

Human rights and security – The Two Towers?

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In our allegedly terrorist – or rather counter-terrorist – world, we seem to be challenged with (re-)defining the relationship between security and human rights. But what precisely do these concepts mean to us, and how do we see their relationship? Has 9/11 triggered of the dark and confusing battle between the Two Towers *Human Rights* and *Security*? A few thoughts to stimulate discussion:

The counter-terrorist world: Security vs. human rights

We live in a counter-terrorist world, and we have to be prepared for terrorist attacks, so they say: 'A terrorist attack on the UK is inevitable'. In such a world, human rights have to be limited, truncated and reduced. We have to choose between security and human rights, between safety and liberty, between protection and freedom. Human rights can be traded off for more security, and ultimately security concerns trump over human rights. Two different sets of language are being spoken, the language of human rights and the language of security, growing apart more and more each day. While we seem to have a certain amount of clarity what we are talking about when we describe the concept of human rights, there seems to be much less of a common understanding of what security means, or should mean, to us. Whose security? Security from what? Security for what?

Feeling insecure: The debate on asylum seekers

Accommodating a growing number of asylum seekers seems to create a general feeling of insecurity. Plans for accommodating larger numbers of asylum-seekers in local communities lead to outright rejection by local governments and residents alike. Some criminal assaults by asylum seekers suffice to open a discussion on the total withdrawal from international human rights treaties. I don't think the answer to this hysteria lies in drafting legal opinions – valid as they may be – which explain the abstract principles of the international human rights regime while not addressing real or imagined security concerns. What about the angry questions posed by those confronted with insecurity: "And what about my human rights!?" Is it a human right to live in security, or even to feel secure? Security is "protection against something bad that might happen in the future" as well as "a state of feeling happy and safe and free from

worry”, the Oxford English Dictionary tells us; it is a condition as well as a feeling. Has this got anything to do with human rights? What then is ‘security’, seen from a human rights perspective?

Freedom from fear

Roosevelt’s four freedoms are often quoted as basis for the development of the post-1945 human rights system, and *freedom from fear* and *freedom from want* are seen as being translated into the concept of civil and political rights and economic and social rights. Yet, when talking about the freedom from fear, Roosevelt referred to arms control, and not to human rights or individual security.¹ And still, freedom from fear is an easily understood idea and a powerful wish all of us have. But is it a human right?

A human right to security?

Human rights have always been concerned with the security of the individual. Indeed, ‘security’ is a human right itself. Art. 3 of the Universal Declaration of Human Rights (“Everyone has the right to life, liberty and security of the person”) explicitly refers to security in the framework of human rights.

What is meant by “security” as a human right? Art. 3 of the Universal Declaration of Human Rights, it seems, comprises three different, yet inter-linked rights, i.e. the right to life, personal freedom (i.e. the right to movement) and the right to personal security (i.e. the right not to be arbitrarily detained).² The right to security in Art. 3 is largely a State’s obligation not to interfere with the personal integrity of the individual.

Is there a wider meaning of the right to security than this approach? In referring to the *travaux préparatoires* of the Universal Declaration on Human Rights, *Rehof*³ reminds us of the following: In the drafting process of Art. 3, a Cuban proposal to insert the protection of ‘integrity’ was rejected by the argument that ‘integrity’ was covered by the word ‘security’. A similar Belgian amendment to include reference to ‘respect for the physical and moral

¹ ‘In the future days, which we seek to make secure, we look forward to a world founded upon four essential human freedoms. The first is freedom of speech and expression - everywhere in the world. The second is freedom of every person to worship God in his own way - everywhere in the world. The third is freedom from want - which, translated into world terms, means economic understandings which will secure to every nation a healthy peacetime life for its inhabitants - everywhere in the world. The fourth is freedom from fear - which, translated into world terms, means a world-wide reduction of armaments to such a point and in such a thorough fashion that no nation will be in a position to commit an act of physical aggression against any neighbor - anywhere in the world’, Congressional Record, 1941, Vol. 87, Pt. I.

² Lars Adam Rehof’s contribution on Art. 3 in: Asbjörn Eide, Gudmundur Alfredsson, Göran Melander, Lars Adam Rehof and Allan Rosas: The Universal Declaration on Human Rights. A Commentary, Oxford (Oxford University Press) 1992, at p.73 et seq.

³ Ibid, at p.77.

integrity of his person' was also turned down. Mrs. Roosevelt as chairperson of the drafting group, supported by the French delegation, then stated that the word 'security' was chosen because it was more comprehensive than any other expression. Finally, the wording of Art. 3 was adopted by 36:0 with 12 abstentions. This leaves more questions open than it answers. Did the drafters of the Declaration have a broader notion of security in mind?

Three concepts: personal security, social security and a safe world

The spirit of Art. 3 of the Universal Declaration has subsequently been transferred to other universal and regional human rights instruments. In these documents, three different concepts of 'security' seem to be enshrined: Personal security, social security and what I would call 'international' security.

Personal security is first and foremost geared towards protection from arrest and detention by State agents.⁴ *Social security*, while still disputed as for its enforcement, is a human right.⁵ Art. 23 of the African Charter on Human and Peoples' Rights refers to '*international*' security in the form of a collective right: "All peoples shall have the right to national and international peace and security". Taken together, these three approaches indicate an interest of the human rights regime in the security of individuals and groups, yet they do not form anything like a human right to security.

The Security Council

Just as the human rights regime feels uncomfortable in dealing with 'security', international institutions and mechanism for guaranteeing security feel at odds when it comes to human rights. Yet, already in 1977, the Security Council, entrusted with guaranteeing world peace and stability under the UN Charter, has taken decisions based on – largely – human rights violations (the arms embargo on South Africa after the Soweto killings of 1976), although the Council had to label them as a threats to regional security and stability. A great number of Security Council resolutions over the last years are driven by human rights concerns.

⁴ Art. 9 of the Covenant on Civil and Political Rights ("Everyone has the right to life, liberty and security of person"), Art. 5 of the European Convention on Human Rights and Fundamental Freedoms ("Everyone has the right to liberty and security of person"), Art. 6 of the African Charter on Human and Peoples' Rights ("Every individual shall have the right to liberty and to the security of his person"), Art. 1 of the American Declaration of the Rights and Duties of Man ("Every human being has the right to life, liberty and the security of his person") and Art. 7 of the American Convention on Human Rights ("Every person has the right to personal liberty and security").

⁵ Art. 22 ("Everyone, as a member of society, has the right to social security...") and Art. 25 of the Universal Declaration on Human Rights ("Everyone has the right ... security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control"), Art. 9 of the Covenant on Economic, Social and Cultural Rights ("The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance"), Art. 16 of the American Declaration of the Rights and Duties of Man ("Every person has the right to social security...") and Art. 9 of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights – 'Protocol of San Salvador' (Everyone shall have the right to social security...").

Coherence and consistency can, however, hardly be said to be at the centre of the Security Council's concern with human rights. And it was a big step, if not for mankind then for many UN diplomats in New York, when the then UN High Commissioner on Human Rights Mary Robinson was invited to address the Security Council on 18 September 1999. Will we ever see a *UN Security and Human Rights Council* acting to protect everybody's human right to security?

From state security to human security?

'Human security' has become a catchword in a global debate on the changing meaning of security. As a distinctive new concept it has largely been created and shaped by Mahbub ul Haq in the 1994 UNDP Development Report. Canada has taken up the idea of human security and has started to formulate it as a foreign policy priority.⁶ On the initiative of Canada and other countries, the Human Security Network has been created as a coalition of the like-minded with the aim of advancing human security globally.⁷ A high level Commission on Human Security, co-chaired by Amartya Sen and Sadako Ogata has taken up its work.⁸ These initiatives have attracted academic interest and the concept has since been further elaborated and discussed in the academic community. Institutes, centres, programmes and certificates on human security have been established.⁹ Publications on human security¹⁰ make their way into libraries, newsletters¹¹ appear and conferences. Human security remains a contested concept as for its definition, scope and utility. Proponents see it as a timely, necessary and helpful expansion of traditional security concerns and as a useful tool for shaping foreign policy. Some view it as shifting a paradigm or as a dramatic departure of traditional foreign policy concepts. Critics have accused the concept of being far too universalistic. They have pointed at conceptual flaws and have argued that "securitizing" issues (and the human being itself) does not serve the victims of insecurity, but rather creates false priorities and hopes.¹² Human security has been accused of being a concept which cannot meaningfully be reflected in practice.

⁶ See for the history of the concept as well as for a comparison between the UNDP and the Canadian approach in greater detail Kanti Bajpai, *Human Security: Concept and Measurement*, Kroc Institute Occasional Paper #19:OP:1, 2000, http://www.nd.edu/~krocinst/report/report19/abs_19_1.html. For the Canadian concept see <http://www.humansecurity.gc.ca>.

⁷ For information on the Human Security Network see <http://www.humansecuritynetwork.org>

⁸ See <http://www.humansecurity-chs.org>

⁹ A first attempt to list existing institutions and persons dealing with human security has been made by the Harvard Program on Humanitarian Policy and Conflict Research, see http://www.hsph.harvard.edu/hpcr/events/hsworkshop/related_research.pdf.

¹⁰ Publications include Rob McRae (ed.): *Human Security and the New Diplomacy: Protecting People, Promoting Peace*, Montreal (McGill-Queen's University Press) 2001; Edward Newman and Oliver P. Richmond (eds.): *The United Nations and Human Security*, Basingstoke (Palgrave) 2001; Fen Osler Hampson et al.: *Madness in the Multitude: Human Security and World Disorder*, Oxford (University of Oxford Press) 2001; P. Stoett: *Human and Global Security. An Exploration of Terms*, Toronto (University of Toronto Press) 1999.

¹¹ Human Security Network News Bulletin, http://www.hsph.harvard.edu/hpcr/human_security.htm

¹² See e.g. Yuen Foong Khong: *Human Security: A Shotgun Approach to Alleviating Human Misery?*, in *Global Governance* 7 (2001), pp.231-236.

Even though the concept still suffers from theoretical incoherence and questions of definition are far from being solved, human security is on the way to change institutions as well as the practice of global governance. As for UN agencies and regional organisations, human security so far seems to be reflected more in the pamphlets and web-sites as in concrete action. Yet, owing to the involvement of international civil society, the adoption of the land-mine convention, the UN Conference on Small Arms and the creation of the International Criminal Court are repeatedly being attributed to human security as a concept which has influenced decision-making and action.

Indeed, in today's world of rising non-traditional, non-conventional and trans-national threats, the protection of borders and the preservation of territorial integrity cannot be the ultimate goal of security. "The constraints on State sovereignty, the mobilization of international civil society in defence of international norms, and the sharing of power between state and non-state actors in a globalizing world (...) leave a clear message: the state is not longer able to monopolize the concept and practice of security".¹³

Let us leave aside some of the very broad (and indeed not very useful) approaches to human security and consider Lloyd Axworthy's definition that "(human security) is, in essence, an effort to construct a global society where the safety of the individual is at the centre of the international priorities and a motivating force for international action; where international human rights standards and the rule of law are advanced and woven into a coherent web protecting the individual; where those who violate these standards are held fully accountable; and where our global, regional and bilateral institutions – present and future – are built and equipped to enhance and enforce these standards."¹⁴

What is the role of human rights in this "coherent web protecting the individual"? Human rights have been described as the core of human security¹⁵ and as a normative framework for human security.¹⁶ Human security is a broader concept, comprising fundamental rights as well as basic capabilities and absolute needs.¹⁷ Human security, in contrast to human rights, seems to comprise threats that human rights are not primarily concerned with, e.g. natural

¹³ Sverre Lodgaard: Human Security: Concept and Operationalization, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/lodgaard.pdf>, at p.4.

¹⁴ Lloyd Axworthy on the Canadian approach, in Canada World View, Special Edition, Fall 1999, <http://www.dfait-maeci.gc.ca/canada-magazine/wv-se1/se1t3-e.htm>

¹⁵ E.g. Sabina Alkire, Conceptual Framework for Human Security paper presented at Kennedy School, Harvard University, 2002, www.humansecurity-chs.org/doc/0206harvard.html, at p.5, referring to human rights as the "vital core of human security".

¹⁶ See the declaration adopted by the Workshop on Relationship between Human Rights and Human Security, San Jose, Costa Rica, 2 December 2001, <http://humansecurity-chs.org/doc/sanjosedec.html>: "We reaffirm the conviction that human rights and the attributes stemming from human dignity constitute a normative framework and a conceptual reference point which must necessarily be applied to the construction and implementation of the notion of human security".

¹⁷ Cf. Sabina Alkire, Conceptual Framework for Human Security paper presented at Kennedy School, Harvard University, 2002, www.humansecurity-chs.org/doc/0206harvard.html.

disasters, and it stretches towards threats from State and non-State actors alike and thus is not concerned with the private/public divide which we find in human rights. Human rights are part of human security.

Bringing together human rights and security in such a way might change traditional views on both concepts.¹⁸ To mention a few:

The human security concept extends the human rights debate and brings issues such as humanitarian intervention on the grounds of serious human rights violations, the use of force for the purpose of protecting human rights and human rights violations by non-state actors into the human rights debate. More analysis will be needed to explore whether and how human security can explain and allow for the use of force in order to protect human rights.

Security concerns perceived as national security ('threatening the life of the nation') allow for the derogation of certain human rights. It has been argued that if human security assumes more importance alongside national security, human rights could not so easily be neglected or – legally speaking – derogated.¹⁹

Human security expands the notion of human rights towards threats that do not only emerge from States. Human security might allow for a better explanation of why acts by private parties and non-state actors should be seen as human rights violations.

¹⁸ For first attempts to analyse these questions see Human Security, Human Rights and Human Development, seminar at the Kennedy School, Harvard University, 2002, <http://www.humansecurity-chs.org>, Workshop on the relationship between human rights and human security, San Jose, Costa Rica, 2 December 2001, <http://humansecurity-chs.org>, Bertrand G. Ramcharan, Human rights and human security, The Hague (Nijhoff) 2002.

¹⁹ Ellen Seidensticker: Human Security, Human Rights and Human Development, paper presented at the Kennedy School, Harvard University, 2002, <http://www.humansecurity-chs.org>, at p.1.