspective, for their understanding of hostilities as catalyst for change, a change that is towards a more peaceful, freer and more equal society. The identification of latent, or underlying conflict in structural inequalities present in a given society, points towards ethnic, gender and class inequalities that can be at the root and exacerbate the conflict and hamper peaceful settlement. Progressive gender

change can be achieved and contribute to peace in post conflict society, if gender injustice, as well as social injustice is addressed in the conflict resolution and de-securitisation is gender aware and gender sensitive.

Gender and Ethno-political conflict

Gender is a key variable in the analysis of ethno-political conflicts as it plays a key part in the discursive construction and border policing of ethnicities and nationalities. Ethnos is described as a reference to a common language, culture, religion, race and mythic ancestry, a strong sense of belonging and more often than not rigid criteria for membership. These criteria are not neutral or structural; they are histories and discourses of gender which often are mapped out on women's bodies, in times of peace and most particularly in times of war. In contemporary western society, minority groups have often claimed rights on the base of their ethnicities. Pharek's analysis of these claims as well as of the main reason of clash between majority and minority cultures, shows that the vast majority of clashes between different ethnicities rotate around gender issues such as regulation of women's clothing, exogamy or endogamy within the group and the rights of women themselves (Pharek 2001). The woman's body becomes the living border that separates the ethnic group from the rest, that defines membership and exclusion, Self and Other. This power of regulation that is not to be left to women themselves but appropriated by the cultural leadership, which is ubiquitously male dominated.

In the context of war, as borders of the ethnic group harden, women's bodies and gender becomes an even stronger marker of identity and essential to the survival of the group itself. When ethnic struggles are aimed at self determination as a nation women come to embody and reproduce the nation itself, as well as the aspiration to nationhood. It is useful to quote two powerful illustrations of the importance of gender in the construction of ethnicities and the sustaining of ethnic-nationalist struggles, wartime demographic policies and the use of rape as a tool of ethnic cleansing as well as the jurisdiction of rape in war contexts.

Demographic policies are integral part of ethno-nationalist struggles and the socialisation-coercion of women and compulsory heterosexuality is planned and implemented at a political level to assure the reproduction of the ethnic group. Demographic policies in the State of Israel have been in place almost since the foundation of the state in 1948, the fear of demographic

annihilation is a constant haunting in the Israeli conscience and it plays a key role in constructing the enemy, the ever growing Palestinian population, as an existential threat (Jacobi 1999). The demographic policy of the Palestinian national aspiration is equally aggressive, with the Gaza strip sporting the highest population growth in the world and an ever increasing pressure on Palestinian women both in the territories and in refugee camps to bear sons for the struggle, to annihilate Israel. Women on both sides therefore are fetishised as reproducers of the ethnicity/nation and their wombs are appropriated and mobilised for the political struggle.

Rape is the other strong signifier of the role of women as embodied signifiers of ethnicity and nationality. It is by no means a coincidence that rape has been object of attention and legislation in recent years following the explosion of ethnic conflicts. Rape is a widespread tool in all kind of wars, as raping the enemy's women is a symbolic castration, a marker of a warrior's failure to protect his home and country (Cockburn and Zarkov, 2004) . In the context of ethnic conflict rape becomes an even stronger marker of emasculation and an existential threat to the very ethnic group. Rape camps and forced impregnation as seen in Bosnia and Rwanda, to quote two of the many recent ethnic conflict, were widespread means to annihilate the other group, insinuating in the ethnic group the seed and children of the enemy and/or destroying the enemy's capacity to reproduce itself. The exclusion of women raped by the enemy from the polity, in former Yugoslavia and Africa, further highlights women's role as physical reproducers and policed borders of membership for the group. If the mans seed identifies the ethnos, as in all patriarchal societies, it is the woman's body who physically carries it and bears the brunt of securing the border between I and Other, friend and enemy, life and death. Ethnic wars are literally fought over women's bodies.

International legislation has as a consequence of ethnic conflicts, come to grant to rape the status of crime against humanity. As previously stated rape is old as war itself, but it is by no means casual that when rape was used systematically to erase the ethnos, the group, the nation, it became worthy of juridical attention. In this light rape in war is a collective crime against the group, against the ethnos, not the violation of an individual right. Women are mere carriers of the ethnos itself, its fetishised, physical borders. It is unsurprising therefore that rape perpetrated by peace keeping forces in Kosovo and other post conflict areas (Witworth 2004) have escaped international tribunals, as this rape is considered less threatening to the ethnos, and it is perpetrated traditionally by the conqueror. The jurisdiction of rape as a collective human right

violation is problematic and points to the relevant debate on individual and collective rights crucial to the question of human rights in conflict.

Gender and Human rights

The literature on gender and human rights is extensive and reveals a complex yet productive relationship between feminism and human rights' formulation and promotion. Feminists of all school of thought, liberal, Marxist, post-modern, have critiqued human rights formulation and histories, yet have ultimately retained the framework of human rights as a useful tool of progressive gender change.

The feminist critique has been mostly centred on the issue of supposed universality and male bias. Human rights, as formulated by the 1948 Universal Human Rights Declarations are supposedly universal, but they reflect, according to feminist scholars, a white, middle class male understanding of humanity and rights. Both political and civil rights, as well as economic and social rights design a juridical space which is eminently public, failing to unpack the private space, traditionally inhabited by women, and leaving unchallenged relation of power within the family unit and society at large. In social and economic rights, women's role as reproducers and informal labour in child rearing is unacknowledged, and in the civil and political charter sexual and reproductive right are underplayed.

Feminist activism has used the human rights framework to specify the needs and rights of women, notably with the Convention for the Elimination of all Discrimination Against Women (CEDAW) convention, signed in 1979. CEDAW has been critiqued however its racial and class bias and its lack of relevance for women coming from marginalised communities, ethnic minorities and women in developing countries. Feminist activists from the South have critiqued human rights from a cultural perspective as well as from a gender one, claiming that rights as they are enshrined by international legal documents are irrelevant to their difference, to their location within particular power relations within their community and within the international arena.

Despite these criticisms however women activists, in different locations have retained the human rights framework as a tool for political change, stressing that is the notion of humanity can be reclaimed by traditionally excluded identities. The main issue with the current formulation of

human rights, is that the status of “human” excludes the Other, women, sexual and racial minority, whose disadvantaged position in a patriarchal and racist society denies them the right to humanity, therefore the fruition of rights as well as the possibility to shape them according to their particular needs (Butler, 2005). It is the notion of “human” that has to be exploded and radically democratised to allow for women and other marginalised groups to participate in the transformative potential of human rights.

This conceptualisation of rights is not only open to gender and race re-signification, it also opens important perspectives for the likelihood of human rights in transforming conflict. Securitisation relies on the discursive construction of the Other as an existential threat, in other words in the de-humanisation of the enemy. The extension of the concept of human to the Other, therefore, is potentially transformative, as it implicitly counteracts the securitisation move.

The democratisation of the concept of human, helps feminist scholarship to reclaim human rights and reclaim a problematised yet more critical universalism. The other key debate in the context of human rights discourse and gender analysis of human rights frameworks is the debate on individual vs group rights. Both human rights and feminism are built on a productive if problematic tension between the individual and the collective. Feminism in particular strives for the rights of a disadvantaged community “women”. If human rights are understood essentially as group rights however, feminism can incur in a number of risks. The debate on multiculturalism and feminism has strongly proved this. If the rights of a cultural minority group are upheld, the right to culture of the group can trump the rights of individuals, in particular if they are women or homosexuals. It follows that if gender rights are a collective category, the collective conceptualisation of rights often trumps the rights of the individual woman or of the homosexual, given his specific location in the power gradient of a particular political collectivity.

Our definition of gender as an individual, symbolic and structural marker is useful as however, points towards interdependency of levels, individual collective and structural, allowing a partial resolution of this dilemma, anchoring of the right of a particular category to the individual. Progressive gender level therefore is anchored in the individual human, but translates to the symbolic and structural level bringing about sustainable change.

The anchoring of rights in the individual gender identity is important to avoid the impugnation of human rights as a pretext for securitisation moves, as it happens in rape cases and

recentres the focus of conflict transformation on changing in a humanitarian sense conception of the “Self” and the “Other”.

The relation of human rights and conflict from a gender perspective, the transformative potential of civil society in affirming gender rights.

The invocation of group rights that can be mobilised for securitising moves within conflict. Group rights therefore have to be articulated in a way that does not represent the other as an existential threat, in a way that attributes to the other the status of “human”. The recognition of the Other, and the Other within the group as a human entitled to rights is key to preventing the exploitation of group rights for securitisation purposes. In the particular context of gender this is evident. Until mass rape is considered and legislated as a violation of an ethnic group right, rather than a crime against the gender, both on an individual, symbolic and structural level, of an individual woman and/or man (Cockburn and Zarkov, 2004), rape will be mobilised as a further reason to fight against a threat of annihilation. Until women and feminised subjects will be considered less than human, and reproductive self determination un-upheld, the group right will be used to justify further violence.

We have postulated that the institutionalisation of human rights may prevent conflict. The institutional recognition of gender rights as human rights, and of previously de-humanised subjects as human can halt the securitisation process. Institutionalisation, to be transformative and effective has to ultimately challenge and tackle relation of power latent to the conflict, such as gender and racial discrimination in individual, symbolic and structural level. In other words to be relevant this institutionalisation has to be embedded in local realities and has to listen to the human need as defined by the bearer, individually, symbolically and structurally. The mainstreaming of gender in all EU activities, in particular with regards to gender is an encouraging step.

In this context civil society organisations play a key role in articulating the embedded ness of gender needs and making women and feminised subjects heard within the transformation of

conflict. The following paper on civil society will further specify the scope in which civil society can be transformative of a conflict society towards gender equality.

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