

# Negotiating the Paradoxical Nature of Human Rights: Newspaper Debate on a Human Rights Violation for Roma Asylum Seekers

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## Abstract

This article analyzes the discursive struggle that developed in Flemish newspaper media after the unlawful Belgian expulsion of Slovak Roma asylum seekers in 1999, which led to the *Čonka v. Belgium* case. We argue that within such a discursive struggle over the human rights of Roma asylum seekers, a paradox between individual human rights and national interests is at play. In order to examine how this paradox is negotiated within such a discursive struggle, we claim that we need to employ a poststructuralist discourse analytical framework. This framework allows to consider the interactive and contingent nature of discursive struggles over human rights, and helps to go beyond the focus in current research on the construction of human rights by *a particular type of actors*. We apply narrative analysis to 212 Flemish newspaper articles from 1999 through 2002. We reveal multiple contingent interactions between various actors and different narratives about a failed, justified, or glorified nation-state, with some unintended discursive effects. Importantly, all the narratives shared a focus on the relative legitimacy and responsibility of the nation-state, thereby asserting the significance of the nation-state within the human-rights practice for Roma asylum seekers.

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## I. Introduction

In the attempt to add nuance to the commonly assumed progressive role of human rights in society, scholars of human-rights practice have demonstrated how this practice is less a result of the universal implementation of global standards than it is a process of construction and contestation. This article follows a group of authors within sociology of human rights, who argue that human rights are subject to discursive struggles between different interest groups who attempt to establish their definition of human rights (Plummer 2006; Cushman 2009; Nash 2009; 2015; Madsen 2011; O'Byrne 2012). In this regard, Cushman (2009, 602) argues that the study of human rights should 'understand the process of advancing human rights as a conflictual one, not only in terms of conflicts between human rights activists and states who violate human rights, but also among human rights proponents with different conceptions of what human rights ideas are.' The reason why actors can be at odds with each other in conceptualizing human rights is the indeterminate and paradoxical nature of human rights. Human rights do not have a fixed meaning but are constructed in specific cases (Morris 2006; Nash 2015). Furthermore, every construction of human rights is a product of negotiation between paradoxical principles, inherent in human rights (Nash 2015).

This article aims to study how this negotiation takes place in a specific discursive struggle for a specific group of people, namely Roma asylum seekers. This is a group for whom human rights are still highly contested, first because they are Roma, and second, because they are asylum seekers. Within this contestation, a paradox between national interests and individual human rights is at play. This paradox is inherent in human rights and relates to the fact that human rights are simultaneously the rights of national citizens and of individual human beings everywhere (Nash 2015). Because the human-rights apparatus relies on nation-states to guarantee human rights, nation-states often apply human rights only to national citizens, or even violate the human rights of non-citizens. These violations are then justified by claiming the need to protect the rights of the national citizens, regardless of the consequences for the human dignity of non-citizens. Both the Roma and the asylum seeker status ignite this paradox between the interests of national citizens and the rights of all human beings, regardless of citizenship. Both Roma and asylum seekers are groups of people for whom the individual, de-territorialized human rights would be likely to bring the most benefits, yet their situation illustrates the pervasive power of nation-states to limit the realization of their human rights.

This article will uncover how this paradox was negotiated within a discursive struggle that arose *after an alleged violation* of the human rights of Roma asylum seekers. We argue that a struggle after an alleged

violation forms a critical instance during which a vigorous discussion between many different actors develops. The specific violation we study concerns the *Čonka v. Belgium* case of 1999. In this case, the Belgian government was accused of deliberately and collectively expelling a number of Slovak Roma families, thereby violating their rights to liberty, security, and effective remedies, as inscribed in the European Convention on Human Rights (Cahn and Vermeersch 2000; ECHR 2002). Because the case occurred in 1999, when Slovakia was not yet part of the European Union, the involved Roma were still asylum seekers and not migrants exercising their right to free movement.

We study the discursive struggle that arose on this *Čonka* case in Flemish newspaper media. We perceive the media as one of the arenas of the public sphere in which a wide variety of actors are engaged in discursive struggles over human rights, yet it is scantily studied as such. The work of Nash (2008; 2009) forms an important exception, and she argues that it is in the mainstream media (e.g., newspapers, television, radio) that the discussion over human rights takes place across a wide range of political positions, strongly influencing what is assumed to be common sense regarding human rights (Nash 2009; 2010; 2015).

The crucial argument in this article is that in order to grasp how the indeterminate and paradoxical character of human rights is negotiated in discursive struggles over human rights, we need to utilize a poststructuralist discourse analytical framework. Such a framework enables 1) to grasp the interaction of actors at the level of underlying meanings, 2) to show how these discursive relations are fluid and contingent, and 3) to identify how the interaction of meanings can produce unintended discursive effects. We claim that such a framework contributes to current studies on human-rights construction and contestation, which have mainly uncovered the construction of human rights by *a particular type of actors*. Examples include the constructions by juridical actors (Madsen 2007; 2011; 2013; Morris 2009; Dezalay and Garth 2012; Staes 2014) and by activist actors (Sikkink 1993; Keck and Sikkink 1999; Stammers 1999; Houtzager 2005; Rodríguez-Garavito and De Sousa Santos 2005; Speed 2005; Goodale and Merry 2007; Rajagopal 2009; Merry et al. 2010; Clement 2011; Miller 2011; Claeys 2012; Orr 2012; Brysk 2013; Janmyr 2016). In our view, however, a crucial dimension of the discursive struggle over human rights is the *simultaneous involvement of a variety of actors* and their *interaction at the level of underlying meanings*.

Furthermore, we do not perceive this interaction as a clear-cut struggle between opposing meanings, but we claim that actors and their human-rights constructions are fluidly and contingently interrelated, and that discursive alliances and oppositions are often only temporary. Lastly, we suggest that the interaction of meanings creates dynamics that the actors do not consciously control and that can result in unintended discursive effects. This addresses the implicit assumption in existing research on human-rights constructions that actors are always

driven by strategic considerations in defending their frames. However, we argue that the paradoxical and indeterminate character of human rights causes the human-rights struggle to have discursive effects which may not have been strategically intended.

Within the discursive struggle about the *Čonka* case, the poststructuralist framework uncovers a key underlying meaning which connects different narratives: the acceptance of the relative legitimacy and responsibility of the nation-state. In this way, our analysis shows how the paradox between national interests and individual human rights was at play within the specific discursive human-rights struggle: despite the fact that a narrative was brought forward that defended the human rights of the Roma asylum seekers, this narrative centralized the nation-state. Subsequently, this narrative was also contingently and unintentionally linked to other narratives and actors that justified or even glorified the nation-state's actions, even as these actions were violating human rights.

In the following section, we present an overview of existing research on discursive human-rights contestation and explain the necessity of our proposed framework. This is followed by the methods section, in which we provide details on the human-rights case, our choice for the newspaper media, the data used, and the various phases of coding. We then present our findings and reflect on our conclusions.

## **2. The discursive struggle over human rights**

As stated in the introduction, this article follows multiple sociologists of human rights who have conceptualized human rights as constructed during discursive struggles between a variety of actors (Plummer 2006; Cushman 2009; Nash 2009; 2015; Madsen 2011; O'Byrne 2012). To illustrate, Nash (2009; 2015) uses the term 'cultural politics of human rights' to describe how actors are engaged in a struggle to challenge and remake common-sense understandings about human rights (e.g., deciding who counts as fully human or framing specific events as 'human rights wrongs;' Nash 2015, 13). Similarly, Plummer (2006, 153) explains that "rights work" entails claims makers involved in "claims" and "counter-claims", often animated by quasi-arguments and stories.'

Existing literature on human-rights contestation, within sociology but also within other disciplines, has identified several key actors in the struggle over human rights, predominantly focusing on juridical and activist actors. Research on human-rights construction by juridical actors is mainly found in legal and socio-legal studies. In this research, the starting point is that the principles of human-rights law are not fixed and unified, but are interpreted and applied by judges and lawyers. Morris (2009) and Staes (2014) indicate how these interpretation processes are influenced by the ideological predispositions of judges. Ng

(2018) explains how Australian judges make a very broad interpretation of the exclusion clause of the Refugee Convention, because they perceive asylum seekers as security threats. With regard to the constructions by lawyers, the work of Madsen (2007; 2011; 2013) and Dezalay and Garth (2012) on the transnational legal field of human rights has demonstrated how lawyers have utilized the legitimacy of their positions to further the political cause of human rights in judicial debates on transnational justice and human rights.

Second, research on activist actors can be found in political sociology, socio-legal studies, and anthropology and has emphasized activists' important role in advancing human rights. In particular, the work on transnational advocacy networks emphasizes the powerful and progressive role of NGOs, engaging in what is called 'naming and shaming' or 'information politics' (Sikkink 1993; Keck and Sikkink 1999; Brysk 2013). Through lobbying and making violations public, NGOs try to create a political will to protect and empower victims of human-rights abuse. Anthropologists have provided more nuanced accounts of how grassroots social movements use – or do not use – human-rights language to advance their demands, thereby adapting the meanings attached to human rights to the local context (Houtzager 2005; Rodríguez-Garavito and De Sousa Santos 2005; Speed 2005; Goodale and Merry 2007; Rajagopal 2009; Merry et al. 2010; Claeys 2012; Orr 2012; Janmyr 2016).

Although it is often pointed out that the international human-rights system is state-centric (Morris 2006; Nash 2009), few studies demonstrate how nation-states engage with human-rights discourses. Nash (2009) provides an exception, explaining that the governmental construction of human rights occurs along two dimensions. The first has to do with the form that human-rights conventions should take and how and when they might be signed or ratified. The second concerns the extent to which government policy should conform to or ignore human-rights law. In particular, Nash illustrates how national pride forms a crucial obstruction to the implementation of human rights, based on the example of how the UK and the USA have suspended human rights for suspected terrorists since the terror attacks of 9/11. These actions were legitimated as a choice between our security and their rights, thereby rendering them acceptable in a state of emergency. Multiple authors confirm this observation that nation-states often emphasize a security narrative, in which national security (and not human rights) is proclaimed as the highest good (Wibben 2011; Brysk 2013; Gliszczynska-Grabias & Klaus 2018).

Pointing to a different national discourse, Nash (2009) explains how national pride can become discursively entangled with cosmopolitanism, in which nation-states endorse cosmopolitan ideas and take the lead in the defense of human rights in order to maximize their own national power in the world environment. Nash calls this cosmopolitan nationalism and warns for its inherent superior attitude.

It is possible that the global perspective actually becomes imperialist: 'The risk then, however, is that human rights will be co-opted by nationalism' (Nash 2009, 188).

The studies mentioned in this literature overview provide valuable insights in discursive struggles over human rights by clarifying how specific types of actors construct human rights. Yet this article centrally argues that an analysis of discursive struggles over human rights should focus on the simultaneous involvement of a variety of actors and their interaction at the level of underlying meanings. More specifically, we will focus on the four types of actors involved in a human-rights struggle as identified by Nash (2009): juridical, activist, political<sup>1</sup> and media actors. We strongly build on Nash's work as she also points to the importance of media as an arena for the discursive struggle over human rights and to the necessity of looking at a variety of actors involved in human-rights struggles. However, we take her approach a step further by zooming in on the media arena and analyzing not only a variety of actors participating in this arena but also their interaction at the level of underlying meanings.

The argument about this interactive nature of discursive human-rights struggles is driven by poststructuralist discourse theory (Laclau and Mouffe 1985; Laclau 1990; Fairclough 1993; Chouliaraki and Fairclough 1999; Howarth 2000), which emphasizes the relationality and contingency of discourse.<sup>2</sup> Following this theory, the interpretation of human rights is never made by a single actor but is a continuously renegotiated arrangement of different meanings that is always subject to challenges. Discursive struggles over human rights are constituted by continuous and contingent interactions of meanings. Furthermore, we argue that the interaction of meanings can produce unintended discursive effects. This claim is important because it is apparent from the previous discussion about human-rights construction by juridical, activist and political actors that research seems to presuppose that actors deliberately advance certain discourses on human rights. As an example, the research about transnational advocacy networks (Sikkink 1993; Keck and Sikkink 1999; Brysk 2013) identifies NGOs as actors who

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<sup>1</sup> To note, Nash uses the term 'governmental actors', while this article speaks about political actors. We changed this term because we argue that judges, which are categorized by Nash as juridical, can also be seen as an element of governmental power. This makes the term 'governmental' confusing. We include the following actors within the political actor category: transnational intergovernmental and political bodies, local and national governmental actors, and members of political parties.

<sup>2</sup> It might seem counter-intuitive to look for underlying meanings when following a poststructuralist approach, which of course opposes the idea of a foundational deeper meaning level. However, this search for underlying meanings is in fact about a critical analysis, which fits very well within the poststructuralist philosophy. We want to uncover the underlying assumptions of narratives in order to investigate whether narratives that seem to be opposed at first glance also have opposing assumptions. This provides a lot of insight in the conditions that enable interaction between these different narratives. Moreover, it is very important to keep in mind that we perceive the interaction at the level of underlying meanings as contingent and thus not fixed, which is also in line with poststructuralist thinking.

rationally and strategically decide to 'name and shame' perpetrators of human rights violations.

Yet, we argue that discursive human-rights struggles are more messy, as they constitute contingent interactions of meanings which can sometimes result in unintended discursive effects. Human-rights struggles have such a messy character because the meaning of human rights is indeterminate and often inherently contradictory. Nation-states are both the main guarantors and the main violators of human rights (Nash 2015). Human rights are simultaneously the rights of national citizens and of individual human beings everywhere. While human rights have emancipatory potential, they also require global governance in order to be achieved. Although they are perceived to be universal standards, they must always be adapted to local contexts in order to be effective. Consequentially, different and paradoxical meanings can be attached to human rights, making human rights into an unpredictable and ambiguous construct.

As our case study is about Roma asylum seekers, we elaborate here on the specific paradox that is at play in discursive struggles over their human rights. First, as we define asylum seekers to be part of the broader category of migrants, we discuss the paradox that arises for migrants between national interests and individual human rights. Although migrants could be perceived as a group for which individual, de-territorialized rights would be likely to bring the most benefits, their situation also illustrates the historically prominent and currently even greater power of nation-states to control the rights of migrants residing within their territories (Morris 2009; Nash 2009; 2015). Migrants are thus bearers of human rights, but they are confronted with a world in which nation-states are increasingly controlling their borders, often violating the rights of migrants in the process (Lynn and Lea 2003; Nyers 2003; Bancroft 2005; Benhabib 2005; Fassin 2005; Turner 2007; Bauman 2009; Schinkel 2009; Nash 2015; Gliszczyńska-Grabias & Klaus 2018). These violations are then justified by claiming the need to protect the rights of the national citizens, regardless of the consequences for the human dignity of non-citizens (Nyers 2003; Rajaram and Grundy-Warr 2004; Fassin 2005; Nash 2009; Burrell 2010).

Second, the asylum seekers in our case study were Roma, and for this group the paradox between individual human rights and national interests is also particularly prominent. On the one hand, a significant human-rights campaign supports the Roma. European fora have been mobilized and European institutions and civil society have become increasingly alert to human-rights violations for Roma (Sigona and Vermeersch 2012). Roma are perceived to benefit most strongly from the European framework of human rights, because they lack a connection to any specific homeland that defends their rights (Vermeersch 2000; van Baar 2008). On the other hand however, the human-rights situation for Roma reflects the pervasive power of nation-states, as Roma are confronted with continuous violations of their

human rights in many European countries (Bancroft 2005; Bogdal 2012; Pogány 2012; Sigona and Vermeersch 2012; Chovanec 2013; Gliszczyńska-Grabias & Klaus 2018). Ideas about the Roma are submerged in multiple negative stereotypes, and this leads to exclusionary actions and policies towards the Roma.

In conclusion, this article will use a poststructuralist discourse analytical framework in order to grasp how this paradox between national interests and individual human rights was negotiated for Roma asylum seekers in the discursive struggle about the Čonka case. The details of this case will be explained below.

### 3. Methods

#### 3.1 The Čonka case

The empirical analysis focuses on the *Čonka v. Belgium* case and the discursive struggle that developed in the Flemish newspaper media in the aftermath of this incident.<sup>3</sup> In late September 1999, the police from the Flemish cities of Ghent and Tienen sent a notice to a large number of Slovakian Roma (including the applicants from the Čonka case) requiring them to report to the police station in order to complete the files concerning their applications for asylum (Cahn and Vermeersch 2000; ECHR 2002). Once at the police station however, the Slovak Roma were served with notice that the federal authorities had decided that they were to be detained in anticipation of their expulsion to Slovakia. After a few hours, they were taken to a closed transit center and only a few days later they were put on an aircraft bound for Slovakia. In 2002, the European Court of Human Rights (ECHR) ruled that Belgium had violated Articles 5 (the right to liberty and security) and 13 (the right to an effective remedy) of the European Convention on Human Rights, as well as Article 4 of Protocol no. 4 (which prohibits the collective expulsion of aliens) (ECHR 2002). This ruling was considered a major advance in the protection of human rights for asylum seekers.

The actions of the Belgian government need to be contextualized in the Belgian migration context of 1999. Migration from Central and Eastern European countries, like Slovakia where the concerned Roma originated from, was gradually increasing, ahead of the big EU enlargement in 2004 (Cahn and Vermeersch 2000; Vermeersch 2000). This caused worries in the receiving Western European countries such

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3. Because the violation occurred in a Flemish city, we chose to focus on Flemish newspaper media and not the newspapers distributed in the French-speaking part of Belgium. This should be considered when interpreting the findings, as the French-speaking newspapers might have given more weight to other actors/meanings involved in the discursive struggle about the Čonka incident.

as Belgium, where claims were made that the increased number of asylum seekers meant a threat to the social security system, to the prevailing legal order and security, and to the national identity. In response, repressive and deterrence measures were adopted (Sigona and Trehan 2009). The Belgian asylum policy was going through multiple reforms, trying to figure out how to cope with the increasing asylum applications. In the Čonka case, the Belgian government decided to unlawfully expel the Slovakian Roma, and thus they put the national interest about migration control before the human rights of the Roma. In this sense, the paradox between national interests and individual human rights was clearly at play in this specific case, and this article will analyze how this paradox was negotiated in the newspaper debate on this case.

### **3.2 Choice for newspaper media**

As indicated in the introduction, we see the newspaper media as an important arena in which a variety of actors engage in discursive struggles over human rights. As explained by Ferree and colleagues (2002, 10), the mass media functions as a 'master forum' in the public sphere because all actors from other forums engage in political contest through the mass media, and because the mass media have the widest possible audience. With a specific focus on human rights, Nash (2009; 2010; 2015) claims that in the mainstream media (e.g., newspapers, television, radio), discussions concerning human rights take place across a wide range of political positions. These discussions bear a strong influence on what most people think about human rights, particularly in terms of what they are, how they can be effective, and in what way they are legitimate. In current modern society, the media constitute a crucial source of information for everyone, playing 'an important role in the disruption and recreation of taken-for-granted common sense concerning what is true, useful and valuable' (Nash 2015, 14). Despite this strong 'productive power' (Barnett and Duvall 2005) of media over human rights (Plaut 2014), the media have been scantily studied as an arena for discursive struggles over human rights.

Therefore, this article analyzes the discursive struggle that arose on the Čonka case in the media arena, and more specifically in newspaper media. As argued by Ferree and colleagues (2002, 47), newspapers are important 'validators' for other media, such as television and radio. Newspapers identify the most important actors in particular issues, as well as the meanings and arguments that are to be taken seriously. Newspapers could thus be regarded as a primary data source for analyzing the media debate on the Čonka case. To analyze the newspaper debate on the Čonka case, we conducted a search inquiry in the Flemish Mediargus database to collect newspaper articles. The

search terms Roma and Gypsy yielded 212 articles from several different newspapers from 1999 (year of the incident) to 2002 (the ECHR ruling).

Importantly, we need to acknowledge that the media are not just an arena for discursive struggle, but also actively frame this discursive struggle. They thus are themselves an actor in the discursive struggle over human rights. As Nash (2009, 52) explains, ‘by determining which perspectives on human rights are made visible, which “voices” are heard, and which are given credibility, journalists and editors set agendas and frame human rights issues in ways that may influence the outcome of struggles over human rights.’ More generally, it can be stated that the media exercise framing power in two respects: first, they determine which issues get salient and who will be quoted, second, they influence the perceptions and interpretations of the issue under discussion (Ferree et al. 2002; Dimitrova and Strömbäck 2005; Plaut 2014).

A particular way in which national media can exercise influence through framing is what Nash refers to as ‘banal nationalism’ (Nash 2009; 2010). When reporting about global issues, the media make national actors and national perspectives more visible, placing more value on these matters than they do on stories that are not in the national interest (Dimitrova and Strömbäck 2005; Nash 2009; 2010; van Dijk 2009; Joye 2010; 2015). With regard to human rights, Nash (2009) has remarked that the media reinforce the national framing of issues when talking about human rights. In terms of mainstream media framing of Roma, it can be stated that Roma are persistently constructed as either criminals or passive victims, and almost never as active subjects (Plaut 2012; Chovanec 2013; Bogdán 2015).

Although this article primarily perceives the newspaper media as an arena for discursive struggles over human rights, we do need to reflect upon the specific influence the newspaper media have in framing these struggles. Therefore, our analysis considers the ways in which newspapers specifically framed, emphasized, or neglected certain voices, noting how they used connotative words and descriptions to support or confirm certain positions and opinions. Furthermore, we consider what was emphasized through the use of certain headings or subtitles and which descriptions and articles were repeated throughout different newspapers and through time. Our analysis addresses a range of popular and up-market newspapers affiliated with different political traditions: De Morgen, De Standaard, De Tijd, Gazet van Antwerpen, Het Belang van Limburg, Het Laatste Nieuws, Het Nieuwsblad, Het Volk, and Knack (a weekly journal). Although it was part of the analysis to consider framing differences between these different newspapers, our results do not reveal any substantial differences between newspapers in terms of how they influenced the public debate on the Čonka case, except that the up-market newspaper De Morgen (27.4%) and the popular newspaper Het Nieuwsblad (22.2%) had the most articles on this case.

### 3.3 Coding

We began our analysis by delineating text fragments in the newspaper articles based on the actor whose opinion was being reflected, after which we categorized all actors according to type (political, activist, juridical, media) and the level at which they operated (transnational, national, local). The unit of analysis consisted of the text fragments for each actor. We used open coding to analyze these text fragments, looking for meanings that pointed to the negotiation of the paradoxical nature of human rights, as described by Nash (2015). We nevertheless remained open to meanings that we had not considered important beforehand.

In a subsequent coding phase, we systematically defined our codes using a coding scheme inspired by narrative analysis. In discursive struggles about human rights violations, narratives are plausible discursive phenomena (Coundouriotis and Goodlad 2010). Narratives have a clear structure: they almost always contain a beginning, middle, and end (Stone 2002; Boswell 2013). They select or exclude particular events and information, and assemble them in a compelling manner (Stone 2002; Slaughter 2010; Wibben 2011; Autesserre 2012; Boswell 2013). In this sense, human-rights narratives allow to tell in a structured way about the course of events and how these violated human rights.

Furthermore, human-rights narratives typically identify heroes, villains, and innocent victims (Mutua 2001; Autesserre 2012; Brysk 2013). By telling a compelling story in which there is a clear perpetrator and victim, narrative constructors assign responsibility and blame for the specific violating event, in an attempt to gain support for the particular courses of action that they wish to take. Although the latter seems to suggest that narratives are used deliberately and strategically, there are two reasons that this is not the case. First, narratives evolve organically as sense-making devices through social interaction, giving the actors tools to see reality in simplified terms and arrive at clear conclusions about how to move forward (Boswell 2013). Second, the actors involved in the newspaper debate on human rights cannot fully control the narratives with which they are identified, due to the framing power of media actors. We thus did not presuppose that the narratives were deliberately designed strategies when linking the actors and narratives identified in the newspaper media.

Consequently, the main criterion to identify a narrative was not the steering by a particular actor but the coherence in terms of discursive meaning (such as 'Belgium as a failed nation-state'). The coding scheme that we used involved defining and connecting the identified codes as being part of a narrative by systematically asking the following questions (inspired by Stone 2002): What is told in the story? Which events are used? How are they linked? To whom are responsibility and blame assigned? What is the purpose of the story? Who is telling the story? In which setting is the story told?

Finally and importantly, we addressed the interactive and contingent nature of the discursive struggle over human rights by identifying the shared underlying meanings between the different narratives and the linkages between the different actors and narratives. Concretely, we did this by analyzing the relations between narratives, between codes within specific narratives, and between actors with regard to the identified codes/narratives. We did this systematically, making visual graphics of the different narratives and codes, as synthesized in Figure 1 in the Results section.

## 4. Results

### 4.1 Who was (or was not) involved?

Our analysis is explicitly aimed at identifying the *multiplicity* of actors who were represented in the Flemish newspaper debate on the *Čonka* incident. Table 1 shows all represented actors according to type and level, together with the number of text fragments with which they were associated in the coding process. We excluded all actors with less than 20 fragments. Interestingly, despite the fact that the Council of Europe and other transnational intergovernmental institutions have defended the rights of the Roma since the 1990s onwards (van Baar 2008; Sigona and Vermeersch 2012), the transnational political actors were only weakly represented in the studied newspaper debate. Furthermore, although lawyers and judges are deemed to be very important actors in the human-rights construction process (Morris 2009; Nash 2009; Dezalay and Garth 2012), newspaper accounts of the incident reflected hardly any interpretations from actors of this type. Although we were able to identify the ECHR as a represented actor within the debate, this was the case only in 2002, when it explained that the case was in breach of the European Convention on Human Rights.<sup>4</sup>

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4. Our data span from 1999 to 2002, but we did not identify dynamics clearly linked to any specific period or particular developments. Only the finding about the ECHR was specifically linked to articles from 2002, the year in which the ECHR issued its ruling on the case.

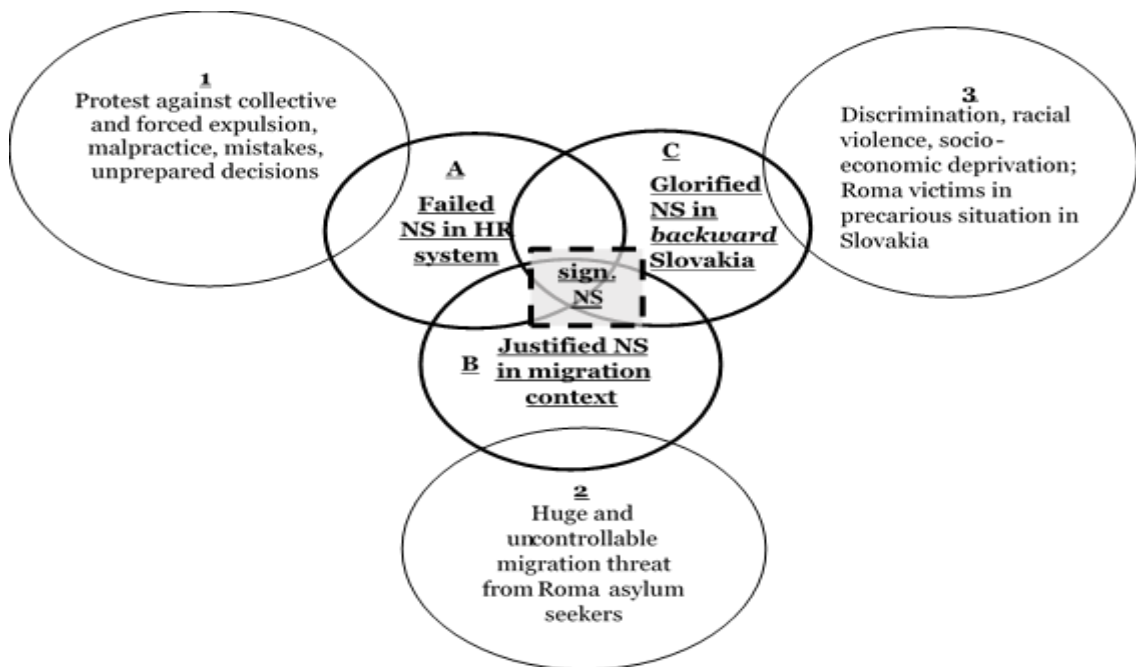
*Table 1: Actors (with more than 20 <fragments>) according to type and level involved in the Flemish newspaper debate following the Čonka incident*

ACTOR TYPE	ACTOR LEVEL		
	Transnational	National	Local
<b>Juri-dical</b>	<24> European Court of Human Rights	/	/
<b>Activist</b>	<31> Amnesty International	<61> Opre Roma	<23> Janette Danyova (spokeswoman of the Slovak community in Tienen)
		<36> Open Borders (VZW Open Grenzen)	<28> Hospitable Ghent (Gastvrij Gent)
			<21> Balog family (Slovak Roma)
<b>Politi-cal</b>	/	<70> Antoine Duquesne (Minister of Interior, PRL-liberal party)	<29> Mayor of Ghent (Sp.a. – socialist party)
		<24> Pascal Smet (Deputy Head of the Interior Ministry, Sp.a. – socialist party)	<40> Mayor of Tienen (Sp.a. – socialist party)
			<29> Van Cauwenberghe (Co-ordinator of asylum policy in Ghent)
<b>News-papers</b>	/	<58> De Morgen, <28> De Standaard, <12> De Tijd,	/
		<19> Gazet van Antwerpen, <13> Het Belang van Limburg, <16> Het Laatste Nieuws,	
		<47> Het Nieuwsblad, <11> Het Volk, <8> Knack	

## 4.2 Contingent interactions in the newspaper debate on human rights

Focusing on the interactive and contingent nature of the discursive human-rights struggle, we identified multiple and contingent interactions between the actors and narratives involved in the Flemish newspaper debate on the human-rights incident, as depicted in Figure 1. The large circles represent the different narratives, with numbers in the actors' boxes representing the linkages between the narratives and the actors. In the remainder of this section, we detail these narratives and their interactions in the Flemish newspaper debate following the Čonka incident.

Figure 1: The three different narratives (circles) and linkages to actors (numbers in boxes) identified in the Flemish newspaper debate following the Čonka incident.



POLITICAL	<del>Trans-national</del>
	National <b>2, 3</b>
	Local <b>1, 2, 3</b>

NEWS-PAPERS	<del>Trans-national</del>
	National <b>1, 2, 3</b>
	<del>Local</del>

ACTIVIST <b>1, 3</b>	Trans-national
	National
	Local

JURIDICAL	Trans-national <b>1</b>
	<del>National</del>
	<del>Local</del>

**Human rights in Belgium: Failed responsibility of the Belgian nation-state**

This narrative (Circle 1 in Figure 1) was mainly linked to activist actors at all levels. It exhibits a cosmopolitan belief in the legitimacy of human rights (as can also be observed in e.g. Donnelly 2003), repeatedly indicating that the expulsion had been collective and forced, thereby breaching the international obligations involved in dealing with asylum seekers. The newspapers also contained reports on events aimed at illustrating the solidarity between the Roma and non-Roma. The most dominant argument in this narrative, however, was that the Roma were the victims, with the Belgian nation-state being the manifest villain. More specifically, multiple claims were made by activist actors at all

levels, arguing that the Belgian nation-state failed in treating its Roma residents in a dignified and appropriate manner (as also described by Cahn and Vermeersch 2000). This was done explicitly by accusing the government of malpractice, mistakes, dishonest and illegal procedures, and the neglect of fundamental rules. These accusations were accompanied by expressions of indignation about the incident and about the general asylum policy. The following quote from Amnesty International formulates this indignation briefly: ‘Amnesty International discredits Belgium for collectively sending back dozens of gypsies [sic] from Slovakia’ (Amnesty International, *De Standaard*, August 17, 2000).<sup>5</sup>

More specifically, activist actors argued that the national government had taken hasty and premature actions in the asylum cases. Surprisingly, local government actors made the same argument. Although they seemed to support the national government’s expulsion policy, they were strongly critical of the inefficiency of the decisions and the lack of determined actions and clear instructions. They argued that the national government had not been sufficiently prepared for the consequences of its actions, as can be seen in the following quote from the substitute Mayor of Ghent<sup>6</sup>:

On Friday, the substitute mayor Sas van Rouveroij (VLD) from Ghent was very critical of the cabinet of Minister Duquesne. “Many more could have been expelled, but because Brussels was not prepared for such a high number of participants, the intervention has been temporarily stopped. In Ghent, we anticipated everything, but Brussels appears to have been somewhat surprised by the high number”. (Mayor of Ghent, *De Tijd*, October 2, 1999)

The overall opinion within the narrative was that the national government was not in control. This opinion was cited by the newspapers who wrote condemning headlines and reports, many of which focused on the inabilities of the government in the person of Antoine Duquesne, the Minister of Interior at that time: ‘The Office for Immigration Affairs, led by Duquesne, has been for some time one of the most staggering phenomena of the Belgian government’ (*De Standaard*, September 6, 2000).

The claims of activist, local political actors, and the newspapers (see Nr 1 in the respective actors’ boxes in Figure 1) were thus united in depicting the Belgian nation-state as incapable and, sometimes, morally wrong (see the link between Circle A and Circle 1 in Figure 1). Although this could be seen as a successful strategy in addressing the human-

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5. The quotations mentioned in the paper were translated from Dutch by the first author.

6. Sometimes it was not the Mayor of Ghent, Frank Beke, who was quoted in the newspaper debate, but the substitute Mayor, Sas van Rouveroij, who is affiliated with the VLD, which is a liberal party.

rights atrocity, it also served to confirm the nation-state as the central actor, emphasizing that only the nation-state could change the human-rights situation for the Roma asylum seekers (although it failed to do so). It is also important to bear in mind the *ambiguous* interactions in this narrative. On the one hand, the local government actors strengthened the claims of the activist actors. On the other hand, however, they weakened these claims by focusing more on the disapproval in terms of procedure rather than in terms of absolute conviction concerning the expulsion of the Roma.

### ***Eastern European migration threat: Belgium's actions justified***

This narrative (Circle 2 in Figure 1) contained a strong sense of threat from an uncontrollable wave of migration that could only be resolved by a strong and defensive reaction by the nation-state (as also described by Cahn and Vermeersch 2000). The narrative was constructed through specific discursive techniques, which could be linked to the 'story of decline,' which Stone (2002) defines as a story outlining an intolerable evolution leading towards a crisis and demanding action. This kind of story uses facts and figures to show that things have gotten worse. In our case, statistics were indeed used by both local and national political actors and the newspapers (see Nr 2 in the respective actors' boxes in Figure 1) to indicate that Belgium was being confronted with an enormous and uncontrollable increase in asylum applications of Roma. This can be seen in the following quote from the deputy head of the Interior Ministry, Pascal Smet:

The drastic measure is needed in order to bring an end to the *massive flood* [emphasis in original] of Roma-gypsies [sic] to Belgium. In January, 41 gypsies [sic] asked for asylum. In February, there were 71, in March 191, and in the first days of April, there were no less than 220. "Drastic measures were needed," Smet states. (Smet + *De Morgen*, April 20, 2000)

In addition to the rising numbers, certain terms and adjectives (e.g., 'pressure,' 'invasion,' 'alarming increase,' 'massive flow,' 'huge influx') were used to add a negative, threatening, or disastrous tone to the increased numbers of Roma asylum seekers. Words with these kinds of connotations are frequently used as a device to add emotional impact to stories of decline (Stone 2002; Boswell 2013).

The story about increasing Roma asylum seekers was told in such a way that it led to agitation and fear. As a consequence, the defensive reaction of the Belgian nation-state was not only justified, but was also framed as the right thing to do, given the context (see the link between Circle B and Circle 2 in Figure 1). The status of the nation-state thus shifts from the *villain* in the previously described narrative to the *hero*

in this story. Local and national political actors demonstrate this defensive reaction. For example, the Mayor of Tienen is quoted as saying, ‘From now on, there is no more sentimentality. Forced repatriation? It will take place. In recent days, I have received seven files about expulsions. They were immediately put into practice’ (Mayor of Tienen, *Het Nieuwsblad*, June 16, 2001).

This narrative on the migration threat corresponds to scholarly observations (Morris 2009; Nash 2009; 2015; Gliszczynska-Grabias & Klaus 2018) concerning the obstructive power of the nation-state in the realization of human rights for migrants. In this case, we see that a narrative is created about a threatened nation-state needing to defend its borders in order to stay strong, even if doing so would violate the human rights of the asylum seekers.

The most interesting aspect of this narrative is the involvement of the political actors at the local level, even as they were allied (at least to some extent) with activist actors in the previously described narrative. The newspapers also played a significant role in emphasizing this migration threat. This created a strong counter-narrative against the aforementioned narrative that decisively blamed the nation-state for the incident.

### ***Human rights in Slovakia: Belgium glorified as a defender of human rights***

A third narrative (Circle 3 in Figure 1) corresponds to the indignation expressed in the first narrative described in this article, albeit in an ambiguous way. This narrative was strongly linked to activist actors and demonstrated the severity of the situation in Slovakia. Activist actors at all levels reported discriminatory attitudes and practices, racial violence, unjust treatment, and abuse in Slovakia in such a way that it became a given in the Flemish newspaper media that the Roma were victims of discrimination in Slovakia. The activist actors also argued that discrimination had consequences for the socio-economic conditions of the Roma in terms of housing, work, health care, and education. This idea of deprivation was augmented by a general evaluation of the situation as miserable, precarious, and absurd. This narrative reflects clearly a cosmopolitan human-rights concern for the Roma in Slovakia, unambiguously identifying them as victims at a distance. The argument about a deprived situation for Roma in Slovakia is exemplified in the following quote from Hospitable Ghent: ‘The situation in all those ghettos, camps, and settlements is extremely severe. The living conditions of the Roma are comparable to those of the poor in Asia or Latin-America’ (Hospitable Ghent, *De Standaard*, April 25, 2000).

The cosmopolitan concern about deprivation and misery in Slovakia was inextricably linked to the assignment of an exemplary role to the Belgian nation-state, which was thus portrayed as a hero (see the link between Circle C and Circle 3 in Figure 1). Activist and local political actors asked the Belgian nation-state to intervene in Slovakia, by

providing resources for and exerting pressure on the Slovak authorities to implement better treatment of the Roma (see Nr 3 in the respective actors' boxes in Figure 1). This is illustrated in the following quote from Janette Danyova, the spokeswoman of the Slovak Roma community in Tienen: 'Your government can play an important role in preventing Slovakia from antagonizing us' (Danyova, *Het Nieuwsblad*, August 26, 2000).

Similar to the first narrative described in this article, the nation-state was portrayed as a central actor, capable of bringing change in the human-rights situation of the Roma. This narrative was conducive to emphasizing a positive role for the Belgian nation-state: protecting the human rights of the Slovak Roma in Slovakia (see the link between Circle C and Circle 3 in Figure 1). The national political actors (see Nr 3 in the box for these actors in Figure 1) glorified Belgium as a country that brings improvement and defends human rights in Slovakia, thus countering the negative blaming narrative. The following quote shows how Pascal Smet, deputy head of the Interior Ministry, emphasizes the Belgian government's positive actions in Slovakia:

I want to point out that 1.5 million Belgian francs from the budget of Interior Affairs were given to the office of the International Organization for Migration (IOM) in Kosice, Slovakia. This money will be used for the reintegration and guidance of the expelled asylum seekers. We need to eliminate the problems at the roots. (Smet, *De Morgen*, June 15, 2000)

Thus, the story glorifying the Belgian nation-state aligned with the cosmopolitan narrative from the activist actors, with the effect of strengthening the discursive position of the nation-state. We link the narrative from the Belgian government with a cosmopolitan nationalist discourse, which was defined by Nash (2009) as the entanglement of cosmopolitanism and national pride. She identifies two national interests for this cosmopolitan nationalism. First, if you can lead the world in developing cosmopolitan values and policy, you will be considered as a *great* country. Second, if you can obtain that less people live in inhuman conditions, you can prevent mass migration and terrorism, which would otherwise harm your nation. These national interests can be translated to the Belgian nation-state at the time of the *Čonka* case, as the Belgian nation-state was in need of an image change concerning their respect for human rights and it wanted to stop the increase in Roma asylum seekers coming from Slovakia.

Importantly, Nash (2009) expresses concern that such cosmopolitan nationalism enables leader states to develop a superior and imperialist attitude. Accordingly, this narrative calls for critical examination, as it allowed Belgium to shift attention away from its own human-rights violations towards an elaborate description of a *backward* situation in

Slovakia, thereby glorifying Belgium as a human-rights hero. The newspapers played an important role in sketching this *backward* and underdeveloped image of Slovakia and its *helpless* Roma (see Nr 3 in its box in Figure 1), as illustrated in the following quotation about a visit to Slovakia:

A boy watches his own reflection in the neatly polished body of the car for 15 minutes. He thinks it's very spectacular, as he calls all his friends to come and watch. A short distance away, a mother is draining the dirty water from her washing machine into a bucket. The clothes have been washed in it, and now it's the little child's turn... (*Het Belang van Limburg*, October 11, 1999)

We argue that the narrative had an *orientalist* effect, reproducing the difference between *us*, Belgians, and *them*, Slovak Roma. It is important to note that the narrative from the activist actors did not oppose these orientalist meanings, but rather enabled them. This illustrates how the discursive struggle over human rights can have unintended discursive effects. Although the activist actors may not have intended to tell a story about an exemplary Belgian nation-state and a *backward* Slovakia, the narrative about the situation in Slovakia aligned with the glorifying story about the national government, thereby changing some important meanings.

## 5. Conclusion and discussion

This article analyzed the discursive struggle about the *Čonka* case in Flemish newspaper media. We aimed to examine how the paradox between national interests and individual human rights was negotiated within this particular discursive struggle over human rights of Roma asylum seekers. We argued that to understand how such a negotiation takes place, we need to pay attention to the interactive and contingent nature of discursive human-rights struggles via a poststructuralist discourse analytical framework. We suggest that such a framework can be used in future studies aiming to grasp the negotiation of the paradoxical nature of human rights within discursive struggles over human rights.

A first feature of our poststructuralist framework is that it enables to grasp the interaction of actors at the level of underlying meanings. In this regard, our analysis showed how both activist and local political actors contributed to the narrative about the failed Belgian nation-state. Furthermore, the third narrative, in which national political actors glorified the Belgian nation-state as a human-rights hero, bringing improvement in Slovakia, was based partly on arguments of activist actors, which depicted a *backward* situation in Slovakia that needed

Belgium's help. These findings demonstrate that narratives in a discursive struggle over human rights are not single, monolithic discourses but arrangements resulting from the interaction of different meanings. These findings thus underscore the need to move beyond the focus in existing human-rights studies on how *single* types of actors construct human rights.

Second, our framework explicitly focuses on the fluidity and contingency of the relations between meanings and actors. In this way, we showed how local political actors were involved in both the narrative about the failed Belgian nation-state *and* the narrative about the migration threat, which appeared to be opposing narratives within the discursive struggle. The analysis thus demonstrates that a discursive struggle over human rights is not a clear-cut struggle between opposing meanings and actors, but instead can involve temporary discursive alliances and oppositions.

Thirdly, we argue that the interaction of meanings can create dynamics that the actors do not consciously control and that can cause the meanings to have unintended discursive effects. The data illustrate such unintended effects, and thus it proves important to take into account that some discursive arrangements within human-rights struggles are possibly not strategically intended. Most notably, although the activist actors may not have intended to tell a story about an exemplary Belgian nation-state and a *backward* Slovakia, the narrative about the situation in Slovakia aligned with the glorifying story about the national government, thereby altering some important meanings.

The most important finding which we wish to highlight here is that all the narratives in the discursive struggle about the *Čonka* case shared a focus on the relative legitimacy and responsibility of the nation-state, thereby asserting the significance of the nation-state within the human-rights practice for Roma asylum seekers (see the small square in the middle of Figure 1). This thus forms the most prominent underlying meaning which connected all three narratives and the different involved actors. It shows how the paradox between national interests and individual human rights was negotiated in this specific discursive struggle. The different narratives centralized the nation-state within the discursive struggle, including the narrative in which the human rights of Roma in Belgium were defended. The complex interaction of narratives did not reflect the power of *human rights*, but rather the legitimacy and importance of the *nation-state*. Consequently, the narratives in which the nation-state's actions were justified and glorified were able to dominate the Flemish newspaper debate. Despite the fact that the *Čonka* case was actually about protecting the human rights of the Roma asylum seekers, the debate shifted towards defending the national interests in this case.

Thus, our poststructuralist framework proved particularly well-suited to unravel how the paradox between national interests and individual human rights played out within the discursive struggle about a

particular human-rights violation for Roma asylum seekers. We suggest that our framework could also be useful for further research into discursive struggles about more recent human-rights incidents for Roma migrants, as well as for migrants in general. The paradox between national interests and individual human rights emerges even more explicitly within the contemporary context of intensified and more widely dispersed migration. On the one hand, human rights of migrants have been more firmly established, for example by the enlargement of the European Union and the resulting wider appliance of the right to free movement. On the other hand however, nation-states are increasingly controlling their borders, often violating the rights of migrants in the process. If we want to understand how the paradox between individual human rights and national interests is negotiated in more recent discursive struggles over human rights of (Roma) migrants, we suggest that it is crucial to examine the contingent interactions between different meanings and actors.

An important concluding remark that should be made is that the focus on the nation-state in the newspaper debate on the *Čonka* case is possibly caused by a nationalist tendency of national newspapers in framing the debate. If this would be the case, this result is in itself interesting, because it shows how national newspaper debate, which can have a strong influence on public perceptions about human rights, centralizes the nation-state when talking about human rights. Yet it would of course be necessary to investigate the production processes behind the newspaper debate, in order to determine how and why journalistic actors decide to frame the human-rights debate in this specific way. Furthermore, knowledge about the intentions of journalistic actors would give further insight into what we have termed in this article ‘unintended discursive effects’ of the interaction of meanings: are these effects also unintended on the part of the journalistic actors, and thus the mere result of the *messy*, paradoxical character of human-rights construction or are they a result of journalists’ deliberate framing? Moreover, future research should definitely explore which meanings prevail in the discursive struggle over human rights on social media. The emergence of social media is often attributed with the potential to stimulate processes of democratization and emancipation, and thus we could ask if social media might allow space for more cosmopolitan narratives and frames on human rights protection. Lastly, we argue that it is important to utilize our poststructuralist framework for the study of discursive human-rights struggles in other arenas than the media, such as the court, as different human-rights meanings also interact within the struggles that take place here. Indeed, the question arises if we would observe a different negotiation of the paradoxical nature of human rights when we would consider the contingent interaction of meanings and actors in a different arena of human-rights struggle.

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