

# HUMAN RIGHTS FOR PEACEBUILDING



SOCIAL  
JUSTICE  
CENTER

# Human Rights for Peacebuilding

Social Justice Center

Tbilisi, 2021

The article is prepared within the project “Supporting the positive transformation of peace politics through research and advocacy” supported by the Heinrich Boll Foundation Tbilisi Office. The views expressed in the article belongs to the author and may not reflect the views of the Heinrich Boell Foundation Tbilisi Office.

**Author: Teona Piranishvili**

**Supervisor: Tamta Mikeladze**

**Translation in English: Nika Arevadze**

**Design: Salome Latsabidze**

It is forbidden to reprint, copy or disseminate given materials for commercial purposes, without the written consent of the Organization.

© Social Justice Center

Address: I. Abashidze 12b, Tbilisi, Georgia

Phone: +995 032 2 23 37 06

<https://socialjustice.org.ge/>

[info@socialjustice.org.ge](mailto:info@socialjustice.org.ge)

<https://www.facebook.com/socialjustice.org.ge>

## **Introduction**

Conflict transformation is a relatively unfamiliar and less accepted concept in our society and political field. Moreover, it can often invoke ambivalent attitudes due to the fear that it prevents, hinders, or delays conflict resolution. However, the analysis of the scholarship studying this concept and its practical application reveals that conflict transformation is a peacebuilding process that approaches conflict resolution through systemic and sustainable methods. This process is of critical relevance with respect to serious social conflicts where simple solutions to conflict resolution are absent and the parties to the conflict maintain radically antagonistic attitudes for an extended period. Conflict transformation is a crucial process when human relationships, political agenda, institutions, safe spaces, and peaceful coexistence need to be rebuilt due to painful experiences of the conflict. This is a multi-layered process that entails the building of a common agenda among the parties to the conflict based on security, welfare, and shared interest of the cooperation in different fields. Conflict transformation aims to structurally change perceptions and attitudes among the parties and, as a result, creates the prerequisites for peacebuilding and a long-term resolution of the conflict. Human rights have a critical role in this process, especially while analyzing the close links of their protection to the origins and the results of a continuous conflict.

In Georgia, the absence of a long-term vision and policy for conflict transformation and peacebuilding is accompanied by a regressive situation in terms of security and human rights protection. Particularly, as conflicts have acquired an international dimension and fall under the political and legal scope of non-recognition, visions and strategies of peacebuilding appear to have disappeared from the agenda. Superficially created Strategy on Engagement and its Action Plan did not prove to be an effective instrument for achieving its actual goals and enhancing humane and humanitarian dimensions in the process of conflict resolution. In light of the existing critical crises which exacerbate daily lives and human rights conditions on the occupied territories and surrounding areas, effective incorporation of human rights into peace politics is of critical importance. The situation in the regions affected by conflict points primarily to the necessity of using emancipatory ideas of human rights as a catalyst for peacebuilding and positive transformation of conflicts. This article aims to briefly analyse the role of human rights in conflict transformation, their multidimensional importance, and diverse areas of their practical application. It is an attempt to explore the potential of human rights in the context of peaceful conflict transformation.

### **What does Conflict Transformation Entail?**

Scholars have found different explanations for the origin of a relatively new concept of conflict transformation in the literature and practice of the peace and conflicts field. One group of scholars believe that the creation of the concept of “transformation” has been facilitated by erroneous and often unethical understanding/application of “conflict resolution” which implies that one party wins/loses, and entails revenge, economic sanctions, forceful recognition, and acceptance of a resolution method which is

proposed and dictated by others.<sup>1</sup> Another group of scholars links the emergence of this new concept to narrowing the complex process of conflict resolution in practice down to mediation and other methods of conflict resolution which resembles a manipulative, artificial search for a solution that does not entail the analysis of root causes and a gradual transformation into a peacebuilding process.<sup>2</sup>

According to another explanation conflict transformation developed because certain social conflicts became continuous and resolution instruments, such as mediation, facilitation, negotiation, and other methods, appeared insufficient in face of this challenge. Transformation is considered particularly relevant in asymmetric conflicts where the transformation of power imbalances and unjust social relationships is the primary goal.<sup>3</sup> It is a process that aims to alter the system, structures, and relationships that engendered the conflict in a manner that enables just and sustainable peacebuilding.

Despite the concerns about the narrowing of the concept of conflict resolution and its erroneous application in practice, it is recognized that conflict transformation has gained a broader meaning.<sup>4</sup> Under the concept of transformation, protracted and devastating conflicts cannot be deemed resolved only through ceasefire agreements or other resolution methods that are acceptable for the parties. Rather, the process has to reach well beyond these immediate effects. To exemplify this, Christopher Mitchell refers to the case of North and South Cyprus. According to him, if the parties miraculously agree and resolve the 45-year conflict, the island will still be populated by two socially divided Greek and Turkish communities, if not consider the third community of people relocated from Turkey. These communities will be susceptible to a future conflict if their relationships are not transformed through a sustainable and long-lasting process of peacebuilding.<sup>5</sup>

Therefore, transformation does not only include resolution but also a solution for the root causes of conflict and a long-lasting process of relationship transformation and development. As explained by Lederach ““Conflict transformation is to envision and respond to the ebb and flow of social conflict as life-giving opportunities for creating constructive change processes that reduce violence, increase justice in direct interaction and social structures, and respond to real-life problems in human relationships.”<sup>6</sup> Accordingly, transformation is not an immediate response to a conflict, but, rather, a continuous process of building peaceful relationships.

---

<sup>1</sup> Mitchell, Christopher (2002) "Beyond Resolution: What Does Conflict Transformation Actually Transform?," *Peace and Conflict Studies*: Vol. 9 : No. 1 , Article 1. p. 2. Available at: <https://nsuworks.nova.edu/pcs/vol9/iss1/1>

<sup>2</sup> Ibid.

<sup>3</sup> Michelle Parlevliet, *Human Rights and Conflict Transformation: Towards a More Integrated Approach*, p. 379.

<sup>4</sup> Mitchell, Christopher (2002), pg. 3.

<sup>5</sup> Ibid.

<sup>6</sup> John Lederach. "Little Book of Conflict Transformation: Clear Articulation of The Guiding Principles By A Pioneer In The Field (The Little Books of Justice and Peacebuilding Series)", pg. 29.

## **A Human Dimension of Peacebuilding**

The definition of conflict transformation provided above is indirectly linked to intersecting ideas of peacebuilding and human security and establishes a theoretical framework for managing the process. The theory of constructivism criticizes the traditional understanding of peacebuilding which is based on the ideology of power, defence, and state-centered inviolability.<sup>7</sup> In contrast, state security needs to be substituted by human security in its broadest meaning which is a constitutive element of peacebuilding. Human security has three dimensions. The first dimension includes crucial guarantees for personal security and physical inviolability; the second encompasses institutional security which entails the state's institutional and legislative guarantees for human rights and security; and, finally, the third dimension relates to structural-cultural security. The latter entails the creation of social and cultural guarantees in the society that will contribute to overcoming poverty, hunger, unemployment, inequalities which often emerge together along with conflicts.

Considering these three dimensions, peacebuilding cannot be defined solely by negative peacekeeping, when a ceasefire, demobilization, disarmament, etc. has been achieved. Such peace is often unsustainable, especially when conflicts have deep social roots. Achieving negative peace largely ensures state security and inviolability, whereas sustainable peacebuilding prioritizes human security. The state-centred understanding of peace and security is additionally challenging as it is supported by international frameworks but does not have legitimacy on a local level and is not a result of internal discussions and realizations.<sup>8</sup> This type of peace is obviously vulnerable as it disregards people, social and cultural concerns that created the conflict and, consequently, is not directed to transforming root causes of conflict.

Conflict transformation entails such a shift in perspective as it is directed to sustainable peacebuilding based on emancipatory ideas. This requires the understanding of peace and human security as an intersecting process of all of its dimensions.

## **The Role of Human Rights in Transformation**

Human rights hold a significant role in the process of peacebuilding within the transformative understanding. However, there are diverse ideas about the transformative role of human rights, and this requires a complex and broad understanding of human rights. This role is not limited only to holding perpetrators accountable for human rights violations (courts, tribunals) and establishing respective legal guarantees. Human rights have a wider potential in resolving violent conflicts and can transform them into a peace process of social, economic, political, and cultural changes.<sup>9</sup>

Links between the concept of human rights and conflict resolution have emerged more actively since the 1990s when global attention shifted to internal conflicts within states. Violent conflicts in former

---

<sup>7</sup> Earl Conteh-Morgan, *Peacebuilding and Human Security: A Constructivist Perspective*, *International Journal of Peace Studies*, Spring/Summer 2005, Vol. 10, No. 1 (Spring/Summer 2005), pp. 69-86.

<sup>8</sup> *Ibid.*

<sup>9</sup> Michelle Parlevliet, *The transformative potential of human rights in conflict resolution*, pg. 16.

Yugoslavia (1992-1995) and Genocide in Rwanda (1994) became the catalysts that linked these two fields in light of the scale of international humanitarian and human rights violations in these conflicts.<sup>10</sup> Therefore, “peace” developed stronger links to “justice” and peace agreements started to give stronger emphasis to human rights, rule of law, good governance, equality, etc. Human rights became a central issue in peace negotiations and states in the post-conflict context were obligated to develop a governance system that protected human rights and legally addressed past violence and violations.

Human rights and conflict resolution are linked in two ways – on the one hand, human rights violations represent a root cause for conflicts, as well as their result. A party to the conflict may utilize human rights violations as an instrument for producing and extending the conflict. On the other hand, conflicts may arise as a response to mass human rights violations, for instance, when the state persecutes and discriminates against a particular group within its population which can manifest into the unfair distribution of public goods, restricting the access to political participation, unjust and discriminatory legal system, etc. In cases where human rights violations are a result of the conflict, the primary goal of the resolution process should be stopping violence, holding perpetrators accountable for human rights violations and follow-up monitoring, providing humanitarian support, and a peacebuilding process.<sup>11</sup> Such cases are known in the scholarship as the process of ensuring negative peace which is directed to stop the violence. In cases where human rights violations represent a cause of the conflict, ensuring negative peace is not sufficient and positive measures are necessary which encompass political equality, social justice, fair and accountable institutions, building constructive and peaceful relationships.<sup>12</sup>

As human rights violations are either a result or a cause of the conflict, protecting human rights must be an integral part of conflict resolution. However, human rights in this context should be understood in their multidimensional substance which goes beyond their positivist legal interpretation. On the one hand, human rights hold a crucial role in peace negotiations, especially when their violations provoke conflict. On the other hand, a systemic approach to human rights protection has a positive impact on conflict transformation which, beyond monitoring and legal accountability mechanisms, entails the process of fundamental institutional reforms. Moreover, human rights may have a defining role in the process of critical analysis of the causes and resolution of the conflict. Finally, compliance with human rights standards is an independent instrument that, regardless of the parties to and the context of the conflict, creates objective criteria for and adds validity to the peacebuilding process.

According to Michelle Parlevliet, human rights have a four-dimensional role in conflict transformation which generally facilitates building just and sustainable peace.<sup>13</sup>

---

<sup>10</sup> Ibid; 17.

<sup>11</sup> Ibid; 20.

<sup>12</sup> Michelle Parlevliet, “Bridging the Divide: Exploring the Relationship between Human Rights and Conflict Management,” *Track Two* 11, no. 1 (2002): 8–43.

<sup>13</sup> Michelle Parlevliet, *Rethinking Conflict Transformation from a Human Rights Perspective*, 2010, in: Véronique Dudouet & Beatrix Schmelzle (eds.). *Human Rights and Conflict Transformation: The Challenges of Just Peace*. (Berghof Handbook Dialogue No 9.) Berlin: Berhof Conflict Research, 15-46.

- **Human rights as norms** determine protection standards on the international and national levels. They define parameters in the process of conflict transformation. Although the level of human rights realization can be different in every specific national context, on a basic level human rights are internationally recognized values and principles which, on the one hand, impose an obligation on states to avoid violations and, on the other, take positive measures and create respective institutions for their protection. In conflict transformation, this positivist legal understanding of human rights has one limitation – it is based on a state-centric approach that excludes non-state actors from the scope of human rights obligations. However, this approach has been heavily criticized and non-state actors’ human rights accountability and obligations are discussed in the realms of human rights law and the law of war.<sup>14</sup>
- **Human rights as a structure and institutions** emphasize the causes of conflict and studies structures that determine the issues of power, resources, identity, and security. This dimension of human rights in conflict transformation pushes the parties to reach beyond conventions in their understanding of human rights and take measures for developing independent institutions that guarantee human rights realization.
- **Human rights as relationships**, is a direction that recognizes both vertical and horizontal understanding of human rights. In a vertical sense, a state has an obligation to protect human rights and offer its population accountability platforms. For the purposes of conflict transformation, it entails addressing structural concerns that influence the relationship between a state and a person. In a horizontal sense, humans also have responsibilities in their relationships with each other and society’s functioning. This implies that human rights exist in the social context and “recognition of each other” is the primary value of human rights.<sup>15</sup>
- **Human rights as a process**, is a dimension that emphasizes the dependence of sustainable peace not only on the substance but also on the process of achieving peace. If parties to the conflict deem that the peacebuilding process was deficient, non-inclusive, and lacked transparency, its legitimacy and sustainability will be questioned, which will also have a negative impact on human rights protection.

Such multidimensional understanding of human rights aligns with the above-described socio-political nature of conflict transformation and serves to build just peace and human rights culture. Moreover, it promotes the internalization of human rights norms, values, and principles in public attitudes, relationships, and behaviours.

---

<sup>14</sup> Anumeha Mishra, *State-Centric Approach to Human Rights: Exploring Human Obligations*, 2019 REV. *Quebecoise de DROIT INT’L* 49 (2019); Christina Lafont, *Accountability and global governance: challenging the state-centric conception of human rights*, *Ethics & Global Politics*, Vol. 3, No. 3, 2010, pg. 198; Charles Beitz, *The Idea of Human Rights*, 2009, Oxford Scholarship.

<sup>15</sup> Douzinas, Costas 2000. *The End of Human Rights. Critical Legal Thought at the Turn of the Century*. Oxford: Hart Publishing.

The role of conflict transformation and the multidimensional nature of human rights is exemplified by the case of a long-term conflict in Cyprus. Although this conflict has a violent past and politically radicalized two parties to date, with the involvement of Turkish military, political and economic influences, it has been transformed and, through a long-lasting history of peacebuilding, humanitarian/human dimensions of this conflict has been more or less resolved. The human dimension of this conflict includes the fact that currently the parties of the conflict have restored political and public relationships – political leaders of North Cyprus and the Republic of Cyprus meet regularly, several platforms have been created for the dialogue between Turkish and Greek societal groups, including platforms that aim to informally support formal political negotiations.<sup>16</sup> Additionally, regular relationships and movement between North Cyprus and South Cyprus have been restored, there are 7 transition points on the island which, apart from the regular traffic, are also used for economic relations.<sup>17</sup> Freedom of movement also facilitates communications, cultural and professional connections between people. With the purpose of cooperation on everyday issues, the parties have elaborated formal and direct dialogue formats in the form of bicomunal committees that are facilitated by the UN Peacekeeping Mission.<sup>18</sup> The parties of the conflict regularly work in 11 thematic committees to address issues such as transition points and freedom of movement, healthcare, education, environmental protection, commerce, criminal law issues, humanitarian aid, etc.

Furthermore, the European Court of Human Rights (ECtHR) is the mechanism that significantly contributed to the transformation of the conflict. On the one hand, ECtHR has recognized that a protracted conflict must not create a void in human rights protection and not only the party of effective control – Turkey has the obligation to protect human rights, but the Republic of Cyprus has positive obligations to take appropriate measures for filling the legal void, which, among others, includes the cooperation with the unrecognized regime of North Cyprus.<sup>19</sup>

The ECtHR case-law contributed to the resolution of continuous violations of the right to property, which were one of the most politicized and critical issues in this conflict, and the creation of institutional and legal frameworks on the local level. In particular, the ECtHR, after finding Turkey liable for continuous violations of the property right,<sup>20</sup> delivered another judgment and recognized Turkey's responsibility to create a mechanism for reviewing the issues related to the right to property on the local level, which would represent a legal remedy for violations of this right.<sup>21</sup> Accordingly, the Commission of Immovable

---

<sup>16</sup> Cyprus Dialogue Forum: <https://cydialogue.org/>.

<sup>17</sup> Council Regulation (EC) No 866/2004 of 29 April 2004, Preamble, paras 4-5. US State Department Report on Human Rights Situation in Cyprus, 2016.

<sup>18</sup> see: <http://www.uncyprustalks.org/>; See Report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus- 2013, 1 February, A/HRC/22/18, para 53. Report of UN OHCHR, 22 January 2014, A/HRC/25/21, para 3, 39. A/HRC/31/21, 1 February 2016, para 40-41, 58.

<sup>19</sup> *Güzelyurtlu and others v. Cyprus and Turkey*, ECHR; *Loizidou v. Turkey*, ECHR, Merits, App. No. 40/1993/435/514 (1996),

<sup>20</sup> *Loizidou v. Turkey*, ECHR, Merits, App. No. 40/1993/435/514 (1996); *Cyprus v. Turkey*, ECHR, Merits App. no. 25781/94 (2001).

<sup>21</sup> *XENIDES-ARETIS v. TURKEY*, ECHR, Merits, Final Judgment, 22.03.2006, Application no. 46347/99. para 38-42.

Property was created in Northern Cyprus which decides on the claims of compensation for lost immovable property for Greek nationals.<sup>22</sup>

This effort of the ECtHR to bring the conflict's most politicized and radicalized issue within legal constraints has been criticized to have negatively affected the peacebuilding process and left a lesser space for a true compromise through negotiations.<sup>23</sup> The judgment in the case of *Loizidou* was perceived in the negotiations as a support for the Greek Cypriots' claim about their right to return and restore their rights to immovable property. The ECtHR practically determined in this case that self-declared TRNC could not be recognized as having a legitimate right over the property of Greek Cyprus residents. Therefore, the rejection of the de-facto regime on free disposal of their property was deemed a continuous violation of the right to property by the Court.<sup>24</sup> However, while in the case of *Xenides-Arestis V. Turkey* applicants had claims regarding "the loss of the property right," the judgment only referred to compensations and not to the restoration of the property right. Therefore, the ECtHR has never considered the maximalist claim of Greek Cypriots of returning and restoring their property rights.<sup>25</sup>

In this respect, some scholars believe that by recognizing the right in a broader sense (rather than narrowing it down to the issue of compensation) the Court could have provided a bigger margin for manoeuvre for the parties in negotiations.<sup>26</sup> Subsequent case-law of the ECtHR concerning the creation of Immovable Property Commission in TRNC, which only reviewed the issue of compensations, deserved further criticism as it seemed that the Court recognized the legitimacy of the legal remedy under the de-facto regime. However, regardless of such political dimension, this mechanism was significant progress for the people who had been waiting to have their property issues resolved for years, and it did not invalidate the legal grounds for their right to return. This process confirms that human rights play a crucial role in conflict transformation and applying human rights to such situations for promoting a peacebuilding process should take place through accurate strategy and considering the context of the conflict.

International actors have played a significant role in transforming the conflict in Northern Cyprus, as, for instance, since 1975 the parties have not resorted to violence in the conflict, which, among other factors, is also largely due to the UN Peacekeeping Mission and its buffer zone between the Southern and Northern Cyprus. Moreover, the European Union actively contributed to the whole array of transformative processes, including the restoration of movement and the process of resolving human rights and humanitarian issues between the parties. First checkpoints between the South and the North opened on

---

<sup>22</sup> *JOANNOU v. TURKEY*, Application no. 53240/14, Merits, 12 December 2017 (Final on 12.03.2018); *Eleni Meleagrou and Others v. Turkey* (application No. 14434/09), decision of 2 April 2013, para. 18.

<sup>23</sup> Rhodri C. Williams and Ayla Gürel, *The European Court of Human Rights and Cyprus Peace Issue: Charting a Way Forward*, PCC Paper 1/2011, pg. 1

<sup>24</sup> ECtHR, *Loizidou* (Merits), paras. 44-46.

<sup>25</sup> Rhodri C. Williams and Ayla Gürel, *The European Court of Human Rights and Cyprus Peace Issue: Charting a Way Forward*, PCC Paper 1/2011, pg. 4. According to the position of Greek Cypriots, compensations would only be acceptable if the restoration of a title to the property were impossible due to destruction.

<sup>26</sup> Rhodri C. Williams and Ayla Gürel, *The European Court of Human Rights and Cyprus Peace Issue: Charting a Way Forward*, PCC Paper 1/2011, pg. 7-9.

23 April 2003 which coincided with the period when Cyprus' membership in the EU was actively discussed, and the EU adopted the so-called "Green Line Regulation" for restoring the movement. It should also be noted that this EU decision was preceded by a landmark case of the ECtHR where the Court ruled the restriction on crossing the green line to be a gross violation of freedom of movement.<sup>27</sup>

The transformation of the Cyprus conflict requires a more extensive analysis as it reaches beyond its human rights dimension and is characterized by deep historical, political, and social aspects which were influenced by diverse actors on the local and international levels. However, the above examples show how versatile the application of human rights can be in the peacebuilding process. Their role is not limited to the scope of legal remedies and mechanisms which also are valuable for developing institutions and transforming relationships on a local level. In this case, a multifaceted application of human rights had the objectives of reducing violence and achieving negative peace, as well as improving the daily lives of the people and resolving the humanitarian aspect of the conflict. Although, it is a continuous process and does not provide guarantees that the conflict will be promptly or in any way resolved, in the case of a protracted conflict resolving the issues related to human rights and humanitarian conditions gain the utmost importance. Otherwise, conflicts regress instead of resolving, feelings of oppression and injustice exacerbate if human rights violations continue even after the conflict has ceased. In the case of a protracted conflict, where humans have to live for decades under political and legal impacts of non-recognition, meeting the needs of human welfare, security, protection of human rights and basic humanitarian aspects is the primary concern. Consequently, achieving human security on individual institutional and structural-cultural levels in a peacebuilding process is a key goal. Exactly this is the intersection for the objectives and ideas of human rights protection, conflict transformation, and peacebuilding.

---

<sup>27</sup> DJAVIT AN v. TURKEY, ECHR, Merits, Application no. 20652/92, 20 February, 2003.