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Human rights and human security in multicultural society*

Abstract

The paper deals with protection of human rights and human security, as preconditions for the life in accordance with human dignity, in the era of multiculturalism, as one of the main characteristics of contemporary world. Modernization and globalization of 21st century as indispensable social processes have to be realized without interfering / violating in human freedoms and rights, i. e. without jeopardizing human security of individuals and collectivities.

Human security is universal value, which is also an objective by itself. In order to provide each human being to be safe and free it is not enough, in certain situations, and under certain circumstances, to guarantee or proscribe by laws the human rights catalogue. Human rights are to be recognized as natural rights belonging to each human being, those rights immanent to human specific nature and dignity and not ones that are given or donated to us by state or any other authority. Human security, however, is to be reached by full respect of related international legal instruments, as well as domestic law which is to be harmonized with international legal order concerning human rights, because they are above state or national framework, and they became internationalized category. But more than that, there should be better enforcement of domestic laws. Here, there is the root for the most of problems concerning The Balkans. All states of this region have good laws, mostly harmonized with EU standards and all of them have accepted universal and regional legal instruments concerned. But, implementation of such obligations that states had undertaken is still weak point of Western Bal-

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In addition, there is also a kind of unequal security problem concerning the position and enjoyment of rights of those who are different from majority, no matter if it is about national, religious, linguistic or ethnic minority groups, gender, sexual or homosexual, or vulnerable ones.

Nowadays, all states are multicultural and such diversity brings possibilities of generating inequality, and consequently insecurity. The main goal of stable state should be to have safe and free citizens, no matter of their nationality or any other background. The Balkans, especially as it is historically proven as unstable area, indispensably needs to build a framework of full protection of all human beings, especially those who were historically neglected and discriminated.

This paper will give also a special emphasize to the problem of unequal security problem of members of minority groups in the Balkans, based on their unequal status and unawareness of their own minority rights.

Human security in its all aspects (physical, moral and legal) as one of major values is challenged additionally in the era of multiculturalism, and this also brings the issue of individual freedoms versus collective rights and interests in the centre of scientific attention. The best way of ensuring those basic human values is consensus on comprehensive international legal framework, and enforcement of domestic laws, that are to be in accordance with international law.

Introduction

It is impossible to talk about values, especially the ones that should be prioritized in 21st century, which is still full of violence and conflicts, without emphasizing human security as indispensable value of both – each human being and mankind, as a whole. Protection of human rights and sort of securing the human security are preconditions for the life in accordance with human dignity, especially nowadays, in the era of multiculturalism, in which world faces global insecurity, mainly as an issue of those that are different from majority population, i. e. those ones different by national, ethnic, racial or cultural belonging, political affiliation or opinion.

Human rights – those inherent human freedoms from violence, fear, insecurity, and those civil, political, social, economic and cultural requests inseparable from human nature – are the requests of citizens directed toward the state

authorities. Controversially or not, state authorities are the ones that mostly violate human rights, making individuals insecure. Namely, states create insecurity in most of the cases, violating human rights, from jeopardizing life to limiting freedom of expression and retaliating because of different opinion, or neglecting its positive obligation of providing social and economic conditions for the life in accordance with human autonomous nature. Unfortunately, it is often a state that does not effectively protect and secure people under its jurisdiction, supporting their insecurity, which is main problem of the states in transitional period when rule of law is still to be developed and implemented. How to protect ourselves from such situations is another issue. What are the values that would protect human beings from themselves?

Natural rights of each human being are immanent to specific human nature, deriving from human dignity. According to The Universal Declaration of Human Rights, which was adopted by General Assembly of The United Nations in 1948, 'all human beings are born free and equal in dignity and rights', as proclaimed in article 1. Have we, the human beings, forgotten about human dignity, that is the material source of all our rights and freedoms? Is a violation of human rights sort of denial of human dignity?

Human Security: A Challenge and A Value of 21st Century

There are many academic definitions on human security¹, mostly different, due to different points of view, from anthropological, to economic, political and, even, legal. Perhaps not only providing human security is a challenge, but also defining it, as to bring generally accepted definition. Some of authors think that it is not important to define this phenomenon, but what to say about power relations based on political, moral and ethnical choices.

Traditional definition of human security, however, encompasses freedom from fear and freedom from want. But, it is much more than this. Professor Mary Kaldor emphasize that human security is about the security of individuals and communities rather than the security of states, and it combines both human rights and human development.² She convincingly continues elaborating this important issue putting it in the center of contemporary global move-

¹ S. Tadjbakhsh and A. M. Chenoy, 'Human Security, Concepts and implications', Routledge, London and New York, 2007, pp. 39–49.

² M. Kaldor, 'Human Security, Reflections on Globalization and Intervention', Polity Press, Cambridge, 2008, pp. 182.

ments. Debating human security's role, she states that it 'potentially offers a new approach both to security and development', having in mind that 'current security policies tend to focus on threats to states and on traditional military capabilities'. Current approaches to security and development in some cases may actually exacerbate insecurity, she firmly concludes.³

Although security is often regarded as the absence of physical violence, it is much more than pure physical security. Contemporary notion of human security has several core aspects, such as economic security, health security, food security, environmental security, personal security, community security, legal security, psychological security and political security.

Human security is universal value, which is also an objective by itself. States must secure this prior goal, and this is supported by laws. However, is it possible to talk about state's obligation to protect people under its jurisdiction in all situations, when contemporary world faces (un)controlled violence, armed conflicts, and terrorism, all negation of international legal order? If the violence is not inherent in human society, then there is a chance for cosmopolitan politics, based on values such as peace, human rights and protection of earth and human environment. Debating possibility of envisaging ways in which the new wars might be contained politically, if not territorially, professor Kaldor finds that 'globalization, after all, is a process which involves integration and inclusion as well as fragmentation and exclusivism... a new cosmopolitan politics is emerging side by side with the politics of particularism'.⁴

How can human security be provided in the states, which are still passing the path from real socialism and dictatorship towards modern democracies, facing the problems of rule of law and transitional justice. Many of these states, particularly talking about The Balkans, took part in new wars. Some of their citizens took part in warfare and committed war crimes, crimes against humanity or genocide. It is much more difficult to bring human security concept under such a burden of recent history. However that cannot be excuse for neglecting this core human value of universal nature. Still there are many open questions. Individual guilt and responsibility is undisputable, but what about collective responsibility, the one which was estimated as immanent only to

³ Loc. cit.

⁴ M. Kaldor, 'Governance, Legitimacy and Security' in 'New and Old Wars', Polity Press, Cambridge, 2008, p. 179.

primitive societies⁵, and consequently not immanent to contemporary world. Is there applicable one of three levels of modern international criminal law tendencies – the moral responsibility of group and collectivities⁶?

In addition, there is also a kind of unequal security problem concerning the position and enjoyment of rights of those who are different from majority, no matter if it is about national, religious, linguistic, cultural, ethnic, gender, sexual or homosexual minority groups, or vulnerable ones. This could be additional challenge for the multicultural states. In this context there is an important relation of equality and security.

It is obvious that equality in rights and before the law is the way to bring security to insecure persons belonging to any of above mentioned minority. Again, the problem of gap between laws in paper and law in practice is evident in multicultural states of The Balkans. Therefore, the first legal guarantee to be implemented is effective ban of discrimination, both direct and indirect, and that could lead to legal security. It is more than just a principle – prohibition of discrimination is a precondition for enjoyment of all human rights.

Nexus between Human Security and Human Rights

Subtle nexus between safety, rights and equity results in human security.⁷ It involves the aspects of two basic freedom connected to its traditional concept (freedom from fear, as classical safety, and freedom from want, as equity and social justice) and human rights and freedoms, together with rule of law.

Human right legal and moral framework is to support political and moral value of human security. In order to provide each human being to be safe and free, in certain situations, and under certain circumstances, it is the first step to guarantee the human rights catalogue by laws.

Human rights are to be recognized as natural rights belonging to each human being, those rights immanent to human specific nature and dignity and not the ones that are given or donated to us by state or any other authority. Human security, however, is to be reached along with full respect of related international legal instruments, as well as domestic law which is to be harmonized with in-

⁵ A. Cassese, 'International Law', 2 nd ed, Oxford University Press, 2005, p. 8.

⁶ G. Simpson, 'Law, War & Crime', Polity Press, Cambridge, 2008, p. 78. See more: pp. 54–78.

⁷ S. Tadjbakhsh and A. M. Chenoy, *Op. cit.*, p. 51.

ternational legal order concerning human rights, because they are above state or national framework, and they became internationalized categories.

Furthermore, there should be better enforcement of domestic laws. Here, there is the root for the most of problems concerning The Balkans. All states of this region have good laws, mostly harmonized with EU standards and all of them have accepted universal and regional legal instruments concerned. But, implementation of such obligations that states had undertaken is still weak point of Western Balkans. It is best visible concerning corruption, organized criminal and minority rights protection.

The innate link between human rights and human security gives the essence and meaning to human existence, as interconnected values with common aim of building self-confident, self-conscious and free human being, the one who the world's citizen, i. e. providing the life with security and dignity. This concept implies living standards in accordance with the core human values, which are connected to human development.

Human security, as a different concept from conventional approaches to security and development, the one that are broadly accepted among academics and practitioners, introduces its principles. According to the leading theorist of human security, five principles are the following: the primacy of human rights, legitimate political authority, multilateralism, the bottom-up approach and regional focus.⁸

Concerning specific circumstances in a multicultural society which is in the phase of political, social, economic and legal transition, I think two more principles should be added to the principles of human security. They are: respect of rule of law according to its new requirements concerning the states in transition, and enforcement anti-discriminatory laws.

Namely, at one side there are obvious principal requests, such as that core human rights are to be respected and protected even in the midst of conflict, that trust of population in political authorities gives enforcement capacity, that a human security approach has to be global, 'entailing a commitment to creating common rules and norms, solving problems through rules and cooperation and enforcing the rules'⁹, as well as that the best approach is the

⁸ M. Kaldor, 'Human security...', *Op. cit.*, pp. 184–190.

⁹ *Op. cit.*, p. 188.

one emphasizing that partnership, local ownership and participation are key concepts in development policy, and since the boundaries are not clear as they used to be, regional focus it is important in restoring and fostering legitimate economic and trade cooperation. On the other, in transitional multicultural societies, especially in the region of the Western Balkans or „New Europe”, as some Western theorist name it, there are also some new and additional requirements under the rule of law principle, in order for it to be fully realized. They are mainly focused to the following areas: extinction of corruption in all spheres of social life, transparent governance, independent judiciary, as well as integration of national, ethnic, religious and cultural minorities in civil society. Legal guaranties, under international and national laws, have to be additionally supported in the region, as well. Those are the following: strengthening anti-discriminatory and anti-assimilation provisions in practice, respect of minority rights, through strengthening the affirmative action measures, protection of their local cultures and traditions, and ensuring political participation of minorities. Enforcement is the main problem, which implies also the lack of solid institutional capacities to face, combat and extinct the problems.

Nowadays, all states are multicultural and such diversity brings possibilities of generating inequality, and consequently insecurity. The main goal of stable state should be to have safe and free citizens, no matter of their nationality or any other background. The Balkans, especially as it is historically proven as unstable area, indispensably needs to build a framework of full protection of all human beings, especially those who were historically neglected and discriminated.

The problem of unequal security of members of minority groups in the Balkans is, however, based on their unequal status and unawareness of their own minority rights.

Without regard on if the human security is viewed as one of three core aspects of human rights or as independent value, as elaborated in this article, it is connected and cognate value to human rights.

Conclusive thinking

Contemporary multicultural world, which is overwhelmed by conflicts, inequality and insecurity, has to find the way to overcome those impediments

to global future. A human security approach, aiming to 'stabilize conflicts and to address the sources of insecurity'¹⁰, offers the way out.

Human security in its all aspects (physical, moral/psychological and legal) as the one of major values is challenged additionally in the era of multiculturalism, and this also brings the issue of individual freedoms versus collective rights and interests in the centre of scientific attention. The best way of ensuring those basic human values is consensus on comprehensive international legal framework, and enforcement of domestic laws, that are to be in accordance with international law.

Existence of human rights approach is indispensable for human security. The adoption of human security approach by the European Union, in particular, could be an important contribution to global security, as concluded by professor Kaldor.¹¹

Respect of human rights is a precondition for human security, and establishing rule of law is a guarantee for physical, legal, intellectual and psychological safety. Human security is the tool for making safe global society of secure and content human beings, whose rights and freedoms are protected according to the international human rights standards. Certain authors conclude that the relationship between human rights and human security is symbolic, because human rights lead to human security as it empowers people to seek solutions in a right-based approach.¹²

Modernization and globalization in 21st century, as indispensable social processes, have to be realized without interfering in or violating the human freedoms and rights, i. e. without jeopardizing human security of individuals and collectivities. Only that way is stable and human one, and furthermore it would bring in the first plan cosmopolitan governance, whose source of legitimacy is humanism, and whose security tool is law.

¹⁰ Op. cit, p. 191.

¹¹ Op. cit, p. 197.

¹² S. Tadjbakhsh and A. M. Chenoy, *Op. cit.* p. 139.

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