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Foreword

Since 1990 the Mediterranean Academy of Diplomatic Studies (MEDAC) has been a harbinger of the promotion of human rights in the Mediterranean area. The consistent analysis of human rights issues has succeeded in establishing this dimension of international relations as an extremely important level of analysis.

MEDAC's Human Dimension Programme has, for a decade, provided a constructive framework within which the sensitive study of human rights can be discussed. Improving human relations across the Mediterranean is a prerequisite to enhancing Euro-Mediterranean relations at a political and economic level.

The setting up of the German Chair in Peace Studies and Conflict Prevention at MEDAC, funded by the German Government, allowed MEDAC to focus more intently on security and conflict issues in our region. In particular, the relevance of human security as conceptual framework for the study of the inter-linkage between human rights and conflict is being highlighted by the newly established German Chair.

The multifaceted challenge of addressing human rights abuses during ongoing conflicts requires a concerted regional and international campaign over a long period of time. In addition to individual nation states working together to manage the human suffering caused by conflict, other international actors must also contribute when it comes to achieving this goal.

This includes international organisations that are well equipped to assist in identifying causes of human rights

discrimination and offer remedies in such intolerable situations. In the Mediterranean, numerous international groupings, including the European Union, the League of Arab States, the Organization for Security and Cooperation in Europe (OSCE), the 5+5, the Mediterranean Forum, the Council of Europe, and the Olive Group, all have a particular role to play when it comes to mainstreaming a human rights agenda for action.

Non-governmental organisations (NGOs) also have a very important complementary role to play in this regard. NGOs are by definition entrenched into the fabric of civil society and thus are extremely well positioned to address human rights abuses at a grass roots level.

This publication provides unique insight into the dynamics of human rights and the conflict cycle. Under the leadership of Dr. Omar Grech, during the past decade the Human Dimension programme at MEDAC has continuously highlighted the human rights deficit that exists in the Mediterranean. The recent addition of the German Chair under the stewardship of Dr. Monika Wohlfeld has introduced a complementary perspective on this issue as evident in this publication.

As a confidence building promoter and academic centre of excellence on Mediterranean relations, MEDAC looks forward to continue championing respect for human rights. This publication also confirms MEDAC's commitment to focusing on human security in the Mediterranean.

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Introduction

Monika Wohlfeld and Omar Grech

This publication is a result of the first joint research activity undertaken by the Human Dimension Programme and the first German Chair for Conflict Prevention and Peace Studies at MEDAC. The synergy between the two MEDAC programmes is obvious in that they both focus on issues which are now covered by the concept of human security. The seminar on Human Rights and the Conflict Cycle was conceived of as part of this synergetic effort. As editors of this publication and organisers of the seminar we were aware of coming from different academic disciplines and professional backgrounds. The seminar and publication sought to bring together our respective professional and academic experiences. The Coordinator of the Human Dimension Programme is a lawyer with a strong interest in human rights who has worked extensively with NGOs, while the German Chair is a war and conflict expert and a conflict prevention practitioner with extensive background in international organizations. This combination allowed us to put together a programme for the seminar and for this publication that attempts to bridge the divides between academia and practice, between NGOs and international organizations, between the human rights community and the conflict resolution community. The result has been a fruitful interaction between the speakers and contributors to this volume, based on their personal experience and focus, and interest in reaching out across the divides.

The starting point for this discussion must be the end of the Cold War, and the ensuing discussion about what

constitutes security in today's world. In the post-Cold War period academics and later also politicians and practitioners began to speak of a broader definition of security. After a first period of hope for a new peaceful world, the recognition that the security agenda is much more complex than in the past, and that the end of the bipolar global order either unleashed or uncovered a wide range of (often interconnected) interstate, intrastate and transnational security problems, threats and concerns. The new definitions of security differed in how far they were prepared to go in recognizing the broadening of security concerns such as, for example, health issues, or gender relations.

A new organising concept emerged in the discussion - the concept of human security. This concept questions the previously dominant state-centric approach to security, and shifts the focus to individuals, to human beings. Attention is thus given to people suffering insecurity within or inside states. Although making the human being a reference point is not new, the term human security emerged only in the 1990s in the UN context. The United Nations Development Programme's 1994 Human Development Report is considered a milestone publication in the field of human security, with its argument that ensuring "freedom from want" and "freedom from fear" for all persons is the best path to tackle the problem of global insecurity.¹ There are proponents of a narrow definition of human security who focus on violent threats to individuals, and proponents of a broad definition who argue that the threat agenda should include hunger, disease and natural disasters. In its broadest

¹ UNDP Human Development Report 1994, (1994) **New dimensions of human security**. New York, Oxford University Press.

formulation, human security also encompasses economic insecurity and ‘threats to human dignity’.

Thus it is easy to discern the way in which the security debate reflects the human rights agenda. In particular the broader definitions of human security are directly or indirectly informed and based on human rights discussions and references, and it is not an accident that this concept emerged in the UN framework.

‘From a normative perspective the concept serves to highlight the importance of good global norms. Human security is an underlying motivation for the Universal Declaration of Human Rights, the UN Charter, the Geneva Conventions, the Ottawa Treaty, and the International Criminal Court.’²

Interestingly enough, the link between the concept of human security and human rights is mostly implicitly rather than explicitly recognised. Nevertheless, in the security debate, since the end of the Cold War, human rights are increasingly recognised as a relevant factor. Significantly, the discussion has been reflected in a variety of fora, including in international organizations. While in some regional contexts, such as Asia, multilateral organizations, reflecting the views of the member states, continued to emphasise the notion of state sovereignty, others, especially in the European context went further, to indicate that state sovereignty is not absolute when it comes to human rights issues. The heads of participating States of the Organization for Security and Co-operation in Europe, for example,

² Kerr, P. (2010) Human Security. In: Collins, A. ed. **Contemporary Security Studies**. Oxford, Oxford University Press, p. 123.

agreed during the Summit held in Helsinki in 1992 in the resulting document *The Challenge of Change*:

*'We emphasise that the commitments undertaken in the field of the human dimension of the CSCE are matters of direct and legitimate concern to all participating States and do not belong exclusively to the internal affairs of the State concerned. The protection and promotion of the human rights and fundamental freedoms and the strengthening of democratic institutions continue to be a vital basis for our comprehensive security.'*³

This ground-breaking recognition in the context of a multilateral organization was achieved with some difficulty and continues to cause tensions among the participating States of the Organization, some of which resent the intrusiveness of the Organization on matters such as elections. This commitment to the human dimension is reflected in the structure of the Organization, with its Office for Democratic Institutions and Human Rights (ODIHR), which monitors the commitments in the human dimension, and which adopts a methodical, vocal and on occasion critical stance in addressing shortcomings of participating States. It is for this reason that we invited a practitioner from the Human Rights Department of ODIHR to contribute to this project.

While the European countries have been at the forefront in acknowledging a direct link between respect for human rights and security, other regions were more cautious. Not surprisingly thus, the UN has also, albeit to a lesser degree,

³ Conference for Security and Co-operation Summit 1992. Helsinki (1992) **The Challenge of Change**.

moved away from an absolute interpretation of state sovereignty. Indeed, within the UN Charter there existed an inherent tension between sovereignty and human rights. Article 1 of the Charter lists, as one of the organization's aims:

“promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

On the other hand, Article 2 states that:

“nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state.”

This dialectic between state sovereignty and human rights within UN structures and in UN practice has come further to the fore since the end of the Cold War. Over the past decade the UN Security Council has acted under Chapter VII (which deals with threats to international peace and security) in situations where no direct threat to international security was discernible. In most of these cases the real motives behind Security Council action were humanitarian concerns amidst situations of massive human rights abuses. A number of Security Council resolutions have highlighted the importance of the observance of human rights in conflict and post-conflict situations. For example Security Council Resolution 1088 of 1996:

“Underlines the obligation of the parties under the Peace Agreement to secure to all persons within their jurisdiction the highest level of internationally recognised human rights and fundamental freedoms, calls upon them to cooperate

fully with the work of the Human Rights Ombudsman and the Human Rights Chamber and to implement their conclusions and decisions, and calls upon the authorities in Bosnia and Herzegovina to cooperate fully with the United Nations Commission on Human Rights, the OSCE, the United Nations High Commissioner for Human Rights and other intergovernmental or regional human rights missions or organizations to monitor closely the human rights situation in Bosnia and Herzegovina.”

In this context one can observe that ‘The United Nations is increasingly combining efforts to prevent or end conflicts with measures aimed at reducing human rights abuses in situation of internal violence.’⁴

It is thus clear where the agendas of conflict resolution practitioners and human rights community converge increasingly. It is less clear why they would not converge at all points, and in all situations.

Not every security concern or threat will lead to conflict, that is a struggle between various actors having different interests. And not every conflict is necessarily a negative occurrence, in particular if it can be solved by peaceful means, in a democratically structured political system based on rule of law and human rights, as Jan-Robert Uhl argues in this volume. But not every conflict is, or could be, solved using domestic institutions and mechanisms and by non-violent means.

⁴ United Nations (n.d.) **Human Rights and Conflict: A United Nations Priority** [Internet]. Available from: <<http://www.un.org/rights/HRToday/hrconfl.htm>>

One particular aspect of the emergence of the human security agenda has been the notion of humanitarian intervention and responsibility to protect (R2P). The volume does not focus on this particular aspect of the debate; rather, it addresses identity-based, internal conflict. But it is worthwhile to recall the key aspects of the debate on humanitarian intervention and responsibility to protect. As Gareth Evans and Mohammed Sahnoun, the authors of the key study on this matter, argue:

'The international community in the last decade repeatedly made a mess of handling the many demands that were made for 'humanitarian intervention': coercive action against a state to protect people within its borders from suffering grave harm. Disagreement continues about whether there is a right of intervention, how and when it should be exercised and under whose authority'.⁵ Consequently, 'the whole issue must be reframed not as an argument about the 'right to intervene' but also the 'responsibility to protect'. And it has to be accepted that although this responsibility is owed by all sovereign states to their own citizens in the first instance, it must be picked up by the international community if that first-tier responsibility is abdicated, or if it cannot be exercised.' The two authors recognise that *'working against the standard of sovereignty of states has been the increasing impact in recent decades of human rights norms, bringing a shift from a culture of sovereign impunity to one of national and international accountability. The increasing influence of the concept of human security has also played a role...'⁶*

⁵ Evans, G and Sahnoun, M, (2002) The Responsibility to Protect, Revisiting Humanitarian Intervention. **Foreign Affairs**. Vol. 81 No. 6 November-December, pp. 99-110.

⁶ Ibid. See also Bellamy, A. (2010) Humanitarian Intervention. In: Collins, A. ed. **Contemporary Security Studies**. Oxford, Oxford University Press.

With so many different communities involved in addressing human rights issues in the conflict cycle (state institutions, local and international NGOs, human rights defenders and activists, media, international organizations, academics in a number of disciplines such as, *inter alia*, strategic studies, sociology, peace studies, lawyers and judges, conflict resolution experts and so on), it is not surprising that despite broad convergence on the significance of the issue, differences in approaches and priorities abound. It will not be possible to analyse all of these differences and possible clashes, but some key ones (academia and practitioners; NGOs and International Organizations; the human rights community and conflict resolution community) can be highlighted here.

(i) Academia and Practitioners

As in every discipline, the relationship between academic experts and practitioners working on conflict and human rights would benefit from better communication, understanding and, ultimately, co-operation. It is worth pointing out, however, that following the end of the Cold War, the so-called knowledge-action gap has diminished, with the development of new concepts of security.

'Scholarly debate is a normal part of the evolution of new concepts, but it is of little interest to policy-makers. The policy community is, however, increasingly using the concept of human security because it speaks to the

interrelatedness of security, development and the protection of civilians.'⁷

In the security sector, the dichotomy between academics and practitioners is being overcome as more academics take up policy-making roles in government while former policy-makers are more often than not taking up roles in academic circles. This has long been the case in the United States but it is a trend which is also evident in other parts of the world. Thus, the relationship between policy-shaping and policy-making has, overall, become less acrimonious if not exactly harmonious. The dichotomy, however, is still apparent in the realm of policy implementation where the relationship between academics, policy-makers and administrators, bureaucrats and practitioners remains grounded in suspicion.

(ii) NGOs and International Organizations

The divisions between the views of NGOs and International Organizations have been recognised, although both sides use different reasoning in describing those differences. While NGO representatives often argue that '[...] international actors often do not understand problems in the same way as do people on the ground and [...] failure to consult locally can actually make problems worse',⁸ representatives of international organizations often speak of disorganised and democratically unaccountable efforts of NGOs on the ground.

⁷ Human Security Centre (2005) **Human Security Report 2005**. Canada, The University of British Columbia.

⁸ Saunders, J. (2001) **Bridging Human Rights and Conflict Resolution: A Dialogue Between Critical Communities** [Internet]. Available from: <http://www.cceia.org/resources/articles_papers_reports/161.html>

The tension between these two actors is perhaps less accentuated than the others outlined in this introduction. Examples of cooperation between international organizations and NGOs are quite common. In the field of conflict resolution and human rights, the collaboration between UN agencies and the International Committee of the Red Cross (which, one often forgets, is an NGO) is a paramount example. The UN human rights monitoring mechanisms (such as periodic reports required by various human rights treaties) also involves NGOs indirectly. More often than not, shadow reports presented by NGOs are given adequate relevance by the UN monitoring mechanisms. Organizations such as *Medecins Sans Frontieres* and UNICEF have worked together in situations where children were suffering disease etc. The cooperation is not always smooth and is indeed often fraught with problems, nevertheless it is incontrovertibly happening.

Here too, while practical co-operation is recognised as the ultimate goal, both sides see the way towards this goal as fraught with difficulties.

(iii) The Human Rights Community and the Conflict Resolution Community

A dilemma emerges in this context, which has been recognised and described by numerous researchers – the gap between the human rights activists and the conflict resolution practitioners. Reportedly, ‘communication between human rights and conflict resolution groups to date has been surprisingly limited and relations in the field often uneasy.’⁹ A number of scholars described the differences in

⁹ Ibid.

perceptions of conflict but especially need/opportunities for intervention and tools applied between the two communities – the human rights and the conflict resolution communities.¹⁰ Lutz, Babbitt and Hannum point out that ‘conflict resolvers, eager to achieve a negotiated settlement to a conflict with minimum loss of life, may fail to give sufficient weight to the relevance of human rights to the long-term success of their work. Human rights advocates, on the other hand, may undervalue the pressures, under which mediators operate to bring about an immediate end to loss of life.’¹¹ Indeed, both communities point out the dangers of failing to understand each others’ points of view and the consequent threat to the peace processes.

The differences range between the short-term versus long-term nature of goals of the two communities and the cooperative and supposedly impartial versus adversarial and confrontational nature of their approaches. Members of the conflict resolution community often ask questions relating to the accountability of human rights activists and what are the checks on their activities. Members of the human rights community on the other hand point out that conflict resolution work often hinders the ability of societies to come to terms with the conflict and work effectively on post-conflict reconstruction. They claim that this is the case when amnesties are granted and impunity is allowed.¹²

¹⁰ See for example Parlevliet, M. (n.d.) Rethinking Conflict Transformation from a Human Rights Perspective, **Berghof Handbook Dialogue** No. 9; Lutz, E., Babbitt, E. and Hannum, H. (2003) Human Rights and Conflict Resolution from the Practitioners’ Perspectives, **The Fletcher Forum of World Affairs**, Vol. 27:1, Winter/Spring.

¹¹ Op. cit. Lutz *et al.*, (2003) p. 173.

¹² Op.cit. Saunders (2001)

However, most writers on this matter also indicate that in some cases the efforts have been complementary in that, for example, the right timing of release of a human rights report by an NGO that shames and condemns human rights abuses helps practitioners to bring about conflict resolution.

The perspective for closer co-operation between the two communities is arguably a positive one, as is the recognition of the significance of respect for human rights and the need for some form of follow-up on human rights abuses following the end of conflict (international tribunals, national prosecution, truth commissions) grows.¹³ It is worth noting that authors do not call for a merger of the two fields, but rather for more constructive approaches towards dialogue and co-operation between them, which would allow the human rights community to go beyond a legalistic view, and emphasis on shaming, and the conflict resolution community to better understand the important role that human rights work plays at all stages of the conflict cycle.

¹³ Ibid.