Protecting Human Rights and Building Peace in Post-Violence Societies

The present monograph by Dr. Nasia Hadjigeorgiou, which is the end-result of a PhD thesis at King's College, tackles a particularly important topic, namely, the contribution of human rights to peacebuilding operations. While human rights protection is an important parameter for the successful construction of peace after a protracted conflict, its actual impact is not always well understood. As a result, the failure, in some instances, of human rights to ultimately promote peace has been almost always recast as a failure to implement enough human rights policies. Instead, as the author pertinently observes, this failure might be due to the lack of nuance in our understanding on how and when human rights policies can really help peacebuilding efforts.

On that basis, the author, an Assistant Professor in Transitional Justice and Human Rights at the University of Central Lancashire in Cyprus, embarks upon a detailed analysis of the ways human rights contribute to the embeddedness of peace in post-violence societies, while also elucidating the necessary conditions for increasing the effectiveness of human rights policies to that effect. He study is based on an interdisciplinary methodology, as presented in the introduction and applied throughout the book, linking law to peace studies, political science, conflict resolution and social sciences, in general. Dr Hadjigeorgiou selects case studies from four post-violence societies (South Africa, Bosnia-Herzegovina, Cyprus and Northern Ireland), that is, societies where hostility is directed to individuals because of their membership to a specific (ethnic, religious, racial etc) group, illustrating how similar human rights policies render different outcomes in those societies. In doing so, the author offers a rich and complex image concerning human rights and peacebuilding, providing a dense analysis and highlighting the multiple factors that should be taken into account for human rights to effectively advance peace.

The book can be separated into two parts, a first, more theoretical one that consists of Chapters 2 and 3, while the four subsequent chapters confirm the theoretical

conclusions with the help of examples drawn from the case studies. Chapter 2 attempts to formulate a multi-level definition of peace. The author starts from the assumption that current accounts of peace are insufficient. She argues that the understanding of what peace implicates is either too practice-oriented, focusing on easily measured indicators (violence reduction or free elections) and the presence of competent institutions, or too vague and idealistic in the mold of the abstract doctrine of "positive peace". Instead, the book proposes a three-fold definition of peace that encompasses the elements of security, justice and reconciliation. The author then shifts her attention to the content of those terms. Security is narrowed down to the more tangible protection from physical threats. In contrast, the concept of justice is not restrained by the traditional "transitional justice" paradigm with its insistence on the institutionalized punishment of the most violent crimes or its anything-goes expansion. Instead, the author argues that different legal tools might remedy injustices. Finally, reconciliation is defined as meaningful cooperation (not absolute harmony or sheer co-existence) at the personal and political levels. Reconciliation encompasses the non-dehumanization of the opponent, as well as the willingness of all sides of the society to cooperate. In the end, Chapter 2 on the definition of peace is more conceptual than theoretical, though it ensures that more informed decisions about how to achieve the goal of peace will be reached by peacebuilders.

Chapter 3 turns to the crux of the matter, namely the relationship between human rights and peace. The author sheds light to the elliptical analysis of that relation in past studies concentrating exclusively to adjudication and legislation and pleads for a more comprehensive framework on the ways human rights can contribute to the building of peace. Dr Hadjigeorgiou, firstly, constricts her argument to legal human rights (excluding from the study's remit moral human rights), which translates into an increased focus on legal institutions and remedies. Within such legal human rights, she prioritizes civil (and political) rights (right to property, right to vote etc) and leaves out group rights, putting instead emphasis on individual ones. The restriction of the study's field, while based on pragmatic considerations related to the current focus of peacebuilding efforts, is to be regretted since socio-economic rights play a crucial role in the reconstruction of post-violence societies.

Next, the author highlights how current work on the way human rights contribute to the various facets of peace, namely security (police reform), justice (remedies) and reconciliation (truth commissions), is more intuitive than factually founded. This weakness is at the heart of the author's endeavor to offer a new framework on the

relation of human rights and peace. Before doing that, however, the author clarifies the term conflict, not anymore as the factual context that preceded the peacebuilding effort, but as the disagreements arising throughout that process and where human rights intervene in order to consolidate peace (p. 56-61). The author defines conflict as an incompatibility of goals, as an empirical phenomenon and a psychological state of affairs. Thus, human rights must strive to resolve such conflicts in fact and according to people's perceptions.

The last part of this chapter unfolds the multi-faceted role of human rights in building peace. One relevant strategy is to influence legislation, since the latter is deemed a more transparent means for human rights implementation, ensuring a broader perspective and better timing in dealing with conflict, a more effective monitoring of measures taken and greater visibility. A second strategy is through the resolution of conflicts in the courtroom, especially when divisive conflicts have paralyzed a power-sharing post-conflict governance scheme. Human rights infuse legitimacy to court pronouncements and human rights adjudication enhances security, pays tribute to the equality of the opposing parties and contributes to a more effective communication of the change brought by courts. Finally, a third, complementary strategy is to pay attention to public perceptions in the framework of peacebuilding operations. There, human rights can give voice and a legitimate vocabulary to the victims, ease identity tensions and provide remedies that impact on socio-economic conditions.

Ultimately, this Chapter paints an extraordinarily complex image on human rights contribution to peace, one that – though not easy to systematize and deliver to the reader – better reflects reality. While some of the analysis is repeated in the subsequent chapters, Chapter 3 is an indispensable part in the author's reconstruction of the human rights-peace relation.

Chapters 4 to 6 lay out how the presented goals/strategies are applied with reference to the four aforementioned case-studies. Chapter 4 analyzes how human rights have been applied through means of adjudication. The author invokes example concerning political and property rights in post-conflict societies in Cyprus, BiH and South Africa; the prohibition of discrimination in the workplace in the case of BiH; and state obligations to investigate loss of life or enforced disappearances in Cyprus and Northern Ireland. Dr Hadjigeorgiou asserts that there are three main parameters that determine the successful contribution of human rights to peacebuilding through adjudication: (a) the nature of the conflict; (b) the type of court; (c) the passage of time.

With regard to the nature of the conflict, the author proceeds to a not always easily discernible distinction between minor and fundamental conflicts.[1] She persuasively establishes that minor conflicts are more easily resolved by courts, which should be strengthened and made more accessible to that effect. Instead, fundamental conflicts reflecting major disagreements on the basic traits of post-violence societies are not successfully resolved by courts, which are equally unwilling to do so, because they suffer institutional limitations and can neither confront the systemic aspects of such cases nor adopt remedies that require general reforms. The author focuses, subsequently, on the type of courts that should enforce human rights in a post-violence context, distinguishing between domestic and international courts on the basis of three features (legitimacy, enforcement capacity and interpreted document) and advocates for a combined use of both paths. Finally, she highlights the importance of timing for human rights adjudication, arguing that, when there is no agreement, judicial intervention should be sought sooner than later and vice versa. In the latter scenario of a concluded peace agreement, the delayed intervention of courts reduces the danger of politicization, allows to take stock of the agreement's implementation up to that point and encourages judicial activism towards the successful resolution of the conflict.

Chapter 5, on its part, examines how human rights protection can be legislated and enforced with a view to promoting objective peace. The author insists on three crucial parameters: political willingness to do so; the effective drafting of the relevant human rights law; and the extent of the competent bodies' enforcement powers. She reaches the conclusion that, firstly, some willingness by local political elites or partial compliance might foretell the eventual failure of the reform. Secondly, she asserts that any piece of legislation should clearly aim at promoting peace (and state so) and its content should reflect that objective. Thirdly, she stresses the importance of creating monitoring bodies that (a) are independent, (b) have the necessary powers to guide throughout the implementation stage and enforce the law, (c) have a clear strategy on how to fulfill the laws and (d) have been granted the resource and the expertise to do so. Equally crucial is the involvement of the international community -which should be light-touch to avoid accusations of foreign interference and the weakening of local ownership, as well as the participation of civic society to the legislative process, so as to pressure hesitant politicians, provide technocratic expertise and give voice to the

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[1] For instance, a dispute over the interpretation of a statute is not necessarily a minor one, as the example of evictions on the basis of "racially discriminatory law and practices" in SA illustrates (p. 90).

private grievances of individuals. The author's analysis when applying those elements to the case-studies is at its finest, whether concerning electoral rights in Cyprus or BiH, or juxtaposing legislative drafting in BiH, South Africa and Northern Ireland, or, further, when comparing the traits and powers of monitoring organs in South Africa or Northern Ireland.

Last but not least, Chapter 6 examines whether human rights can promote and protect subjective perceptions of peace. The author insists that human rights constitute a vocabulary that allows the articulation of a plight, the official acknowledgment that a response is due, and the provision of a remedy as a strong message for the eradication of past injustices. The author's analysis goes, however, beyond the semiotics of the human rights vocabulary, emphasizing the need for human rights vocabulary to be accompanied by meaningful change and be perceived as bringing change by the people. She eloquently showcases how the right to return of the displaced population in BiH did not ensure integration and social justice or how the right to truth and return of those missing in Cyprus remained unfulfilled in the consciousness of Cypriots, because the perpetrators were not simultaneously held accountable. Furthermore, such public perceptions are, according to the author, inextricably linked (a) to the existence of a climate that supports reform, (b) to awareness about human rights institutions and their work, (c) to an understanding that a genuine attempt for reform is made and (d) to institutions that are trusted as legitimate. Additionally, changes towards a mixed (international-national) composition of the peacebuilding team and the adoption of a communication strategy that cuts both ways, informing the public but also allowing for the reception of the public's feedback by the peacebuilders, are important for embedding subjective feelings of peace.

Chapter 6 is undoubtedly the most challenging for the author as it deals with subjective perceptions and its line of argumentation is not always easy to grasp. The reference to the Historical Enquiries Team (HET) in Northern Ireland, for instance, is more appropriate as an example where the competent organ fails to deliver the sought policy, rather than an example where a human rights policy towards peacebuilding is fully there but specific contextual elements prevent the creation of the respective subjective feelings. In contrast, the Demopoulos case of the ECtHR is very pertinent for the author's line of reasoning as the Strasbourg Court clearly failed to reassure the applicants about the fairness of the procedure established by the Immovable Property Commission.

All in all, the book offers a multi-faceted and nuanced picture on the role of human rights in peacebuilding and the requirements for its successful contribution to it. The minutiae analysis and the interdisciplinary methodology employed by the author further enrich her work. The conceptual contemplations are well supplemented by multiple case-studies drawn from the four historical examples, showcasing her impressive research and her masterful grasping of the subtleties relating to each post-violence society analyzed in the book. Thus, this publication constitutes an important and original addition to the study of human rights in building peace and a welcome analysis of why BiH, South Africa, Northern Ireland and Cyprus succeeded in some aspects and failed in others in their long road towards reconstructing their post-violence societies and promoting peace.

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