

Human Rights and Peacebuilding in Post-Conflict Occupied Territories: Examining Georgia and Ukraine

Zurab Khonelidze¹, Lika Chimchiuri²

¹*Prof. Dr. Rector Sokhumi State University, Tbilisi, Georgia, zurabkhoneidze@gmail.com*

²*Sokhumi State University, Tbilisi, Georgia, lika.chimchiuri@sou.edu.ge*

ABSTRACT: Human rights and freedoms are often violated in post-conflict occupied territories. Violations occur even after hostilities are over. In such regions, the protection of human rights and the reestablishment of peace is a difficult process that increases the discord between the opposing parties. Peacebuilding is not only about stopping violence, it also requires the restoration of healthy relations between the conflicting sides, human dignity and justice. The topic is devoted to such issues as violation of human rights in post-conflict occupied territories, factors impeding peace processes, etc. We will consider conflict zones, such as the Abkhazia Autonomous Republic of Georgia, the so-called South Ossetia (Tskhinvali region of Georgia) and Ukraine. Furthermore, the role of international organizations, local civil society, governments and transnational legal mechanisms in peacebuilding and reconciliation will be considered. We will familiarize ourselves with shortcomings and contradictions that we encounter in the process of peacebuilding and human rights protection in the post-conflict occupied territories, and relevant recommendations will be provided.

KEYWORDS: human rights, peacebuilding, post-conflict territories, occupation

Introduction

The protection of human rights and peacebuilding in the post-conflict and occupied territories remains a great challenge of international law and diplomacy. Even after the cessation of hostilities in the territories, human rights violations, socio-economic instability and political tension continue. The Abkhazia Autonomous Republic of Georgia, the so-called South Ossetia (Tskhinvali region of Georgia) and Ukraine are the best examples of how human rights are violated, which creates unbearable conditions for the population living in the occupied territories, it often results in forced displacement of people.

The aim of the research is to outline the factors interfering with the regulation of existing conflicts, as well as the role of different actors in conflict resolution, for example, such as international organizations, governments, local populations and the effectiveness of transnational legal frameworks.

The topic uses the method of historical research, which will help us learn about the history of conflict settlement. Additionally, the method of legal research will be used and we will touch on the protection of human rights in conflict areas and through the method of dogmatic research, we will get to know the recommendations of famous scientists regarding peacebuilding and analyze based on them.

Restoring human rights and dignity in post-war, occupied territories is not only a legal obligation, but a critical step towards a lasting peace that requires joint efforts. The existing mechanisms are flawed, but they will not be valid if we change the goal because of it, we must change the steps leading to it. We will discuss these steps in detail in the following chapters.

Historical Overview and Human Rights Violations in Conflict Zones within the Framework of International Law

The struggle for hegemony in the world begins from ancient times, which was accompanied by a series of wars and great suffering of civilians. However, as humanity begins to develop, human rights come to the fore. Anti-war mechanisms such as diplomatic negotiations, international

organizations, conventions, international courts and so on are created. Unfortunately, the tradition continues, it is not enough to stop the ambition and conflicts of big countries. Especially when, as a result of the victory of the USA and the Western world in the Cold War, the international order changed from a bipolar to a unipolar system. If the bipolar world, which consisted of the two super nuclear powers of the Soviet Union and the USA, was based on the principles of the balance of power and hence global stability, with the failure of the Soviet state, the USA became the ruler of an unconditional unipolar global system. That is, as it is called in the language of international relations, it became a "unipole", which means that its distribution of power in the international system was largely made possible by the monopolistic control of America's colossal state resources (international security and economy).

The unipolar system led by the US after the collapse of the Soviet Union in 2017 (Mearsheimer) began to lose relative influence, and two states emerged on the global stage: the People's Republic of China and the Russian Federation. This latest development diminishes America's influence and creates a multipolar international system in which America and the wider Western world will be faced with the need to take into account the power of these two states at the expense of reducing their power in the world. The 21st century is characterized by rapid geopolitical dynamics. Political tensions and clash of forces between major powers have escalated, often manifesting in economic sanctions, cyber warfare, and military mobilization. Front lines were opened and conflicts arose. Moreover, after the decline of armed conflicts, a new problem began: occupation. Occupied territories are characterized by acute political and economic issues, including violation of human rights, apartheid, and economic hardship.

The existing mechanisms to address armed conflict include international organizations such as the United Nations, as well as conventions such as the four Geneva Conventions and the International Criminal Court, which focus on issues related to armed conflicts, occupation, the civilian population, prisoners of war, wounded in war, dead, etc. However, states engaged in armed conflict, in many cases, do not comply with the norms established in these conventions, leading to gross violations of human rights and posing a threat to international peace and security. While there are many examples of this, we will consider a few cases from the post-Soviet period relevant to our research topic.

In 1991, when Georgia declared its independence from the Soviet Union, Russia initiated a conflict in the regions of so-called South Ossetia and Abkhazia, driven by its own political goals. Russia wanted to leave Georgia in its own sphere of influence, as well as distance itself from the West, unfortunately it remains the same goal today. This situation led to open hostilities in the early 1990s, with thousands of deaths and hundreds of thousands more displaced. Under President Vladimir Putin, Russia has worked with the separatists to increase influence. In addition to "implanting" Russian officials into the leadership of breakaway regions, in the 2000s Russia strengthened its ties with these regions through a creeping annexation campaign that included granting Russian citizenship and passports to the local population (Helsinki Commission 2018, 2).

In the summer of 2008, the long-standing tension between the Georgian government and the so-called South Ossetia and the Autonomous Republic of Abkhazia turned into an open conflict. In June 2009, Russia also blocked the expansion of the United Nations Monitoring Mission in Georgia (UNOMIG), a mission established in 1993 to monitor a ceasefire agreement between the authorities of Georgia and the Autonomous Republic of Abkhazia. The European Union Monitoring Mission in Georgia (EUMM) maintains the only remaining group of observers on the ground and has a mandate that extends throughout Georgia, although it is denied access by Russia and the de facto regional authorities to so-called South Ossetia and the Autonomous Republic of Abkhazia (Helsinki Commission 2018, 3).

The Russian invasion and occupation have led to the permanent displacement of approximately 25,000 Georgians who previously lived in so-called South Ossetia and the Autonomous Republic of Abkhazia, adding to the legacy of over 200,000 Internally Displaced

Persons (IDPs). Ethnic Georgians still residing in the occupied territories face systematic discrimination and harassment, especially in the Autonomous Republic of Abkhazia, which has the largest Georgian population of the two territories. These violations are well-documented, despite the de facto government regularly blocking the Office of the United Nations High Commissioner for Human Rights and other international bodies from accessing the territories to properly assess the human rights situation. Local authorities in both regions have begun restricting the teaching of the Georgian language in schools, these measures serve to marginalize Georgian culture in the occupied regions and push ethnic Georgians to emigrate. Due to the ambiguous "administrative border" maintained by the Russian-backed so-called South Ossetia and the forces of the Autonomous Republic of Abkhazia, ethnic Georgians are regularly detained for "illegal border crossing". A 2017 report by the UN Human Rights Council stated that individuals could be arrested only for visiting their property or attempting to harvest crops. According to the information of the State Security Service, in 2016, the border guards of the Russian Federation arrested more than 300 Georgians, and the persons were released only after paying a heavy fine (Helsinki Commission 2018, 4).

Since 2002, Georgia has been a member state of the Rome Statute. Consequently, the International Criminal Court (ICC) launched an investigation in 2016 regarding the 2008 Russia-Georgia war, focusing on war crimes, including attacks on civilians, forced displacement, and more. In 2022, the ICC issued arrest warrants for three so-called South Ossetian officials identified as perpetrators. However, enforcement remains challenging, as the conflict has not been fully resolved despite a cessation of hostilities. Ongoing "creeping occupation" further complicates matters, and Russia's non-membership in the Rome Statute and lack of cooperation with the ICC are additional obstacles. Unfortunately, the hatred of local leaders poisoned by Russia is so intense against Georgians that they will not easily turn around as long as Russia and its expansionist policy exist. Besides Georgia, occupation is also familiar to the Ukraine and the occupant also is Russia. Occupied territories of Ukraine include: the Autonomous Republic of Crimea, Donetsk and Luhansk Oblasts, where major cities such as Donetsk, Horlivka, Luhansk, and Alchevsk are controlled by separatists (As for the Zaporizhzhia and Kherson zones, hostilities are still ongoing there, and no ceasefire has been reached, making the situation fluid.)

On February 26, 2014, ten years have passed since protesters clashed in Simferopol amid reports that the parliament of the Autonomous Republic of Crimea would vote on secession from Ukraine. By February 27, 2014, armed persons took over the Crimean local government buildings without signs. In the presence of armed men, members of the Crimean parliament voted to dismiss the local government and elect a new "head of Crimea". By March 21, 2014, a rapid succession of political decisions by the Russian Federation led to the illegal annexation of the temporarily occupied the Autonomous Republic of Crimea, along with the regions of Donetsk and Luhansk (which are not fully under administrative borders, and military actions are still ongoing in the remaining areas) and the Ukrainian city of Sevastopol (hereafter "Crimea") (United Nations Human Rights Office of the High Commissioner 2014, 3). On February 26, 2014, ten years have passed since protesters clashed in Simferopol amid reports that the parliament of the Autonomous Republic of Crimea would vote on secession from Ukraine. By February 27, 2014, armed persons took over the Crimean local government buildings without signs. In the presence of armed men, members of the Crimean parliament voted to dismiss the local government and elect a new "head of Crimea". By March 21, 2014, a rapid succession of political decisions by the Russian Federation led to the illegal annexation of the temporarily occupied the Autonomous Republic of Crimea, along with the regions of Donetsk and Luhansk (which are not fully under administrative borders, and military actions are still ongoing in the remaining areas) and the Ukrainian city of Sevastopol (hereafter "Crimea") (United Nations Human Rights Office of the High Commissioner 2014, 3). The United Nations declared that this act was illegal under international law, as Crimea remained

internationally recognized as part of Ukraine. The Donetsk and Luhansk regions were escalated with military actions, which have been disputed since then. The United Nations has repeatedly recognized the annexation of Crimea as illegal, emphasizing its position on Ukraine's territorial integrity.

On March 21, 2014, the Russian Federation automatically extended Russian citizenship to all Ukrainian citizens and stateless persons permanently residing in Crimea. And we are well aware of the fact that International humanitarian law prohibits forcing residents of an occupied territory to swear an oath of allegiance to the occupying power (United Nations Human Rights Office of the High Commissioner 2024, 6). The illegal annexation of Crimea also led to forced displacement of people. By the end of April 2014, 7,207 internally displaced persons were registered in all regions of Ukraine. Russian authorities have also suppressed the expression of Ukrainian identity and culture and severely restricted religious freedom (United Nations Human Rights Office of the High Commissioner 2024, 8).

Even today, history is repeating itself in the ongoing war in Ukraine. According to the thematic report by the Office of the High Commissioner for Human Rights (OHCHR) which describes the human rights situation in territory of Ukraine occupied by the Russian Federation following its full-scale armed attack, including areas over which Ukraine regained control afterward. It covers the period from February 24, 2022, to December 31, 2023, and is based on the work of the United Nations Human Rights Monitoring Mission in Ukraine (HRMMU). (United Nations Human Rights Office of the High Commissioner 2024, 10) The report describes persistent patterns of violations of international human rights law (IHRL) and international humanitarian law (IHL) by the Russian Federation in occupied territory. In particular, detention and violence targeting are common, as well as conflict-related sexual violence, quashing of peaceful protests, stifling of freedom of expression, pillage and requisitions of property, impunity, suppression of expressions of Ukrainian culture and identity, and many other atrocities.

International organizations and transnational legal mechanisms have adopted sanctions to stop these atrocities. For example, the UN has imposed several resolutions sanctioning Russia. Most notably, the Security Council has introduced measures such as asset freezes, travel bans, and arms embargoes against specific individuals and entities involved in actions threatening Ukraine's sovereignty. Furthermore, the EU has adopted multiple packages of sanctions against Russia, Asset Freezes and Travel Bans, Export Restrictions, Energy Sector Sanctions, Ban on Financial Transactions.

Alongside, in April 2014, following the annexation of Crimea, Ukraine made a declaration under Article 12(3) of the Rome Statute, accepting the ICC's jurisdiction for crimes committed on its territory. Since then, the ICC has issued arrest warrants against Vladimir Vladimirovich Putin, Maria Alekseyevna Lvova-Belova, and Russian officials for war crimes, particularly related to the conflict in Ukraine. Recently, ICC welcomed the ratification by Ukraine of the Rome Statute and on January 1, 2025, the Rome Statute will formally enter into force in Ukraine.

The mentioned conflict regions illustrate the violation of key principles of international law, including the principle of the sovereign equality of states, refusing to use force or the threat of force, the principle of inviolability of the territorial integrity of the state, the principle of inviolability of borders, the principle of non-interference in the internal affairs of another state, the principle of equality and self-determination of peoples, respect of human rights and fundamental freedoms, the principle of peaceful settlement of international disputes. Unfortunately, the reality is bad. Human rights of any kind are undermined during violent conflict, even when the parties try to respect the norms of International Humanitarian Law. In many modern conflicts, such respect is almost non-existent, and mass murders, rapes, tortures and deportations are commonplace (Hannum 2006, 5).

Concept of Peace

According to Merriam-Webster's dictionary, peace is defined as: 1) a state of tranquility or quiet, such as a) freedom from civil disturbance, b) a state of security or order within a community provided for by law or custom; 2) freedom from disquieting or oppressive thoughts or emotions; 3) harmony in personal relations; 4) a state or period of mutual concord between governments; 5) a pact or agreement to end hostilities between those who have been at war or in a state of enmity; 6) used interjectionally to ask for silence or calm or as a greeting or farewell (Merriam-Webster 1828). So, the meaning of peace is simple and clear, when there is no conflict between people, but harmony, that is peace (Mustafa et al. 2023, 3).

Peacebuilding can be defined in different ways. Scholars, policy makers, and practitioners have developed different concepts of peacebuilding, related timelines, and key priorities and tasks that accompany it. The term "peacebuilding" originated in the field of peace studies more than thirty years ago. In 1975, Johann Galtung coined the term "Three Approaches to Peace: Peacekeeping, Peacemaking, and Peacebuilding." He argued that "peace has a structure that is different, perhaps even more so, from peacemaking and ad hoc peacemaking... The mechanisms that peace is based on must be embedded in the structure and present as a reservoir of the system. More specifically, structures must be found that eliminate the causes of wars and offer alternatives to war in those situations (International Association for Humanitarian Policy and Conflict Research 2007). Since its creation, the United Nations played an important role in reducing the level of conflict in various regions of the world by mediating peace agreements and promoting their implementation. However, it was not until then UN Secretary-General Boutros Boutros-Ghali's landmark document, *An Agenda for Peace*, was published in 1992 that "post-conflict peacebuilding" officially entered the UN language. The concept was linked to preventive diplomacy, peacemaking and peacekeeping (International Association for Humanitarian Policy and Conflict Research 2007). It has been defined as "action to identify and support structures that will tend to strengthen and consolidate peace in order to prevent the recurrence of conflict". Peacebuilding assistance in its different contexts meant "rebuilding the institutions and infrastructure of nations devastated by civil war and conflict and establishing ties of peaceful mutual benefit between nations formerly at war, and in the biggest sense, to resolve the deep causes of the conflict.

Many peacebuilding actors, particularly within civil society, adopt a broader definition and approach to peacebuilding that aims to support the structure of society and, to some extent, the transformation of the international system. According to them, conflict prevention—that is, preventing the recurrence of armed conflict—as a central goal of peacebuilding runs the risk of short-term stability and the establishment of sustainable peace. In this sense, peacebuilding goes beyond peacekeeping and addresses issues such as equitable socio-economic development, accountable and transparent governance, impartial justice and genuine security for all citizens (International Association for Humanitarian Policy and Conflict Research 2007).

Peacebuilding Strategy through Education and Youth Engagement

There are two ways of conflict resolution: forceful and peaceful. The peaceful approach is acceptable to many. For this, a new, non-politicized institution is needed—an intellectual resource that will complement the chosen strategy of conflict regulation in the field of politics and will promote awareness of the need to improve the relations between the conflicting parties. Today it is about education as a systematic action process, with science at its highest peak serving as the true source of objective knowledge and motivated, pragmatically minded and healthiest part of society as our next generation youth (Khonelidze 2021, 10).

An institution that encompasses the unity of education, science, and youth is an educational establishment. It has the potential to transform into an open foundational space for

generating and shaping universal human values and to become the starting point for the peaceful resolution of conflicts. Such an institution is unique, and that is the university. The idea of the university, that is, the mission, includes such principles as: freedom, humanism, secularism, democracy, tolerance, as a true triumph of the human origin, etc. It was on the basis of these liberal values that the common European consciousness was formed, the formation of civil society, industrialization, modernization of the economy, and the improvement of public welfare. In the historical context, parallel to the conflict, there existed and exist both the university and diplomacy, which, separately and dichotomously, only fulfill their functions more or less, although they cannot respond to the challenges of the time. However, it is precisely the "interdisciplinary" connection between the university and diplomacy that creates the opportunity to develop new theoretical and methodological knowledge, which will propose a new fundamental paradigm for conflict resolution and shift the university's focus from theoretical knowledge to a more practical orientation. The university will not enter into the conflict or bring it into the university space, which will escalate it (as before), but will only introduce the "topic" in order to further neutralize it. This kind of approach will allow us to transform the problematic of the conflict from the confrontation of the parties into a theoretical-practical discourse and develop the necessary methodology that will most effectively respond to the conflict and serve to regulate it (Khonelidze 2021, 14).

"University diplomacy," as a renewed mission of the university, is a modern form of peace building, a new type of international relations, and diplomacy, and it is more than a separate university and a separate diplomacy with isolated functions. University diplomacy should be considered as an innovative direction that does not reject or separate itself from other forms of diplomacy, but on the contrary, their coexistence and coordinated activity through integration with the official political direction can become an irreversible prerequisite for improving the process of involvement of state-minded authorities, civil society and the international community (Khonelidze 2021, 106). Therefore, taking into account the experience of scientific diplomacy, a systematic approach to conflict resolution and the new paradigm that "university diplomacy" offers as a broader, large-scale and effective strategy. It, together with the fusion of peace initiatives and scientific academicism, includes the involvement of the most healthy and pragmatically thinking, future generation of the society—students in the peaceful process of establishing partnership relations.

Thus, by combining academic-research and socio-political activities, and by fostering healthy, intellectual processes, the university should be transformed into a continuous and creative intellectual hub for peace processes and sustainable peace. At the same time, the innovation of "university diplomacy" should be established as a unique, viable method and tool for conflict resolution, one that steers all forms of confrontation and conflict from a state of impasse and confrontation into a peaceful channel, without the use of force. It should be recognized as a conceptual and methodological innovation of the transition to a qualitatively new dimension of society's development, which serves to resolve conflicts arising in society in a peaceful way.

Conclusion

Protection of human rights and restoration of peace in the post-conflict occupied territories unfortunately remains a challenge. As noted in this article, conflict zones such as Abkhazia, the so-called South Ossetia, and Crimea continue to experience pressure, political tension, and social and economic instability despite the end of armed conflicts. Effective control in these regions, accompanied by creeping occupation, exacerbates the vulnerability of internally displaced persons, undermines the possibility of reconciliation and impedes restorative justice.

The function of international law is to remedy these violations, but its operation is often hampered, especially in regions where external powers intervene, as in the cases mentioned

above involving Russia. It is necessary for international bodies, such as the United Nations, the International Criminal Court, etc., to strengthen their efforts in the occupied territories to enforce international humanitarian law, international criminal law, international human rights law, which means holding perpetrators accountable for human rights violations and ensuring justice. Implementing Confidence-Building Measures (CBMs), such as economic cooperation and humanitarian aid, will help the opposing parties develop trust. This promotes dialogue and creates a basis for more comprehensive peace dialogues. The use of technology and social media will increase transparency and facilitate communication, appeal, and disinformation that often stir up strife and violence. Meanwhile, digital diplomacy projects will enable nations and groups to communicate, provide accurate information to each other, and communicate outside of traditional diplomatic channels.

The path to conflict resolution consists of its peaceful resolution, offering direct dialogue, restoring trust, reconciliation, and the implementation of pragmatic, mutually beneficial projects such as programs that promote tolerance, reconciliation and deep analysis of human rights in the new generations, so that they do not grow up with hatred between the opposing sides and the occupying state imposes its poisoned ideology on them. Also, it is necessary that the local population, especially internally displaced persons, be involved in the peacebuilding processes.

As proposed by the concept of "university diplomacy," this innovation highlights the role of educational institutions in fostering dialogue between opposing sides, promoting research, and cultivating a culture of peace among future generations. It offers a way to overcome existing conflicts by expanding the limited political field through university engagement and by bringing the topic of conflict into university spaces that are free, democratic, and academic. This creates an opportunity for all subjects involved in the peace process (governments, including de jure and de facto authorities, civil society, religious groups, non-governmental and international organizations, and, most importantly, the healthiest part of society—youth, among others) to become part of this unified space.

References

- Hannum, Hurst. "Human Rights in Conflict Resolution: The Role of the Office of the High Commissioner for Human Rights in UN Peacemaking and Peacebuilding." *Human Rights Quarterly* 28 (2006): 1–85. Johns Hopkins University Press.
- Helsinki Commission. 2018, 16 July. *The Russian Occupation of South Ossetia and Abkhazia: A Decade of De Facto Annexation in Georgia*.
- International Association for Humanitarian Policy and Conflict Research. "The Conceptual Origins of Peacebuilding: A UN History of the Notion, Outside the UN: Multiple Concepts and Definitions." HPCR International, 2007-2008. www.peacebuildinginitiative.org. Accessed on Oct. 21, 2024.
- Khonelidze, Zurab. 2021. *Georgian Paradigm of Peace: University Diplomacy and the Choice of Georgia*. Tbilisi.
- Merriam-Webster, Inc. 1989. *Webster's Dictionary of English Usage*. Merriam-Webster, Inc.
- Mustafa, Ghulam, et al. 2023. "Peace: A Conceptual Understanding." *Journal of Positive School Psychology* 7 (4): 853-863.
- United Nations Human Rights Office of the High Commissioner. 2023. *Human Rights Situation During the Russian Occupation of Territory of Ukraine and Its Aftermath, 24 February 2022-31 December 2023*. Geneva: United Nations.
- United Nations Human Rights Office of the High Commissioner. 2024. *Ten Years of Occupation by the Russian Federation: Human Rights in the Autonomous Republic of Crimea and the City of Sevastopol, Ukraine*.