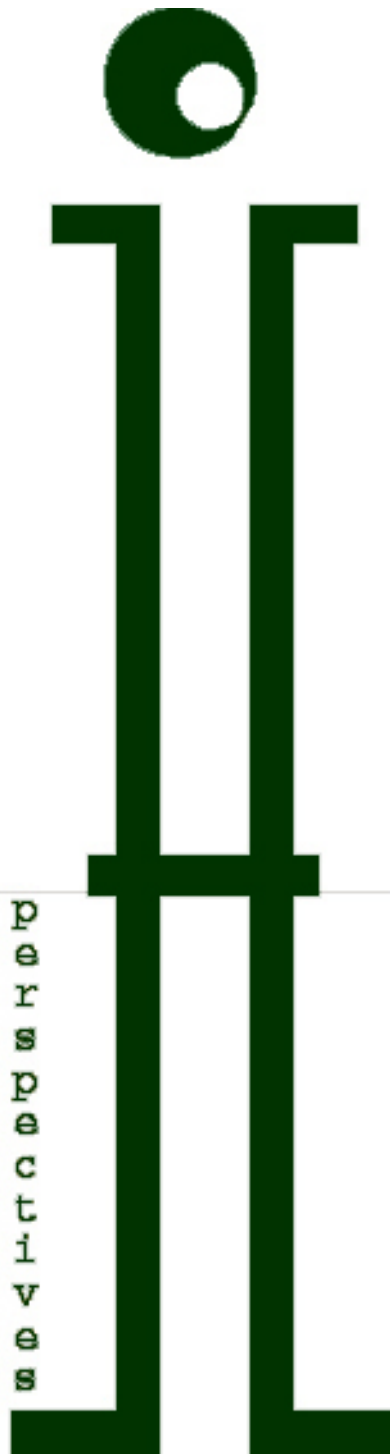


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## CONTENTS

Letter from the Editors.....

### **Main Topic: Human Security in Theory and Practice**

- Human Security in the Chinese Criminal Justice System  
*Hao Lu* **1**
- The Relation between Human Security and Peace in Columbia  
*Vanessa Sueli Cook* **16**
- The Japanese Approach: Tracks of Human Security Implementation  
*Corinna Konrad* **22**
- The Conceptual Debate on Human Security and its Relevance for the  
Development of International Law  
*Matthias C. Kettemann* **39**
- From Global to Regional Approach to Human Rights Education: The  
Case of the OSCE  
*Simona Drenik* **53**
- Health, Aid and Development Workers Under the Security Panopticon of  
Transnational Stakeholders and the State: The Case of HIV/AIDS Policies  
and Human Security Discourses in Ukraine (1995-2005)  
*Olga Golichenko and Margaret Leppard* **65**

### **Human Security Focus: Human Rights Cities**

- The Human Rights City Edmonton Project: Envisioning Human Rights at  
the Local Level  
*Stacey Sankey* **77**

Do We Reckon (Again) Without the People? Human Security for the  
Inclusive City and Political Dimension of Intercultural Dialogue  
*Klaus Starl* **80**

Human Rights Cities Program  
*Viviana Della Siega* **87**

## *Letter from the Editors*

We apologize very much for the delay of the third publication of the Human Security Perspectives Journal. Due to the start of a European Commission Sixth Framework Programme Coordination Action: **HUMSEC - Human Security in the Western Balkan Region: The Impact of Transnational Terrorist and Criminal Organisations on the Peace-Building Process in the Region** (<http://www.humsec.eu>) we had to postpone our journal-work. But finally we are able to proudly present the third publication of the Human Security Perspectives Journal.

The main topic of this edition of the Human Security Perspectives Journal is ‘**Human Security in Theory and Practice**’:

**Hao Lu** focuses on the Chinese Criminal Justice System, while **Corinna Konrad** tells of the Japanese human security approach. **Matthias C. Kettelman** investigates the conceptual debate on human security and its relevance for international law. **Simona Drenik** concentrates on the link between human security and human rights education based on the example of the OSCE, while **Vanessa Suel Cook** focuses on the link of human security and peace based on the example of Columbia. **Olga Golichenko** and **Margaret Leppard** analyse the issues of human security and health – by focusing on the very concrete example of HIV/AIDS policies and the human security discourses in the Ukraine.

A special section of this edition is dedicated to ‘**Human Rights Cities**’, which contribute immensely to ensuring and enhancing human security at the local level. **Stacey Sankey** tells of a city, which is in the process of becoming a human rights city: Edmonton, Canada. **Klaus Starl** and **Viviana Della Siega** inform about the experiences and developments of already existing human rights cities: Graz, Austria and Rosario, Argentina.

And last, but not least we would like to thank Herbert Gutkauf and Andrej Zwitter for their help.

Sincerely,  
Maddalena Vivona  
Ursula Prinzl  
Anke Sembacher

September 2006

# Human Security in the Chinese Criminal Justice System

*Hao Lu*<sup>1</sup>

*In China the views from the government and academic society on security still linger on traditional areas related on the state centred security concept: national security has been given priority over individual rights with the argument that such 'security' has been open to other areas as the economy. Despite recent efforts to address abuse by law enforcement authorities, the threat to human securities shows that human rights violations in the criminal justice system still remain an issue in China, which needs to be addressed.*

## **I. Introduction: defining human security in the context of China**

### **A. *Human security concept discourse***

The concept of security has undergone a conceptual shift<sup>2</sup>. The United Nations Development Programme (UNDP) report first introduced the concept of human security in 1994: since then the definition of security has been widened and deepened from traditional nation state based to human based, from a conflict based approach to a more holistic approach.

In the human security discourse, a 'broad versus narrow' focus on the human security issue has been developed: the question whether it should focus only on violent threats or also cover wider non-violent threats like poverty, dis-

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<sup>1</sup> The author is currently serving as Program Officer with International Bridges to Justice (IBJ). The views expressed in the following paper are the author's personal views and shall not be construed as those of IBJ or any affiliated organisation. The author can be contacted at: hlu@ibj.org or hao.lu74@gmail.com.

<sup>2</sup> Wolfgang, Benedek "Human Rights and Human Security: Challenges and Prospects", in Yotopoulos-Marangopoulos, Alice (ed), *L'Etat Actuel des Droits de l'Homme dans le Monde – Défis et Perspectives*, Ed. A. Pedone, Paris, 2006, pp. 97-110.

ease, and environmental disaster<sup>3</sup>. Based on their different focus, there are also three approaches of human security: a narrow one anchored in basic human rights; a humanitarian approach to tackle violent conflict, genocide, etc.; and a broad one encompassing environment, global economy and development<sup>4</sup>.

Human security addresses threats to freedom from fear, i.e. political persecution, violations of humanitarian law, organized crime, which are mainly violations of civil and political rights; and threats to freedom from want, like poverty, disparities, and marginalization, health, education, social security, which mainly belongs to the economic, social and cultural rights<sup>5</sup>. Some scholarly studies further show the correlation between these factors<sup>6</sup>.

Furthermore, UNDP's definition asserts that human security is centred on four key characteristics, namely that it is a universal concern, its components are interdependent, it is best achieved through prevention rather than intervention, and it is people-centred<sup>7</sup>. This paper follows the definition of UNDP and provides evidence for this argument.

## ***B. The human security concept in China***

Compared with the human security concept shift, it is noted that in China the views from the government and academic society<sup>8</sup> still linger on traditional areas like national security, national sovereignty, national unity and territorial integrity, although the scope of security has been enlarged in recent years to include topics such as economic security and energy security, which, however, stills centres around the security of nation or state<sup>9</sup>. However, it is recognized

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<sup>3</sup> Owen, Taylor, "Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for a Threshold-Based Definition", in Security Dialogue (Volume 35, Number 3), 2004, pp. 373-387

<<http://sdi.sagepub.com/cgi/reprint/35/3/373.pdf#search=%22Human%20Security%20E2%80%93%20Conflict%2C%20Critique%20and%20Consensus%3A%20Colloquium%20Remarks%20and%20a%20Proposal%20for%20a%20Threshold-Based%20Definition%22>> All website used in this essay were last checked on 14 September 2006.

<sup>4</sup> Oberleitner, Gerd, "Porcupines in Love, the Intricate Convergence of Human Security and Human Rights", in European Human Rights Law Review (Issue 6), 2005, pp. 588-606. at p. 590.

<sup>5</sup> Wolfgang, Benedek "Human Rights and Human Security: Challenges and Prospects", at p. 99.

<sup>6</sup> Wolfgang, Benedek "Human Rights and Human Security: Challenges and Prospects".

<sup>7</sup> United Nations Development Program (UNDP) (ed), *Human Development Report 1994*, Oxford University Press, New York, 1994, pp. 22-43. Available online at: <<http://hdr.undp.org/reports/global/1994/en1994>>.

<sup>8</sup> Chu, Shulong, *China and Human Security*, North Pacific Policy Papers (Number 8), Program on Canada-Asia Policy Studies, Institute of Asian Research, University of British Columbia, Vancouver, Canada, 2002.

<sup>9</sup> Chu, Shulong, *China and Human Security*.

that so far “*China has not formally used human security*”<sup>10</sup>. Although the author believes that the practice of human security has been popular<sup>11</sup>, national security has been given priority over individual rights with the argument that such ‘security’ has been open to other areas as the economy.

As seen from the UNDP perspective, the most significant difference of the security concept in China is that it is not people-based but rather based in the traditional nation state concept.

## **II. Criminal justice, human securities and human rights**

In the criminal justice system, human security addresses the freedom from fearing torture, deprivation of freedom, human dignity, property and even life, which are among the fundamental elements of human security. Crimes committed by private individuals as well as those committed by state actors, as it is the case of the employment of physical torture against accused, pose threats to human security.

To protect human security in the context of criminal justice system means not only to fight crime, to protect people’s freedom from fear, or to prevent innocent people from wrongful conviction, but also to protect the rights of the accused against torture or their right to a fair trial. Human security is extremely important to those groups, because people often suffer a state of deprivation of liberty and vulnerability during criminal proceedings, like in the case where the accused is subject to arbitrary detention at the pre-trial stage, the case of wrongful conviction or sentence that deprives him of freedom, property and even life. During criminal proceedings the accused faces strong state power and often has much less knowledge than law enforcement officials. Furthermore, human security also directly affects the accused’s enjoyment of other human rights such as political, economic and social rights.

Internationally accepted human rights standards, especially international criminal human rights norms, help define the meaning of human security in the context of criminal justice. Protection from torture, cruel and inhuman treatment or punishment that directly threatens the basic personal security of any person is governed by the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The right to a fair trial is guaranteed under Article 14 of the International Covenant on Civil and Political Rights (ICCPR), “*Everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law*”, a norm that protects individuals from unlawful and arbitrary curtailment or deprivation of other basic rights and freedoms. The standards defining fair trial are numerous and encom-

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<sup>10</sup> Chu, Shulong, *China and Human Security*.

<sup>11</sup> Chu, Shulong, *China and Human Security*.



pass various aspects<sup>12</sup>, like the Basic Principles on the Role of Lawyers (1990), the Basic Principles on the Independence of the Judiciary (1985), the UN Standard Minimum Rules for the Administration of Juvenile Justice, (1985) and the Guidelines on the Role of Prosecutors (1990). These constitute the minimum standards of the rights of the accused such as equality before courts and tribunals, free access to effective and fair judicial remedies, competent, independent and impartial tribunal, fair and public hearing, presumption of innocence until proven guilty according to law and access to legal counsel.

### **III. China's criminal justice system: a human security perspective**

#### **A. Brief overview**

In October 1998, the Chinese government signed the International Covenant on Civil and Political Rights (ICCPR), which however has not yet been ratified<sup>13</sup>. The Chinese government did ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) in October 1988 and is therefore now bound to its provisions<sup>14</sup>. A part from the international norms, China has its own criminal laws, which govern the rights of accused.

Since China adopted its first Criminal Procedure Law in 1979, significant positive steps have been made in the areas of criminal justice to protect the rights of the accused in its relatively short history. The 1996 amendment of the Criminal Procedure Law, for example, introduced some milestone changes like an adversarial system in court, the elimination of the appliance of analogy, earlier access to counsel, and, to some extent, the presumption of innocence. In 2004 the Constitution was amended to reinforce China's commitment to human rights. This policy of reform shows remarkable progress, and accordingly has been well received internationally.

Despite recent efforts to address abuse by law enforcement authorities, the threat to human securities shows that human rights violations in the criminal justice system still remain an issue which needs to be addressed. The main problems (namely arbitrary detention, torture and forced confessions, lack of access

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<sup>12</sup> Lawyers Committee for Human Rights (ed), *What is a Fair Trial? A Basic Guide to Legal Standards and Practice*, March 2000

<<http://www.humanrightsfirst.org/pubs/descriptions/fairtrialcontents.htm>>.

<sup>13</sup> United Nations High Commissioner for Human Rights (UNHCHR), *Status of Ratification of Human Rights Treaties by Country* <<http://www.unhcr.ch/tbs/doc.nsf/newhvstatusbycountry?OpenView&Start=1&Count=250&Expand=36#36>>.

<sup>14</sup> United Nations High Commissioner for Human Rights (UNHCHR), *Status of Ratification of Human Rights Treaties by Country*.

to defence counsel, limited fairness of trial indicted the legal rights of the criminal suspects and defendants) are still being largely ignored.

## **B. *Current issues in the criminal justice system***

### *1. Arbitrary detention*

With the choice of several investigative techniques or 'compulsory measures' (qiang zhi cuo shi) including compulsive appearance, detention, formal arrest, release on bail and residential surveillance, under China's Criminal Procedure Law, law enforcement organs tend to restrain the freedom of criminal suspects through detention even before the case is filed and investigated<sup>15</sup>. It is estimated that more than 80% of criminal suspects are detained at the pre-trial stage<sup>16</sup>. Although there is the option of bail, it is seldomly used because of its complicate procedure.

The detention period permitted by the Criminal Procedure Law itself is rather long: in ordinary cases criminal detention<sup>17</sup> (xing shi ju liu) is of 14 days; while for those who are suspected of committing crimes from one place to another, repeatedly, or of belonging to a gang, it can last up to 37 days.

Police authorities can further extend the detention period by initiating an investigation on a new offence which allows the extension of the pre-trial detention period by further 30 days<sup>18</sup>. Detention after formal arrest (dai bu) may be up to two months long, with one more month of extension after approval of the prosecutor in complex cases, or two more months of extension after the approval of the prosecutor for grave and complex cases located in areas where travelling is inconvenient, that involve criminal gangs or people who commit crimes from one place to another; and two more months extension in the case of criminal suspects who may be sentenced to fixed term imprisonment of at least ten years<sup>19</sup>.

In total, this could lead up to seven months detention before the beginning of the process. If a criminal suspect is found to have committed other major

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<sup>15</sup> Hu, Xingfuo, *The Analysis and Reflection of Current Situation of Illegal Extended Criminal Detention*.

<sup>16</sup> Hu, Xingfuo, *The Analysis and Reflection of Current Situation of Illegal Extended Criminal Detention*.

<sup>17</sup> Criminal detention is a criminal penalty imposed for relatively minor offences. The criminal on whom this penalty is imposed is deprived of her/his freedom and confined in a detention house by the local organ of public security rather than being put in prison.

<sup>18</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 128.

<sup>19</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 124, 125, 126, 127, 128.

crimes, the time limit is recalculated, or if a criminal suspect does not give her/his true name and address and her/his true identity is therefore unknown, the time limit shall be calculated from the date on which her/his true identity is revealed<sup>20</sup>. These rules allow for long detention periods at the discretion of the police and prosecutor even before the trial begins.

Even with such rather long detentions permitted by the law, 'illegal extended detention' in the formal criminal proceedings (*fei fa ji ya*) still exists. The government however takes actions to address it. Law enforcement authorities, to various extents, hold criminal suspects in pre-trial detention for periods exceeding those permitted by Chinese law<sup>21</sup>: in many cases, deprived of a protection mechanism, they face torture or other violations of their rights. In some suspicious cases, when the judges are having doubts, they can also detain defendants for long periods following the trial<sup>22</sup>: to a large extent this is due to the current procedure of second instance, which allows the court of appeal to remand the case to the court which originally tried it for retrial<sup>23</sup>. In theory there are no limits to this cycle of trial and retrial between the first and second instance: the accused are therefore often detained for several years during the long retrial process. They are mainly held in police detention and do not enjoy the right to prompt judicial review of their detention. Periodic campaigns launched by prosecutors and courts to combat such 'illegal extended detention' are helpful, but the lack in the legal system still remains.

In addition to formal criminal proceedings (other than in many other countries where administrative penalties are mostly fines), in China administrative detention or 're-education through labour' (RETL, *Laodong gai zai*) can also lead to detention. Its term can be longer than for similar offences prosecuted through the formal criminal justice system. Individuals detained on suspicion of 'minor crimes' such as drug use are sent to RETL camps for up to three years (with the possibility of one year's extension), compared with criminal sentences from six month to fifteen years under China's Criminal Procedure Law<sup>24</sup>. Such decisions are made at the discretion of the police without judicial proceedings. Accordingly, suspects are not entitled to a trial or any other rights, such as the right to counsel, which defendants enjoy in normal criminal proceedings<sup>25</sup>. The definitions of offences leading to RETL are vague, and mostly refer to the per-

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<sup>20</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 128.

<sup>21</sup> Hu, Xingfuo, *The Analysis and Reflection of Current Situation of Illegal Extended Criminal Detention* 刑事超期羁押现状分析与反思, 胡兴儒, <<http://www.sfyj.org/list.asp?unid=2210>>.

<sup>22</sup> Hu, Xingfuo, *The Analysis and Reflection of Current Situation of Illegal Extended Criminal Detention*.

<sup>23</sup> PRC Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 189.

<sup>24</sup> Chen, Xingliang, *Re-education through Labour: The Analysis through International Human Rights Treaties*, 劳动教养: 根据国际人权公约之分析 陈兴良 <[http://article.chinalawinfo.com/article/user/article\\_display.asp?ArticleID=26992](http://article.chinalawinfo.com/article/user/article_display.asp?ArticleID=26992)>.

<sup>25</sup> Chen, Xingliang, *Re-education through Labour*.

son in question rather than to an actual crime<sup>26</sup>. The whole RETL system therefore is in violation of internationally recognized human rights norms, and the Chinese government is in the process of reforming RETL with the introduction of the new Public Order Administrative Punishment Law. The new law still does not guarantee to hear the case or the right to counsel.

Arbitrary detention further exacerbates other insecurities like physical torture, as the accused are in a state of deprivation and vulnerability without any contact to the outside world. This is to a large extent due to lack of procedural protection.

## 2. *Torture and forced confessions*

Despite clear legal prohibitions of torture in China's laws<sup>27</sup>, cases of torture and abuse still abound in the Chinese criminal justice system. Torture is usually related to forced confession (actually in Chinese there is a word, *xing xun bi gong*, that means 'torture and forced confession' and is commonly used in the legal literature). Research<sup>28</sup> shows that there are common characteristics of torture cases in China: approximately one third of the all torture cases led to death or serious injuries of the suspects and most of them happened in local, grass root police substations at the investigatory stage.

In 2005 two high profile wrongful conviction cases attracted nationwide attention and discussion about the torture problem. The recent mission to China of UN Special Rapporteur on Torture Manfred Nowak concluded that "*torture, though on the decline particularly in urban areas, remains widespread in China*"<sup>29</sup>. China's government argued that the Special Rapporteur jumped to his conclusion too fast.

Torture has been viewed as the largest injustice of the current criminal justice in China. There are a number of legal (mainly procedural), social and institutional factors identified<sup>30</sup>. Legal factors highlighted both how forced con-

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<sup>26</sup> Chen, Xingliang, *Re-education through Labour*.

<sup>27</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 43.

<sup>28</sup> Bi, Xiaoqing, *Rights Protection of Criminal Suspects and Defendants in China*, 中国犯罪嫌疑人和被告人的权利保护与反酷刑制度, 毕小青, <<http://www.iolaw.org.cn/showarticle.asp?id=600>>.

<sup>29</sup> Un Special Rapporteur on Torture, *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment: Mission to China*, March 2006, at para. 72

<<http://daccessdds.un.org/doc/UNDOC/GEN/G06/117/50/PDF/G0611750.pdf?OpenElement>>.

<sup>30</sup> Wang, Lin, *The Threat of Torture and Forced Confession and Recommendations*, 论刑讯逼供的危害及其对策, 王林 <<http://www.suzhoucl.jcy.gov.cn/shownews.asp?id=350>>.

fessions happened at the investigatory stage and how evidence is accepted in Court, a lack of provisions to protect the rights of suspects like the right to silence (as the current law requires that the accused has the obligation to 'answer the investigators' questions truthfully'<sup>31</sup>, which is usually used by the police as a weapon to force the accused to confess) and the right to the presence of legal counsel during the interrogations. Other relevant factors are: the lack of separation between investigation and detention functions, which are both performed by the police; no provisions for the exclusion of illegally obtained oral evidence (in practice even if such evidence was illegally obtained it still can be used as evidence. Social factors are the weak presumption of innocence among police officers and even the general public before trial and the high social pressure to fight crime and secure convictions in major cases. Institutional factors include poor education of the police force as a whole, weak investigation skills of officers and thus strong reliance on confession, lack of resources to conduct investigation and strong local protectionism. Legal factors could be more instrumental than institutional ones, as some cases have shown that even police officers who were able to collect forensic evidence through modern investigation technology might still seek forced confession through torture.

Torture itself, whether it is physical or psychological in nature, threatens human security including the right to life and dignity. Given the direct link between torture and forced confessions, seeking forced confessions will also further threaten human security by leading to wrongful convictions.

### 3. *Access to counsel*

The law of China provides, that the accused has the right to an attorney, although in reality many are deprived of this basic right. The right to legal counsel is very limited at the investigatory stage, although there is a right to a counsel at trial stage, it is circumscribed by the defendant's access to lawyers resources and lawyers own restricted role: the absence of pre-trial discovery and the limited ability of the defence to conduct her/his own investigation and the absence of witnesses to testify in their case. Chinese sources reported that only about one

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Bi, Xiaoqing, *Rights Protection of Criminal Suspects and Defendants in China*, 中国犯罪嫌疑人和被告人的权利保护与反酷刑制度, 毕小青 <<http://www.iolaw.org.cn/showarticle.asp?id=600>>.

Chen, Guangzhong, *How to Solve Torture and Forced Confession*, 刑讯逼供如何遏制 陈光中 <[http://news.xinhuanet.com/report/2005-04/19/content\\_2848587.htm](http://news.xinhuanet.com/report/2005-04/19/content_2848587.htm)>.

Zhang, Xiang, *Some Thoughts about the Cause of Torture and Forced Confession*, 关于刑讯逼供原因的几点思考 张翔 <[http://www.law-lib.com/lw/lw\\_view.asp?no=1264](http://www.law-lib.com/lw/lw_view.asp?no=1264)>.

<sup>31</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 93.

third of Chinese criminal defendants have access to counsel and that the rate is even lower in rural areas<sup>32</sup>.

This low rate of legal representation can be attributed to the high risk for lawyers themselves and low remuneration in criminal case in comparison with commercial cases. Meanwhile, national law only guarantees limited free legal defence to those defendants who are underage, who face a possible death sentence, or for blind men and women, deaf, or mutes<sup>33</sup>. Chinese authorities are taking steps to improve access to legal aid, which exists only since ten years: because of the limited resources however, legal aid services cannot meet the nationwide growing demand.

During the criminal proceedings, suspects have difficulties gaining access to a lawyer: given the fact that most suspects at the investigatory stage are detained, and therefore not allowed to use the telephone or send a normal letter. The only way they have to contact a lawyer is to send a postcard (many postcards get however lost on the way). Often it is thanks the family members that a suspect is able to hire a lawyer on time<sup>34</sup>. In addition, the suspects are generally not informed on time of their right to have a lawyer. Some surveys shows that only 52% of detained suspects were informed of their right to a lawyer after the first interrogation by the police<sup>35</sup>.

Chinese lawyers are facing tremendous obstacles, which are well known as the top 'three difficulties' in representing their clients (although all these rights are granted by the law):

- 1) to meet their clients at the investigatory stage of criminal proceedings (after the first interrogation or from the day they are subject to detention or arrest);
- 2) to access their client's case files from the law enforcement bureaus particularly at the trial stage;
- 3) to obtain evidence in possession of the prosecution. In practice, law enforcement authorities in many cases undermine or even ignore these rights<sup>36</sup>.

Even in Beijing, according to a local source<sup>37</sup> only around 14,5% of detained suspects are able to meet a lawyer within 48 hours after detention. Some Chinese scholar's research surveys show that even if the accused are granted access to a lawyer at the investigatory stage, there are restrictions which seri-

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<sup>32</sup> Gu, Yongzhong, "The Current Situation and Reform of China's Defence", in *Journal of China Lawyer and Jurist* (Volume 1, Number 1), June 2005, pp. 23-37.

<sup>33</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997), Art. 33-34. Regulations on Legal Aid (issued 2003), Art. 12.

<sup>34</sup> Gu, Yongzhong, "The Current Situation and Reform of China's Defence".

<sup>35</sup> Gu, Yongzhong, "The Current Situation and Reform of China's Defence".

<sup>36</sup> Gu, Yongzhong, "The Current Situation and Reform of China's Defence".

<sup>37</sup> *Beijing More than 80% Suspects not Meet Their Lawyers in 48 Hours*  
<[www.xianbian.cn/template/article.js?ID=4917CID=126975575](http://www.xianbian.cn/template/article.js?ID=4917CID=126975575)>.

ously affect the effectiveness of the defence. These are: the practice of approval from the investigation organ, which is not required by law; the complex procedure and delays in scheduling of meetings; the presence of investigators during attorney-client meetings; and strict limitations on meeting time<sup>38</sup>. To a large extent this happens because the role of lawyers is not clearly defined in China's laws at this stage. Under the current criminal procedure law, a suspect may hire a lawyer only after the initial interrogation. At this investigatory stage, the lawyers only enjoy restricted rights such as the right to give legal advice to their client, to file petitions and complaints, instead of being able to develop the defence. These reduced rights often become meaningless when lawyers are unable to even meet their clients.

Restricted access to the case files or pre-trial discovery became an unexpected new issue after amending the 1996 Criminal Procedure Law<sup>39</sup>, as the prosecutors only need to submit major evidence to the court before trial<sup>40</sup>. Prior to the law's amendment, the prosecutors submitted all their case files including evidence which could prove the innocence of the accused. Such new provisions were initially intended to ensure the neutrality of the judge and eliminate any possible bias by the judge before the trial, but as a result, lawyers became unable to access the file before the end of the trial.

To obtain evidence, defence lawyers must first obtain permission from prosecutors and courts to interview witnesses: such interviews must also be agreed to by the witnesses themselves. Defence lawyers may even personally face prosecution for defending their clients' rights too vigorously (Art. 306 of China's Criminal Law and Art. 38 of Criminal Procedure Law).

Other obstacles include the fact that less than 5% of witnesses appear in court<sup>41</sup>, which leaves the lawyers unable to cross-examine prosecution witnesses in trial. In particular, the evidence provided by the police and prosecutors is not examined and usually taken for granted. Police seldom come to court to present evidence. The un-timely involvement of lawyers also raises questions about the quality of the defence. All these issues greatly affect the effectiveness of legal representation and thus the rights the accused enjoy in practice.

All the above restrictions on the rights of lawyers have direct effects on the right of the accused and their human security. At the investigatory stage lawyers should join in as early as possible, in order to prevent, as far as possible, torture cases. At a later stage, other obstacles like the lack of cross examination,

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<sup>38</sup> Gu, Yongzhong, "*The Current Situation and Reform of China's Defence*", pp. 23-37.

<sup>39</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 32.

<sup>40</sup> People's Republic of China Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997) Art. 150.

<sup>41</sup> Gu, Yongzhong, "*The Current Situation and Reform of China's Defence*", pp. 23-37.

restrictions on the lawyer's rights to investigate and collect evidence, affect the effectiveness of the defence and thus the fairness of the trial.

#### IV. Findings

The case of China's criminal justice shows that even a country without armed conflict problems could still face serious human security issues. Such insecurities and vulnerabilities in China can be interpreted in the language of human rights. In the case of China, the current problems of arbitrary detention, torture and forced confessions, lack of access to defence counsel, limited fairness of trial still do not fulfil the minimum standards of the rights of the accused which include presumption of the defendant's innocence until proven guilty according to law, legal assistance, examining the witness testifying against him, fair trial and free access to effective judicial remedies.

From the human security perspective, the current problem of the Chinese government is to strike the difficult balance between fighting the high crime rate while protecting the rights of the accused. On one side, the current mandate of the Criminal Procedure Law is "*punishing crimes, protecting the people, safeguarding State and public security and maintaining socialist public order*"<sup>42</sup>, which clearly prioritizes protecting the general public from crime. Public concerns further raise the pressure on the police. As a response, periodic and intense 'strike hard' anti-crime campaigns are launched by the government and many rights violations like torture and forced confessions occur at the same time. On the other side, the accused are vulnerable to violations of their rights, like in the case of torture by law enforcement authorities. Some law enforcement officials believe that if their mission is to combat crime, there should be no limit on the means permitted. Law enforcement authorities and the general public put emphasis rather on social stability than on human security. Some research found even in the recent national outrage over torture, that people are more concerned about those who are innocent but tortured than those who are guilty of a crime<sup>43</sup>. It is promising to note that China's judiciary has become aware of this, as the Supreme Judge pointed out<sup>44</sup>, the court and the judges should respect and protect the rights of both the general public and the rights of suspects and defendants, particularly when they lose their freedom in the process. Human security is a people-based concept and therefore cannot be achieved at the cost of sacrificing

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<sup>42</sup> People's Republic of China, Criminal Procedure Law (Passed 1979, Amended 1996, Effective 1997), Art. 1.

<sup>43</sup> Wu, Danhong, *Insight in Torture and Force Confessions in China*, 吴丹红: 透视中国的刑讯逼供  
<[http://www.evidencelaw.net/Article\\_Show.asp?ArticleID=645](http://www.evidencelaw.net/Article_Show.asp?ArticleID=645)>.

<sup>44</sup> The People's Supreme Court, *Respect and Protect the Human Rights of Criminal Suspects and Defendants*, 最高法院: 尊重保障刑事被告人和犯罪人应有人权  
<<http://www.lawhighway.com.cn/favchangshi/1yaowen.asp?articleid=1669>>.



the rights of some groups of people, regardless of who they are: the rights of the accused are therefore equally important as those of all other human beings.

To protect the human security of the accused in the criminal justice system, the procedural and institutional aspects of justice are equally important. Due process is important to protect human rights so that during the criminal proceedings law enforcement authorities follow the limits set by law and human rights norms, protecting the rights and security of the accused and allowing him to be confronted with the prosecutor and the police on equal terms. Due process also helps verify the facts of the case to reach substantive justice, which is a precondition of fair trial in terms of human security. Such human insecurities as torture, forced confession, arbitrary detention, denial of access to counsel, obstacles for defence lawyers, etc. indicates the ignorance of due process. For example, regarding arbitrary criminal detention there is a lack of effective procedural protection for the detainees. At the investigatory stage the police could apply any compulsory measures except formal arrest, which has to be approved by the prosecutors. There is no neutral court to conduct judicial review. China has the historic tradition of prioritizing substantive over procedural issues. For instance, even the Criminal Procedure Law states that the law is enacted for the purpose of ensuring correct enforcement of the criminal law. Most serious rights violations, like torture, are committed at the investigatory stage<sup>45</sup>. Such procedural protections also help to ensure respect of human rights through an early prevention approach than through late intervention. This is especially true for the accused who is threatened with torture or arbitrary detention, as in the saying 'late justice is injustice'.

In addition, there are aspects of the current criminal justice system in China that further need to be taken into consideration: in China the prosecutor and the police play a dominant role, particularly at the pre-trial stage. According to law, the prosecutor does not only have the competence of prosecution and to investigate criminal cases they directly handle; review cases investigated by public security and state security authorities to decide if arrests, but also supervises the legality of trials conducted by courts and the rulings and judgments on criminal cases and the legality of activities undertaken in jails, detention centres and reform-through-labour institutions; supervises civil and administrative trials of courts. This raises the question if the prosecutor can play a neutral role when reviewing cases of torture. Rather, the judge should be involved at the pre-trial stage to conduct impartial judicial review of these measures. Courts are sometimes subjective to a number of external influences like local government when deciding cases. In some cases, the court may consult the head of the court and vice head, or the judicial committee who did not attend the court trial for final decision.

The example of China also shows that human security, as a cross cutting issue, highlights the strong interdependence of other aspects of human rights,

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<sup>45</sup> Wang, Mingyuan, *Legal Aid and Criminal Defence*  
<[www.iolaw.org/cnpaper/paper238.asp](http://www.iolaw.org/cnpaper/paper238.asp)>.

particularly in regards to economical, social and cultural aspects. Human rights are “universal, indivisible, interdependent and interrelated”. In the case of China, for example, the defendants’ economical rights also strongly affect their legal rights and human security in the trial. For instance, the low rate of access to counsel in criminal proceedings is a direct consequence of many criminal suspects’ and defendants’ poverty. Chinese statistical sources show that defendants with lower levels of education would often choose no counsel, as they do not understand how the lawyer could help them. Some suspects and defendants are even illiterate and thus unable to read and sign their statements.

This relates to the issue of poverty and equity. In the *Draft Guidelines: a Human Rights Approach to Poverty Reduction Strategy* by the Office of the High Commissioner for Human Rights, poverty is viewed as “*extreme form of deprivation*”<sup>46</sup>. The denial of legal resources due to their high cost is part of it. China has made remarkable achievements in economic growth and poverty reduction, lifting 250 million people out of poverty over the past 25 years and achieved the highest speed of human development in history<sup>47</sup>. However, according to the UNDP Human Development Report of China last year, in recognition of China’s government efforts, its development has been uneven, as shown by the disparity between urban and rural areas, regions, sex and different population groups<sup>48</sup>, among them, the wealth gap between urban and rural areas is among one of the highest in the world, and this trend still continues. Inequity also exists in other dimensions such as education, employment, health, social security and government expenditure. Such economic disparity also reflects sharply in the situation of criminal justice in the legal resource aspect. Generally urban and coastal areas enjoy greater legal, judicial, defence and other resources than landlocked and rural regions. For example, legal aid is generally better developed in urban areas with higher level of funding; more lawyers available and affordable than in the countryside. Lawyers are scarce in the rural areas and the less developed Western region of China (in many Western Region towns there is only one lawyer or even none). The police also tend to rely more on interrogation rather than on other investigation methods due to a lack of resources and training. Many current issues show how limited legal resources are, both in terms of quantity and quality. In addition, any legal reform proposal will require

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<sup>46</sup> UN High Commissioner for Human Rights, *Draft Guidelines: A Human Rights Approach to Poverty Reduction Strategies*, para. 46  
<<http://www.unhchr.ch/development/povertyfinal.html>>.

<sup>47</sup> United Nations Development Programme (UNDP), *China on the Watch for Fighting Social Inequality, New UNDP Report Says*, 16 December 2005  
<<http://content.undp.org/go/newsroom/december-2005/china-hdr161205.en?g11n.enc=ISO-8859-1>>.

<sup>48</sup> United Nations Development Programme (UNDP), “Development and Equity: The State of Human Development and the Conceptual Framework”, in UNDP (ed), *Human Development Reports - CHINA 2005: Towards Human Development with Equity*, UNDP China, Beijing, 2005  
<[http://hdr.undp.org/reports/detail\\_reports.cfm?view=902](http://hdr.undp.org/reports/detail_reports.cfm?view=902)>.

additional resources, for example, the increased role of the lawyer in the investigatory stage.

Given such economic disparity and its impact on criminal justice, this also raises the question how to address human security in a holistic approach. The government needs to provide public goods through the government's resource allocation to address this problem, such as pro-bono legal service or legal aid to those indigent criminal suspects and defendants who otherwise would be deprived of legal representation. In human rights literature it is usually accepted that the government should protect political and civil rights, while it needs to actively promote economic, social and cultural rights. The case of legal aid, however, shows that in order to safeguard the legal rights and security as well as to ensure that citizens have equal access to justice, the government also needs to take a more pro-active role. Now in China only those who are either underage, facing a possible death sentence, or blind men and women, deaf, or mutes are guaranteed legal aid. Consequently, there is an urgent need to expand the scope of legal aid services to any indigent suspect and defendant.

## V. Future prospects

The Chinese government, including local level authorities, are taking bold steps to address many of the most pressing problems. They include experimental programs in some pilot sites like video taping or audio taping of interrogations, allowing lawyers to be present during the interrogation, etc.

Recognizing some of the current problems affecting the judicial system, the Chinese government has taken grips on judicial reform, for example, the planned amendment for Criminal Procedure Law, Lawyer's Law, and expected other reforms. Some pilot projects have been launched like lawyer's presence or video taping in the police interrogation at the investigatory stage. Some positive reform experiments like lawyer's access to clients at the pre-trial stage dramatically improve the suspect's chance of exoneration. Very recent encouraging news is that legal aid will expand its scope and the criminal legal aid will advance to the pre-trial stage<sup>49</sup>. Evidence shows that the Special Rapporteur's recent mission, together with internal factors, has drawn the attention of the government to this field and lead to some concrete actions. Both the government and beyond; particularly the academia, welcome judicial reform. It is recommended to further discuss internationally recognized human rights standards, such as the presumption of innocence and the right to silence, as well as incorporating a more rights-oriented approach into future Chinese criminal law.

Besides the legal aspect, human rights education and public awareness has been a conceptual issue given the low education level of large proportions of the population. Increased publicity of criminal trials could have positive effects,

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<sup>49</sup> *Expansion of Legal Aid*

<[http://dzrb.dzwww.com/dzrb/dzrb-dzyw/t20051117\\_1261575.htm](http://dzrb.dzwww.com/dzrb/dzrb-dzyw/t20051117_1261575.htm)>.

as a pervasive presumption of guilt is widespread among the public, who are more concerned about fighting crime than about violations of human rights. Accordingly, there should be human rights education targeted at the general public not only to raise their awareness but also to improve their understanding of the issues at stake in order to nurture a rights culture respecting the rights of a minority group like the accused. Education including human rights education should be incorporated in the school curriculum. In the case of criminal justice, it is crucial for all government agents to have a certain level of education in order to understand basic rights, and ensure that the accused should be not only informed of their rights, but that they also understood them.

The professionalism of many judges, prosecutors and legal aid lawyers, many of which are retired veterans and lack appropriate skills and training, is a serious problem in China's criminal justice system. Increasing capacity-building and team building efforts would in turn improve the trial quality and human rights situation. Programs such as training in criminal proceedings are recommended for these targeted groups. Many of the existing criminal justice system's problems, such as corruption and manipulation of criminal proceedings can be boiled down to good governance problems of state institutions. Further institution building efforts to promote public accountability, staff professionalism and ethics as well as effective supervision are needed urgently.

## **VI. Conclusion**

Contemporary China is a good example of a monolithic understanding of human security. Such understanding of human security is also reflected in the current situation of the Chinese criminal justice system. Despite the Chinese government's positive efforts, serious violations of the rights of the accused such as torture, forced confessions, arbitrary detention, lack of access to defence counsel and questionable fairness of trial are still threatening the most basic aspects of human security, i.e. liberty and life. Special attention needs to be given to the investigatory stage where the threat to human security is greatest. A rights based judicial reform rather than only aimed at combating crime through both procedural and intuitional reforms is highly recommend to address the above issues, coupled with wide spread human rights education, increased civil society participation, institution building by government, capacity building measures for legal professionals, etc. Also, it is very important to mainstream criminal justice and fair trial in terms of human security in the current and future development agenda.

# The Relation between Human Security and Peace in Colombia

*Vanessa Suelo Cock*

*This article describes how the concept of human security, as integral and long term measure, would help Colombians to start creating conditions where peace would be possible.*

## **I. Introduction**

Colombia is confronted with one of the most complex social situations in Latin America, given to the long duration of the armed conflict, the diversity of actors and the regions where the armed conflict takes place.

How could Colombians find peace? It is one of the most difficult answers to give. And in order to come up with an answer, it is necessary for Colombians to understand that finding peace is a long term process which involves reconciliation. Nevertheless, there is not a straight line for reconciliation; before one can start thinking about it, it is necessary to mitigate the conflict, prevent its expansion and damages. With this aim in mind the state must increase its legitimacy in local governments and integrate the periphery in one common project of human security for each inhabitant of the country.

## II. Context of Colombia's situation

### A. *Historic origins*

There are two factors that mainly caused the armed conflict in Colombia: centralism, as a model of territorial organization, and the closed system of political participation during the National Front (1958-1974)<sup>1</sup>. Centralism was established with the Constitution of 1863; it is a model that concentrated all the resources in four cities (Bogotá, Medellín, Cali and Barranquilla). Meanwhile, the rest of the territory was left without significant investments. That created an unequal growth of the country and a very segregated society between the periphery<sup>2</sup> and the central cities.

One of the consequences of the National Front agreement was to reinforce centralism. The aim of this agreement was to put an end to the violent confrontation that occurred during the 1950s between liberals and conservatives, through the sharing of power and the exclusion of all other political alternatives. In this context, the alliance between peasant guerrillas, who were not demobilized by the National Front (FARC)<sup>3</sup>, and the Colombian Communist Party (PCC), which did not find a space for itself in the “center” of the political system, emerged. The FARC guerrilla was formed in the periphery, although other guerrilla groups, like the “*Ejército de Liberación Nacional*” (ELN) the “*Ejército Popular de Liberación*” (EPL) and the “*Movimiento 19 de Abril*” (M-19), formed later and with an urban origin. These groups have only managed to sustain themselves in rural areas where the state has been largely absent, acting as a substitute for the state. These guerrillas began their struggle with political objectives in the context of revolutionary movements of the 1960s.

The second half of the 1960s saw the appearance of the “self-defense” or paramilitary groups, that is, irregular armed groups created for fighting the guerrillas and supporting the national police and the army. Same as the guerrillas, these groups operated in the rural areas or in smaller municipalities<sup>4</sup>. Drug-trafficking emerged in this context as a destabilizing factor, through the violence used by the drug cartels to

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<sup>1</sup> The liberals and the conservatives, the two main historical political groups, shared the power for sixteen years, from 1958 until 1974, with the exclusion of any other political alternative. That period was called the National Front.

<sup>2</sup> Periphery, in this case refers to less populated areas, in some cases difficult to reach, which are basically populated by peasants, and are not properly integrated into a market economy. Therefore, they have little political power.

<sup>3</sup> The prosecution in rural areas of Liberal Party members by the Conservatives laid the foundation for these armed groups.

<sup>4</sup> Municipal governments are the third instance in the territorial organization of Colombia after the nation and the departments.

control politics and the cocaine trade in the late 1970s, and by using some of these groups for the pursuit of their objectives. The illegal armed groups - guerrillas and paramilitaries - have created a confusing combination of alliances with drug-trafficking, and have assumed the control of the early phases of narcotics' production as a means to obtain financial support for their military actions<sup>5</sup>.

Even though the guerrillas and the paramilitary have different origins and ways of acting, they both have a military structure and seek control of the territory with terrible harm done to the civil population, specifically with massacres of the most vulnerable part of the population, committed mainly by the paramilitaries. The majority of these crimes and atrocious violations of international humanitarian law, committed by the paramilitary and FARC guerrilla have taken place in the peripheral areas where the state institutions are weak. This implicates that the worst consequences of human rights violations, such as the displacement of an estimated one million two hundred thousand people<sup>6</sup>, took place in small municipalities.

### ***B. Peace agreements***

Since 1964, three amnesty laws have been issued, pardons have been offered on five different occasions, and there have been 153 reductions of sentences. Between 1980 and 1998, each president began a dialogue with the FARC or the ELN, and the subsequent "political status" of such groups was formally recognized by four of these governments. There were nine successful demobilization processes during the presidencies of Barco and Gaviria (1986-1994), as well as political guarantees and assistance for reinsertion<sup>7</sup>. Nonetheless, these measures were taken without substantial reforms or policy planning aimed at changing the conditions that would make peace possible. The different governments made peace efforts that only implicated the demobilization of illegal groups, without integral and long term solutions, especially directed to small municipalities or the periphery where the worst consequences of the conflict occurred.

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<sup>5</sup> See: Inter-American Commission on Human Rights (ed), *Report on the Demobilization Process in Colombia*, Inter-American Commission on Human Rights, 2004  
<<http://www.cidh.org/countryrep/Colombia04eng/toc.htm>> All website used in this essay were last checked on 14 September 2006.

<sup>6</sup> Colombia confronts today one of the worst humanitarian crisis of the Western world. See: Statistics of the Red de Solidaridad Social, *Program of the Presidency of the Republic*  
<<http://www.red.gov.co>>.

<sup>7</sup> United Nations Development Programme (UNDP) (ed), *National Human Development Report 2003, Solutions to Escape the Conflict's Impasse*, UNDP, Columbia, 2003. Also online available at:  
<<http://indh.pnud.org.co/pagina.plx?pg=ENdescargaInforme2003&mlat=11&lang=EN>>.

These attempts in favor of peace have all failed because the complexity of the armed conflict goes beyond demobilization. As mentioned above Colombia's situation is a multiplicity of conflicts (i.e. involvement of different actors, drug-trafficking, territorial fighting, lack of political space). To start solving that, it is necessary to strengthen the capability of the state to protect the essential and social rights of the population in the different regions of the country through integral and comprehensive work, in order to regain peace and ensure the rule of law for all Colombians.

### **III. The relevance of human security in the process of finding peace in Colombia**

Human security is a concept that offers an integral and a comprehensive sight into internal conflicts, by combining human rights and human development factors<sup>8</sup>. It focuses on protecting the economic, social, and cultural sphere of the individual to strengthen their efforts in confronting the threats to their daily life. This perspective is absolutely necessary for finding peace in internal conflicts<sup>9</sup>.

It is evident that human security is threatened in various forms through the conflict in Colombia: the majority of the people, especially those who live in small municipalities have to confront various threats that originate more often from internal sources than from external situations. Specifically, threats that emanate from the incapacity of the state to protect its citizens and that force its inhabitants to flee from insecurity and poverty.

Human security aims at reinforcing the state's means to protect its citizens, from an individual perspective. This is possible (among other measures) through human rights education, one of the pillars for achieving the goals of the human security agenda, that relates to a new form of understanding the concept of security, aiming to protect the people. In this integral perspective, it is necessary that Colombians, through civil and social organizations, and institutions at the national level and local municipalities, empower communities:

- by receiving knowledge about their rights to participate in local spaces;

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<sup>8</sup> See: United Nations Development Program (UNDP) (ed), *Human Development Report 1994*, Oxford University Press, New York, 1994, pp. 22-46. Available online at: <<http://hdr.undp.org/reports/global/1994/en>>.

<sup>9</sup> Ogata, Sadako, "Human Security as Framework for Post-Conflict Nation-Building: Lessons from Iraq and Afghanistan", in Cahill, Kevin M. (ed), *Human Security for All, A Tribute to Sergio Vieira de Mello*, Fordham University Press, New York, 2004, at p. 8.



- by helping them to develop their capabilities for making informed choices;
- and by defending themselves from threats of armed groups and poverty.

This simultaneously increases their self-reliance. Civil organizations and empowered communities are then able to play a significant role in the prevention and mitigation of violent conflicts as well as in the eradication of poverty.

At the same time it is necessary to strengthen local governments, taking into consideration the varying local situations in Colombia, to make them less susceptible to the actions of armed groups. Increasing the levels of governance and giving the local governments the essential protective infrastructure, will increase the state's legitimacy and should create the conditions for establishing the rule of law, institutional accountability and transparency<sup>10</sup>. With the start of the efforts to protect the people and local governments, it should be possible to activate preventive methods for mitigating the impact of threats to human security caused by the armed conflict in Colombia.

Finally it is important to realize that for accomplishing the goals of the security agenda, it is a requirement to include the cooperation and guarantees of the international community. This will include helping Colombia to build fair and effective judicial and policing systems, where punishments for the atrocious crimes committed during the armed conflict, can go hand in hand with social and economic justice.

#### **IV. Conclusions**

The complexity of the Colombian conflict requires putting together balanced policies and long-term measures. Human security, with its integral approach, is a crucial support for the idea that the Colombian state must protect its inhabitants from the threats of the armed conflict and of poverty. In order to accomplish that, it is necessary to start implementing a protective infrastructure: strengthening local governments and the empowerment of people through human

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<sup>10</sup> It has been claimed by many experts that to strengthen local governments, that is, decentralization, is one of the necessary steps in the process of finding peace in Colombia; and also that it is one of the key concept for human security. "*Protection refers to the norms, processes, and institutions required to shield people from critical and pervasive threats...the states have the primary responsibility to implement such a protective infrastructure*". Cahill, Kevin M. (ed), *Human Security for All, A Tribute to Sergio Vieira de Mello, A Tribute to Sergio Vieira de Mello*, at p. 10.

rights education. This would limit the expansion of the armed conflict, diminish its intensity and reduce its damage.

Last but not least, Colombia cannot do this alone. The cooperation of the international community and its support on the rocky road to free people from the threats of this tragic armed conflict is necessary.

The development of a culture of peace, tolerance, respect for law, and rejection of impunity requires the participation of all Colombians, in particular those who have directly suffered from the consequences of the conflict<sup>11</sup>, many located in rural areas. If Colombians start building, from an individual's perspective, the conditions for freeing people from the threats caused by internal conflict and poverty, then lasting peace could be possible.

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<sup>11</sup> Inter-American Commission on Human Rights (ed), *Report on the Demobilization Process in Colombia*.

# The Japanese Approach: Tracks of Human Security Implementation

*Corinna Konrad*

The author of this essay focuses on the Japanese approach – on the national and international level - to human security.

## **I. Introduction**

This essay will go into detail on the actions set by the Japanese Government in order to pursue human security.

Japan, like Canada, follows

1. the theoretical or scientific track, which supports research in the field of human security, as well as
2. the practical track of concrete action.

These two tracks are found at national and international level. The most important Japanese vehicles on these tracks are: for (1) The Commission on Human Security and for (2) The Official Development Assistance and the United Nations Trust Fund for Human Security.

Beforehand, it might be interesting to briefly look into the possible differences in the pursuit to follow human security. The fields where differences can be located are the following: the targets, the actors, the scope or core values, the focus, the means employed and the key policy initiative. Japan differs at least slightly with Canada in all of those. On the other hand, Japan's human security is very close to the human security as described by the Commission on Human Security (CHS)<sup>1</sup>.

1. The targets of the Japanese human security and the CHS's human

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<sup>1</sup> This could also be seen the other way around since the Commission on Human Security was initiated and financially supported by Japan. Due to the fact that the Commission was independent, this similarity is rather to be rooted in the fact that Japan as well as the Commission on Human Security took a wide and encompassing approach to human security.

security are individuals as well as communities. Canada and the UNDP Report limit their target to individuals only<sup>2</sup>.

2. Accordingly, Japan and CHS add communities to the actors which are states and international organizations, under the Canadian and UNDP approach.

3. Japan further stays close to the CHS opinion when it comes to the scope or core values. Japan has human survival, dignity and livelihood as its core values, the CHS names the protection of the vital core of human lives to enhance human freedoms for human survival, human livelihood and dignity. The focus of the Canadian approach is freedom from fear (freedom from pervasive threats to people's rights, safety or lives) the core values reflect this focus as they are human rights and the safety of individuals.

4. In comparison to that, the Japanese focus is primarily freedom from want (but also freedom from fear), the UNDP's focus is fear and want and the CHS's focus is on critical and pervasive threats and situations. The Canadians gradually focused on freedom from fear. In 1997, the Canadian system still included an economic dimension, which by 2000 was no longer discussed in the booklet of the DFAIT<sup>3</sup>. "*This may indicate that the DFAIT's approach to human security has become more focused in an attempt to make the concept more operational*"<sup>4</sup>.

5. The orientation of the Governments of Japan and Canada as well as the focus set by the CHS and the UNDP naturally have an impact on the means employed in the human security approach. The Japanese approach promotes intellectual dialog, Official Development Assistance and conflict prevention. As a matter of course the threats tackled are more on the non-violent side and humanitarian intervention as a tool is unfavored. The Canadian approach on the other hand, facing violent threats, employs norm building, coalition building and conflict prevention. The CHS looks for protection and empowerment, an integrated approach to conflict and development, upholding human rights and international humanitarian law. Last but not least, the UNDP most naturally promotes human development: basic human needs plus equity, sustainability, greater democratization and participation for all levels of global society.

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<sup>2</sup> Fukushima, Akiko, *Human Security, Comparing Japanese and Canadian Governmental Thinking and Practice*, August 2004, at p. 9  
<[http://www.humansecurity.info/sites/cchs/files/pdfs/Research/cchs\\_fukushima\\_research\\_paper.pdf#search=%22Fukushima%2C%20Akiko%2C%20Human%20Security%2C%20Comparing%20Japanese%20and%20Canadian%20Governmental%20Thinking%20and%20Practice%2C%20August%202004%22](http://www.humansecurity.info/sites/cchs/files/pdfs/Research/cchs_fukushima_research_paper.pdf#search=%22Fukushima%2C%20Akiko%2C%20Human%20Security%2C%20Comparing%20Japanese%20and%20Canadian%20Governmental%20Thinking%20and%20Practice%2C%20August%202004%22)> All website used in this essay were last checked on 14 September 2006.

<sup>3</sup>In 2003, public safety was top of the list followed by the protection of civilians, conflict prevention, governance and accountability and peace support operations. From 2000 to 2003 the original 22 sub-items had been reduced to ten.

<sup>4</sup> Fukushima, Akiko, *Human Security, Comparing Japanese and Canadian Governmental Thinking and Practice*, at p. 20.

6. The key policy initiative of Japan is the support and follow-up of the CHS, funding and implementation of human security projects under the Trust Fund for Human Security, promotion of small arms control, conflict prevention including transition to peace and consolidation of peace. Canada's key policy is public safety, protection of civilians, conflict prevention, governance and accountability and peace support operations, partnership with academics (Canadian Consortium on Human Security), partnership with NGOs and peace building by the Canadian International Development Agency. For the CHS it is the proposal to create a Human Security Transition Fund, universal access to basic health care and basic education.

Sometimes humanitarian interventions are named as the major difference between the Japanese and the Canadian system. As shown above this is not true, even if humanitarian interventions are the issue which is most striking, they are just one point among many.

## **II. National level - Japan**

The decision of the Japanese Government in 1997 to incorporate human security into its (foreign) politics was an action on the national level. Likewise are the incorporation of the human security concept into Japan's ODA and the seminars and discussions initiated and hosted by Japan national actions. Even if the Japanese system seems to be looking first to larger supra-state forums, it acknowledges the necessity to have domestic support through fostering the efforts implementing human security within its own society.

### **A. Theoretical track**

Since 1997 Japan hosted "*international conferences on human security to mobilize the support of the world community for conflict prevention, postconflict demining, resettlement on refugees and the internally displaced, holding of free elections and reconstruction of economic and social infrastructure in conflict afflicted countries around the world*"<sup>5</sup>. The conferences and seminars hosted in Japan were supported by an increasing number of scholars and institutions working in the field of human security and promoting the concept<sup>6</sup>.

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<sup>5</sup> Hirono, Ryokichi, "*Human Security and Conflict Prevention*", in *Japan Review of International Affairs* (Volume 14/4), The Japan Institute of International Affairs, Tokyo, at p. 276 et seq., 2000.

<sup>6</sup> E.g.: United Nations University, Tokyo; Doshisha Research Center for Human Security, Kyoto; the Policy Innovation Initiative: Human Security Research in Japan and Asia at the Keio University, Tokyo; Post Graduate Programs in Human Security offered at the Tohoku University in Sendai.

Over the time the Japanese concept has become more defined and unlike the Canadian system, which has become narrower, the Japanese even added sudden economic downturns to their agenda in 2003. The human security concept of Japan flourished especially on the scholarly field where more and more people find access to the notion of human security within their field of study.

In the national approach, certain problems confronting the human security enthusiasm indicated by the Japanese Government can be found. If *“human security is a concept that focuses on the viewpoints of individuals to protect them from those threats to human lives, livelihood and dignity and to bring out the full potential of each individual”*<sup>7</sup> this has to be equally true for nationals and people living in Japan, not only for people in other countries. Nevertheless, there is strong criticism in Japan’s human rights approach, on national as well as international level, as there are questions concerning the promotion and backing of NGOs/NPOs within the country. Therefore it has been postulated *“that the Japanese Government abuses the human security agenda by adopting a pragmatic political approach”*<sup>8</sup>.

The human security concept has flourished among scholars while the Japanese freedom from fear definition shies away from humanitarian intervention and human rights issues even on the theoretic track. The primary focus on freedom from want is not only found in interdisciplinary programs and seminars but is mainly achieved through the practical track of Official Development Assistance.

### ***B. Practical track: Official Development Assistance***

In 1995 Japan was the world’s largest donor in sheer numbers, but because of its high GDP (gross domestic product) it only ranked 15th among other states in the Organisation for Economic Co-operation and Development (OECD) listing. The efforts were not considered as important because of Japan’s rather minimal devotion to human resources and technical support. Therefore, as mentioned before, the Official Development Assistance of Japan, which the Japanese International Cooperation Agency (JICA) oversees has long been

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<sup>7</sup> Ministry of Foreign Affairs (MOFA), *The Trust Fund for Human Security: For the “Human-centered” 21st Century*, 2002, at p. 3 (Quoting from: Fukushima, Akiko, *Human Security, Comparing Japanese and Canadian Governmental Thinking and Practice*, at p. 6); in comparison: *“Human security aims to protect people from critical and pervasive threats to human lives, livelihood and dignity and thus to enhance human fulfilment.”* (MOFA, *The Trust Fund for Human Security: For the “Human-centered” 21st Century*, 2006, at p. 3 <[http://www.mofa.go.jp/policy/human\\_secu/index.html](http://www.mofa.go.jp/policy/human_secu/index.html)>).

<sup>8</sup> Gilson, Julie and Purvis, Phillida, *“Japan’s Pursuit of Human Security: Humanitarian Agenda or Political Pragmatism?”*, in Japan Forum (Volume 15/2).

criticized. With the adoption of human security into the ODA the ODA finally transformed into a vehicle to transport the human rights and human security idea. It is necessary to say finally, because already “in 1992, a (well known) amendment was made to the ODA charter to include the principle that full attention should be paid to efforts for promoting democratization and the introduction of a market-oriented economy, and the situation regarding the securing of basic rights and freedoms in the recipient country<sup>9</sup>. As the ODA Charter 1992 reads, the “ODA priority would be placed on:

- promoting environmental protection,
- maintaining international peace, focusing specifically on keeping aid from going toward military purposes and escalating international conflicts,
- assisting the transition to a market-oriented economy, democratization, political freedom and human rights protection and
- preventing the expansion of military expenditures, the research, development, and production of weapons of mass destruction, including missiles used to carry them, and weapons trafficking”<sup>10</sup>.

The reason behind this first and the following changes in the ODA policy was the acknowledgment that sustainable “... economic growth and human development require not only political stability but other favourable economic, social, and political factors as well. These factors include relatively high domestic savings rates; a stable inflow of foreign funds, particularly direct foreign investment; a substantial reservoir of skilled technical, professional and managerial labour and strong work ethic; the presence of an active entrepreneurial spirit and incentive-based corporate management; sound macroeconomic and open-door competition policies; efficient competent bureaucracies at the national level to formulate and implement macro- and microeconomic policies efficiently; and a strong political commitment to develop”<sup>11</sup>.

From 1992 on, securing basic human rights and freedoms became part of the ODA. After the report of the CHS was published in spring 2003, the ODA was revised anew to consider not only global, regional, national and human rights perspectives, but also perspectives of human security. This revision in 2003 as well as Japan’s Medium Term Policy on ODA of February 2005, explain concrete approaches to adopt the perspective on human security in ODA. It could be questioned if the revised Japanese ODA concept is a way of “repackaging” human development, and whether it genuinely includes any security element. Nevertheless, the ODA White Paper includes a human security section since the year 2000, and in 2003 an ODA budget item was named to

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<sup>9</sup> Hoshino, Eichi, *Human Rights and Development Aid: Japan after the ODA Charter*, in Van Ness, Peter, *Debating Human Rights: Critical Essays from the United States and Asia*, London, 1999, at p. 201, in Neary, Ian: *Japan’s Human Security Agenda and its Domestic Human Rights Policies*, at p. 269.

<sup>10</sup> Hirono, Ryokichi, “*Human Security and Conflict Prevention*”, at p. 277.

<sup>11</sup> Hirono, Ryokichi, “*Human Security and Conflict Prevention*”, at p. 264.

#### Grant Assistance for Grassroots and Human Security Projects.

Sadako Ogata criticized the Japanese ODA bureaucracy for being ineffective in implementing human security and for not providing ODA during conflicts. Since 2003, she is president of JICA stating that “*the Japan International Cooperation Agency, shares the responsibility for implementing ODA and works with the overarching aim of making the world more peaceful and prosperous. JICA’s role is to support endeavours of developing countries and their people through promoting a human security concept in its activities. Greater attention should be given to the participation and empowerment of people in the development process in order to enhance ownership at the national and community level and ensure sustainability of activity results*”<sup>12</sup>.

Today, human security is an explicit part of the ODA, binding loans and funding to human security threats and situations. “*By promoting human security through Japan’s initiative, it is expected that Japan’s ODA will be qualitatively improved*”<sup>13</sup>.

### III. International level - UN

Since human security is also a means to strengthen Japan’s reputation in the international arena, it is clear that one of Japan’s pursuits is to strengthen human security in international fora. “*For the Japanese Government, the UNDP reports on human security have been central to its interpretation of the term, and its participation in forums like the WTO (World Trade Organization), IMF (International Monetary Fund) and World Bank similarly affects Japan’s normative preferences*”<sup>14</sup>. But as Japan pushes human security, it also takes advantage of the existing structures. In this way not only does Japan strengthen the human security system internationally but relies on a strong network of know how as well as skilled and well trained personnel. In the international field human security provides a safe umbrella for constructive contributions.

Japan is no longer criticized for merely footing the bills. In this way it provides bilateral aid and contributions through multilateral mechanisms. “*Japan has also begun to behave proactively in dealing with problems of development in the developing world through the UN, believing it to be the only global organization capable of tackling the issues as part of broader definition of*

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<sup>12</sup> Ogata, Sadako, *Globalization and JICA: Working for a Peaceful and Prosperous World*

<<http://www.jica.go.jp/english/about/pres.html>>.

<sup>13</sup> MOFA, *International Symposium on Human Security "Human Security - Its Role in an Era of Various Threats to the International Community" (Summary)*, 2003

<[http://www.mofa.go.jp/policy/human\\_secu/sympo0302\\_s.html](http://www.mofa.go.jp/policy/human_secu/sympo0302_s.html)>.

<sup>14</sup> Gilson, Julie and Purvis, Phillida, “*Japan’s Pursuit of Human Security: Humanitarian Agenda or Political Pragmatism?*”, at p. 198.



*security*”<sup>15</sup>. This has to be emphasized, for due to its former “role as blind follower of US politics”, the Japanese international actions had been reactive and hardly ever showed proactive actions. In this concern Japan has emerged to become a truly capable international actor, something that cannot be achieved by merely watching the show. By actively taking advantage of the given structures in these organizations it is possible to use the human security agenda to address global change and to underline the central point states take in the realization of human security aspects.

#### ***A. Theoretical track – 1 – documents and resolutions***

During the years of patronizing human security, Japan has made an effort to place the concept in the UN Organization’s system. This effort has resulted in following documents containing the wording “human security”:

1. Economic and Social Council (ECOSOC), Commission on Human Rights: Sixtieth session; Summary Record of the 39th meeting; E/CN.4/2004/SR.39; December 9, 2005,
2. ECOSOC, Commission on Crime Prevention and Criminal Justice: Thirteenth session Agenda item 7\*: Use and application of United Nations standards and norms in crime prevention and criminal justice; Chile, Ecuador, Japan, Paraguay, Peru and Venezuela: revised draft resolution Human security in the context of crime prevention and criminal justice; E/CN.15/2004/L.17/Rev.1; Vienna; May 19, 2004,
3. ECOSOC, Commission on Crime Prevention and Criminal Justice: Thirteenth session Agenda item 7: Use and application of United Nations standards and norms in crime prevention and criminal justice; Chile, Ecuador, Japan, Paraguay, Peru and Venezuela: draft resolution Human security in the context of crime prevention and criminal justice; E/CN.15/2004/L.17; Vienna; May 11, 2004,
4. ECOSOC, Commission on Human Rights: Sixty-second session, Items 4 and 18 of the provisional agenda; Report of the United Nations High Commissioner for Human Rights and follow-up to the World Conference on Human Rights, Effective Functioning of Human Rights Mechanisms; E/CN.4/2006/4; August 3, 2005, and
5. General Assembly: Sixtieth session Agenda item 120, Follow-up to the outcome of the Millennium Summit; Letter dated March 27, 2006 from the Permanent Representatives of Japan and Mexico to the United Nations, addressed to the Secretary-General (Report of the Workshop on Human

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<sup>15</sup> Hook, Gilson, Hughes and Dobson, *Japan’s International Relations, Politics, Economics and Security*, Routledge, London, 2005, at p. 380.

Security, organized by the Government of Mexico, in cooperation with the Government of Japan, Mexico City, February 9th and 10th, 2006); A/60/739; March 24, 2006.

The rare number, and the rather marginal impact of these documents signifies the difficulty to incorporate human security issues in the international arena. The biggest success for all the countries advocating human security was the incorporation of a human security paragraph into the General Assembly Resolution 2005. It states: “*We stress the right of people to live in freedom and dignity, free from poverty and despair. We recognize that all individuals, in particular vulnerable people, are entitled to freedom from fear and freedom from want, with an equal opportunity to enjoy all their rights and fully develop their human potential. To this end, we commit ourselves to discussing and defining the notion of human security in the General Assembly*”<sup>16</sup>. This incorporation can be seen as the result of the joint effort of all these states. Even though “human security” finally made its way into a General Assembly Resolution, the concept is not generally accepted and often misunderstood, as comments like the following reveal: “*In addition, under enormous pressure concepts as the responsibility to protect and human security have been included. Those concepts run the risk of being invoked in the future as a pretext of aggression against our countries*”<sup>17</sup>.

States like Japan still struggle when they try to incorporate human security in UN resolutions and other documents even though the Secretary General Kofi Annan is also an advocate for human security<sup>18</sup> and UN agencies (e.g. Office for the Coordination of Humanitarian Affairs (OCHA), UNDP, United Nations Office on Drugs and Crime (UNODC), UNICEF (United Nations International Children’s Emergency Fund),...) are working under the banner of human security. The “‘*Human security*’ issue is frequently referred to ‘*humanitarian intervention*’ by several countries with caution which makes the discussion more complicated. UN resolution should be negotiated among member states and adopted basically by consensus. Thus, it is still difficult for this issue to be included in the UN resolution as there are countries who have concerns over the

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<sup>16</sup> General Assembly, 2005 World Summit Outcome (A/ RES/60/1), 2005, at p. 31 (para. 143)

<<http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>>.

<sup>17</sup> Perez Roque, Felipe, 8th Plenary Meeting (A/60/PV.8), at p. 47

<<http://daccessdds.un.org/doc/UNDOC/GEN/N05/511/91/PDF/N0551191.pdf?OpenElement>>.

<sup>18</sup> This can be seen for example in his report “In Larger Freedom” from 2005, where the Secretary General took a human security approach, yet supplementing the wording human security (only mentioned once) by the respective freedoms. See: Annan, Kofi, *In Larger Freedom: Towards Development, Security and Human Rights for All*, Report of the Secretary-General (UN Doc. A/59/2005), 21 March 2005

<<http://daccessdds.un.org/doc/UNDOC/GEN/N05/270/78/PDF/N0527078.pdf?OpenElement>>.

*idea of human security (as humanitarian intervention)*<sup>19</sup>. Therefore, it is necessary that the countries promoting human security demonstrate that human security is not equal to humanitarian intervention. Japan, which has no liking for humanitarian interventions within the human security concept, could use its own human security system as an example that those two issues do not necessarily have to go together. Still, just as “*the rampages of powerful but irresponsible political leaders, the lawlessness of non-state actors and the transgression of rights are global problems and cannot be met by states in isolation*”<sup>20</sup> the struggle to consolidate human security in the UN has to be faced by joint efforts of all the countries promoting the concept, irrespective to their attitude towards humanitarian interventions.

### ***B. Theoretical track – 2 – Commission on Human Security***

The Commission on Human Security has been Japan’s main international theoretical human security implementation vehicle. It was launched in January 2001 and began its operations in June 2001. “*The proposed Commission responds to UN Secretary General Kofi Annan’s call at the Millennium Summit last fall for higher priority in the new century to achieve the twin goals of freedom from want and freedom from fear*”<sup>21</sup>. Therefore, the commissioners, chosen to balance equitable geographical distribution and areas of expertise, maintained close contact with the UN Secretary General.

The mandate given to the Commission was to develop the concept of human security and make recommendations that would serve as guidelines for concrete actions to be taken by the international community. The Commission was given three goals:

1. “*to promote public understanding, engagement and support of human security and its underlying imperatives,*
2. *to develop the concept of human security as an operational tool for policy formulation and implementation, and*
3. *to propose a concrete program of action to address critical and pervasive threats to human security.*

*The Commission will be action-oriented to realize practical results. It will direct research and outreach activities and endeavor to disseminate its work. The Commission will carry out ongoing evaluation of its own activities and research interim reports. It will publish its final report at the end of its two-year term*”<sup>22</sup>.

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<sup>19</sup> Seya, Sachiyo, Human Security Inquiry; Question 5 (E-mail correspondence 30 May 2006).

<sup>20</sup> Axworthy, Lloyd, *Navigating a New World, Canada’s Global Future*, Vintage Canada, Toronto, 2004, at p. 74.

<sup>21</sup> MOFA, Press Release: Plan for Establishment of the Commission on Human Security <[http://www.mofa.go.jp/policy/human\\_secu/speech0101.html](http://www.mofa.go.jp/policy/human_secu/speech0101.html)>.

<sup>22</sup> MOFA, Press Release: Plan for Establishment of the Commission on Human Security.

In order to fulfil its obligations, the commission held five meetings and concluded its work in the report: *Human Security Now*, which was presented to Secretary General Kofi Annan in May 2003. Even though the commission was created to be “*independent of the United Nations, governments and international organizations*”<sup>23</sup> the influence of the Japanese Government’s funding can be seen in the fact that the report was preliminarily presented to Prime Minister Junichiro KOIZUMI in February 2003. While the report defines human security as the protection of “*the vital core of all human lives in ways that enhance human freedoms and human fulfilment*”<sup>24</sup> it “*stresses the need of comprehensive and integral actions of the international community, calling for a paradigm shift of “security” from staying on the narrow state security ideas to expanding its focus to include people’s perspective*”<sup>25</sup>. The core of human security is made of respect for political, economic and social human rights.

*“The Commission proposes the development of a core group made up of interested states, international organizations and civil society, around the United Nations and the Bretton Woods institutions, as part of its critical initiative - in which a small input of resources might leverage great impact - to forge links with disparate human security actors in a strong global alliance”*<sup>26</sup>.

While the CHS final report stresses protection of freedoms and the empowerment of individuals and communities to prevent conflict, it specifically recommends protecting people under conflict, supporting human security of people on the move, establishing human security funds for the transition from war to peace, encouraging the expansion of trade and markets while providing minimum living standards, according higher priority to ensuring universal access to basic health care, developing an efficient and equitable system for patent rights, empowering all people with universal basic education and strengthening international and domestic measures, promptly introducing a method of

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<sup>23</sup> MOFA, Press Release: Plan for Establishment of the Commission on Human Security.

<sup>24</sup> Critics are correct if they say that the CHS report does not really address the question of the definition of human security, but the Commission was given the mandate to develop a concept, not a definition of human security. For the development of a concept by the CHS and in the long run a definition would have been a useful and helpful tool to create. Nevertheless, it should be taken into account that any definition of a concept which is as wide and interrelated as human security might eventually curtail the possibilities of such an concept.

See: Commission on Human Security (ed), *Human Security Now*, Commission on Human Security, New York, 2003, at p. 4. Also online available at:  
<<http://www.humansecurity-chs.org/finalreport/English/FinalReport.pdf>>.

<sup>25</sup> Ministry of Foreign Affairs (MOFA), *The Trust Fund for Human Security: For the “Human-centered” 21st Century*, 2005, at p. 5  
<[http://www.mofa.go.jp/policy/human\\_secu/index.html](http://www.mofa.go.jp/policy/human_secu/index.html)>.

<sup>26</sup> Commission on Human Security (ed), *Outline of the Report of the Commission on Human Security*, at p. 4  
<<http://www.humansecurity-chs.org/finalreport/Outlines/outline.html>>.

education that respects the diversity of people.

For the violence restraining Japanese approach the question arises whether the report is supportive towards humanitarian intervention or not. Human Security Now emphasizes the importance of prevention, yet it also addresses “People caught up in violent conflict”. Interestingly enough, the Commission does not take a clear stand concerning humanitarian interventions, which are said to be one of the most distinctive difference and issue between the Japanese and the Canadian understanding of human security. On the one hand, the report Human Security Now talks about “*linking the political, military and humanitarian dimension of protecting people in conflict*”<sup>27</sup> which implies that humanitarian interventions in form of military actions are considered given facts. On the other hand, it mentions that humanitarian interventions might be nothing but a mask for the use of force, and by saying so, the report seems to question the legitimacy of such actions. It is clear that the report was in more than just one point a further trigger to keep up the discussion on human security. As follow-up to the Commission on Human Security the Advisory Board on Human Security was established.

### ***C. Theoretical track – 3 – Advisory Board on Human Security***

The Commission on Human Security recommended the creation of a body to “*carry forward the recommendations of the CHS and advise the UN Secretary-General on:*

- *the general guidelines for the United Nations Trust Fund for Human Security (UNTFHS),*
- *methods to increase the impact of projects and activities funded by the UNTFHS, and*
- *ways to promote and disseminate the human security concept and deepen its understanding and acceptance worldwide.*

*The Advisory Board on Human Security (ABHS) is an independent body composed of eight distinguished members known for their breadth of knowledge and their deep commitment to human security*”<sup>28</sup>.

Since its creation in 2003, the ABHS has held four meetings in which it has discussed the status quo and the perspectives of the UNTFHS and the Human Security Unit (HSU). In its last meeting on October 19, 2005, the board agreed that in order to keep up the work and apply the guidelines with caution, it will be necessary to expand the resource base because “*due to the improved management of the UNTFHS and the accelerated use of the Fund, the current*

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<sup>27</sup> Commission on Human Security (ed), *Human Security Now*, at p. 33.

<sup>28</sup> Office for the Coordination of Humanitarian Affairs (OCHA), *Advisory Board on Human Security*  
<<http://ochaonline.un.org/webpage.asp?Page=1495>>.

*level of activities will be unsustainable in the future*<sup>29</sup> Even though “*the continued financial contribution by the Government of Japan was highly appreciated. At the same time, it was noted that a big challenge for the UNTFHS was to convince potential donors of the international character of the UNTFHS. Ambassador Takasu recognized that to date many think of the UNTFHS as a Japanese Trust Fund and in this regard it was primarily the responsibility of the Government of Japan to reach out to Member States and to gain their support for the UNTFHS. Among potential donors highlighted were the members of the Human Security Network (HSN), in particular, the Governments of Canada, Thailand and Norway, as well as Member States outside of the HSN such as the Government of Sweden and Germany and the European Commission*”<sup>30</sup>. The Board further discussed other possible co-funding like a dialog between the HSU and the World Bank and the OECD on partnership programs.

The ABHS also suggested the revision of the guidelines for the UNTFHS, because it thought that the previous guidelines had not enough emphasis on empowerment and lacked a definition on beneficiary entities.

*“The Government of Japan will make every effort to disseminate through international conferences and media the concept of human security that the report of the Commission proposes, and using the Trust Fund for Human Security and the Grant Assistance for Grassroots Human Security Projects Program it will make further endeavours to realize human security in the field”*<sup>31</sup>.

#### ***D. Practical track – UN Trust Fund for Human Security***

The most concrete and significant action taken by the Japanese Government was the incorporation of the Trust Fund for Human Security in the United Nations. Prime Minister Obuchi already announced the project in December 1998, who fulfilled this commitment in March 1999 by opening the fund with 500 million Yen. By the fiscal year 2005, Japan had contributed 31.5 billion Yen to the UNTFHS through which over 140 projects<sup>32</sup> have been implemented. The UNTFHS was established to address diverse threats comprehensively, capturing the inter-linkages among them from a human perspective and to translate the concept of human security into concrete

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<sup>29</sup> OCHA, *Minutes of the ABHS Fourth Meeting*  
<<http://ochaonline.un.org/webpage.asp?Page=2068>>.

<sup>30</sup> OCHA, *Minutes of the ABHS Fourth Meeting*.

<sup>31</sup> MOFA, *Submission of Report by Commission on Human Security to Secretary-General of the United Nations Kofi Annan*, 2003  
<[http://www.mofa.go.jp/policy/human\\_secu/commission/report0305.html](http://www.mofa.go.jp/policy/human_secu/commission/report0305.html)>.

<sup>32</sup> MOFA, *The Trust Fund for Human Security: For the “Human-centered” 21st Century*, 2006, at p. 9.

activities implemented by UN organizations<sup>33</sup> through supporting projects that address diverse threats.

The Fund “allowed Japan to continue its funding for human security projects implemented initially in Asia and now around the world by UN agencies”<sup>34</sup>. At the same time it enables international organizations to provide support for human security in a flexible and timely manner.

In the year 2003, the Commission on Human Security, by presenting its report *Human Security Now*, provided a human security framework for the fund: protection and empowerment<sup>35</sup>. There had been no conceptual framework that clearly differentiated human security from other approaches available prior to the report of the Commission on Human Security and the revision of the guidelines. Empowerment became the deciding factor among a majority of projects towards development concerns. The fact that there had been no shared strategy between the UN and the Government of Japan resulted in the problem that projects were treated “first come first served” by the government, taking into consideration the human security situation of each country and Japan’s overall foreign policy considerations. Therefore, the distribution of funds had been geographically unequal and highly depended on the efforts made by the applying organization.

Critics also expressed concern about the time-consuming application process due to the structural lack of communication and coordination between the United Nations and the Government of Japan in the reviewing mechanism. Finally Japan and the UN decided to amend the guidelines to:

- streamline the review and approval process of project proposals and clarify criteria for eligibility and application process,

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<sup>33</sup> “UN organizations which are bound by UN financial rules and regulations are eligible to apply. Those organizations which have the capacity to coordinate and mobilize personnel, financial and other relevant resources for operating a field-based project are considered to be the main applicants. Other UN organizations should demonstrate that their proposed project meets the above key funding criteria of the Guidelines.” (OCHA, *Guidelines for the United Nations Trust Fund for Human Security* <<http://ochaonline.un.org/webpage.asp?Page=1954>>).

<sup>34</sup> Fukushima, Akiko, *Human Security, Comparing Japanese and Canadian Governmental Thinking and Practice*, at p. 22.

<sup>35</sup> Protection and empowerment mean:

1. Protection: national and international norms, processes and institutions that shield people from critical and pervasive threats and address insecurities in ways that are systematic, comprehensive, preventive. A top-down approach in which states have the primary responsibility.

2. Empowerment: People as actors; A bottom-up approach that enables people to develop their potential and their resilience to difficult conditions. “People empowered can become full participants in decision-making processes and demand respect for their dignity when it is violated.” (OCHA, *Human Security Unit (HSU): Overview and Objectives*, at p. 2).

- foster the focus and create a strategic way of allocating the resources to get the best benefits and avoid duplication of projects, and
- start monitoring and evaluating the projects' outcome.

Over the last years, the application procedure and distinctiveness of the fund have improved significantly. In the last meeting of the Advisory Board on Human Security<sup>36</sup>, October 2005, it was mentioned that “*by accelerating the review and approval processes, the Human Security Unit (HSU) has facilitated the effective and efficient use of the United Nations Trust Fund for Human Security (UNTFHS) and has substantially improved its management. As a result, the Fund has become better known within the overall UN system, promoting projects that are multi-sectoral, multi-agency and in line with the guidelines for the UNTFHS*”<sup>37</sup>.

Some of the changes indicated above had only been possible due to a shift in management.

The Advisory Board on Human Security used its first meeting on September 16, 2003 to agree on new priorities for the UNTFHS and to raise its concern over the management of the UNTFHS. On January 16, 2004 the substantive management of the UNTFHS was transferred from the Office of the Controller to the Office for the Coordination of Humanitarian Affairs (OCHA). In May 2004 a Human Security Unit was established within the OCHA and became operational in September the same year. It is the HSU's task to combine the management of the UNTFHS with the dissemination and promotion of the conclusions of the Commission on Human Security - or in other words: “*The overall objective of the Human Security Unit is to place human security in the mainstream of UN activities*”<sup>38</sup>.

The HSU is the UNTFHS' administrative unit responsible for the application of the guidelines and the distribution of the funding. The Advisory Board on Human Security (ABHS) can suggest adjustments and modifications of the guidelines when it deems it necessary as it did in 2003, 2004 and 2005. “*The Guidelines of the UNTFHS, as reviewed and endorsed by the Advisory Board on Human Security (ABHS), seeks to give guidance on the areas and modalities of projects to be supported by the UNTFHS and to advance the operational impact of the human security concept*”<sup>39</sup>. Through adopting the guidelines the OCHA agreed that the UNTFHS should inter alia adopt an integrated approach, promote multi-agency collaboration, engage civil society and other local partners, and pay particular attention to the vulnerabilities of women and children. Since “*the strength of the human security concept lies in its*

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<sup>36</sup> The follow-up to the Commission on Human Security and “supervisor” over the UNTFHS.

<sup>37</sup> OCHA, *Minutes of the ABHS Fourth Meeting*.

<sup>38</sup> OCHA, *Human Security Unit (HSU): Overview and Objectives*, at p. 1.

<sup>39</sup> OCHA, *Executive Summary of the Annual Report for the Trust Fund*, at p. 4.



*two-pronged strategy of protection and empowerment*<sup>40</sup>, the ABHS considered the need for a stronger emphasis on empowerment (as well as the lack of a definition of the beneficiary entities) a reason for a renewed revision of the guidelines in 2005.

The guidelines define that the UNTFHS “*shall finance projects carried out by organizations in the UN system, and when appropriate in partnership with non-UN entities, to advance the operational impact (of the human security concept)*”<sup>41</sup> and names the parameters, targets, geographical areas and the budgets as follows:

- Parameters:
  - providing concrete and sustainable benefits to people and communities threatened in their survival, livelihood and dignity,
  - implementing the “Protection and Empowerment” framework by comprehensively including both top-down protection and bottom-up empowerment measures,
  - promoting partnerships with civil society groups, NGOs, and other local entities and encouraging implementation by these entities,
  - advancing integrated approaches that preferably involve more than one organization in planning and implementation,
  - addressing the broad range of interconnected issues that take into account the multisectoral demands of human security, for example, conflict and poverty, displacement and health, education and conflict prevention, and
  - concentrating on those areas of human security that are currently neglected and avoiding duplication with existing programs and activities.<sup>42</sup>
- The guidelines offer an indicative list concerning the targeted people and situations. Projects have to tackle more than one element, and better consider particularly the special needs and vulnerabilities of women and children (in conflict, as refugees, in transition, living under minimum living standard, concerning health care and education). Further more, projects should be tools to promote the human security concept.
- The projects ought to be global with a emphasis on regions where people face the most pervasive threats or should include a sub-regional or cross-national aspect.
- Even though there is no limit, the normal budget is estimated 1 million US Dollars a project for one year. It is pointed out clearly that the maximum use shall be made of local resources and resorting to costly foreign expertise should be avoided.

The application procedure, even though it has already been streamlined, can be rather irritating because of the many institutions involved. Briefly the

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<sup>40</sup> OCHA, *Executive Summary of the Annual Report for the Trust Fund*, at p. 4.

<sup>41</sup> OCHA, *Guidelines for the United Nations Trust Fund for Human Security*, at p. 1.

<sup>42</sup> OCHA, *Guidelines for the United Nations Trust Fund for Human Security*, at p. 2.

HSU and the Government of Japan have to give their consent. Therefore, a concept of the project wanders from one institution to the other and back until the respective applicant can actually file the real application for the funding<sup>43</sup>.

The strong influence of the Japanese Government on the projects is based in its donations to the fund. Even though Japan initiated and installed the fund and until today is the only donor, recent considerations of opening the fund to other donors imply that the UNTFHS was not initially meant to be a “one-man-show”. The subchapter on the ABHS gave a little more detail on the changes under way. If further donors will actually be accepted to the UNTFHS the application procedure will have to be altered once more. Maybe the HSU will gain the power to decide over applications directly and thereby have the application procedure streamlined once again.

Another institutionalization of human security connected to the UNTFHS is the Human Security Branch (HSB) in the Division for Operations of the UNODC. The HSB was formerly the Technical Service Branch. Like the HSU, the HSB has the administrative task to identify, formulate, monitor and evaluate. Its objective is to “*promote human security through cost-effective and humane crime prevention and drugs control policies*”<sup>44</sup>. UNODC programmes have been financed through the UNTFHS and the HSB has been supported financially and politically by Japan.

The UNTFHS’ comprehensive, integrated and multi-agency approach makes it “*not just another source of funding for UN projects but a key instrument in dealing with critical and pervasive threats to human security requiring multi-faceted interventions on the part of the UN*”<sup>45</sup>. In this way the UNTFHS plays a “*pivotal role in translating the concept into concrete activities and highlighting the added value of the approach to the UN system and the world*”<sup>46</sup>.

#### **IV. Concluding**

The wide human security approach of the Japanese Government is very close to the description of human security developed by the Commission on Human Security. Similar to Canada, Japan follows a two-track approach. On the theoretical tack, Japan initiated the creation of the Commission on Human Security, which has since been its strongest vehicle on this track on the

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<sup>43</sup> The exact procedure is clearly laid out in the OCHA, *Guidelines for the United Nations Trust Fund for Human Security*, at p. 3 et seq.

<sup>44</sup> van Dijk, Jan, *Crime Prevention and Human Security: A United Nations Perspective*, 2004  
<[http://www.unodc.org/unodc/speech\\_2004-02-25\\_1.html](http://www.unodc.org/unodc/speech_2004-02-25_1.html)>.

<sup>45</sup> OCHA, *Executive Summary of the Annual Report for the Trust Fund*, at p. 4 et seq.

<sup>46</sup> OCHA, *Executive Summary of the Annual Report for the Trust Fund*, at p. 1.

international level. The report Human Security Now has strongly influenced the practical actions taken. By institutionalizing human security in the UN, Japan undermines the positions of states opposing human security. At the same time it takes advantage of the given administrative structures and human resource given. The attempt to push human security in international fora like the UN has to be given credit for, even though the outcome has been rather minimal due to the existing scepticism towards the concept from other countries. On the national level the theoretic track seems to flourish and to enjoy great popularity.

The practical track is dominated by financial contributions, whether at the national or international level. Human security has become a criterion in ODA distribution. Japan even created a Grant Assistance for Grassroots Human Security Projects. Internationally, Japan donated the Trust Fund for Human Security, which is located in the UN, and provides funding for human security projects operationalized by UN agencies. After initial difficulties the UNTFHS has developed into a capable tool to promote human security since it has been under the administration of the HSU.

# The Conceptual Debate on Human Security and its Relevance for the Development of International Law

*Matthias C. Kettemann*<sup>1</sup>

*This article focuses on the conceptual debate surrounding the notion of human security in international law. The author shows that the debate enjoys renewed relevance, notably in light of the commitment to discuss and define the notion of human security in the General Assembly, contained in the 2005 UN World Summit Outcome Document. After an analysis of the normative impact of human security on the process of international law-making and on issues of international concern, the author concludes by describing as essential a further integration of the concept of human security in state policies and international decision-making processes.*

## **I. Introduction**

The UN World Summit 2005, held at the 60<sup>th</sup> anniversary of the UN in September 2005, can be seen as 2005's most significant international conference. In the World Summit Outcome Document the international community committed itself to “*discuss[ing] and defin[ing] the notion of human security in the General Assembly*”<sup>2</sup>. Yet, the notion of human security remains controversial; and the conceptual debate far from over. Future defining (and refining) discussions on human security in the General Assembly will not be uncomplicated. It is in this light that this article will analyze selected aspects of the conceptual debate on human security and international law.

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<sup>1</sup> Matthias C. Kettemann is project assistant at the Institute of International Law and International Relations at the University of Graz.

<sup>2</sup> General Assembly, *2005 World Summit Outcome (A/ RES/60/1)*, 2005, at p. 31 (para. 143)

<<http://daccessdds.un.org/doc/UNDOC/GEN/N05/487/60/PDF/N0548760.pdf?OpenElement>> All websites used in this essay were last checked on 14 September 2006.

In its first part this article will focus on different approaches to human security and the connection between the emergence of the concept and the change in the meaning of international security. The question whether a definition is essential will be addressed as well. Furthermore attention will be paid to the *usefulness* of human security and conceptual concerns voiced against it. The second part will focus on the normative influence of human security on international law. Its structural impact will be analyzed and its effect on issues evaluated. Finally, a conclusion will draw attention to the main arguments raised and future developments to be considered.

## **II. Aspects of the conceptual debate on human security and international law**

### ***A. Human security perspectives: scientific and philosophical approaches***

Before entering into the conceptual debate on human security it should be made clear that space does not allow even a cursory citation of the leading works on the evolution of the definition and concept of human security<sup>3</sup>. It should be asked, additionally, whether the *concept* and the *definition* of human security should be considered to be interrelated and interdependent, or, rather, to be loosely connected, the one not predetermining the development of the other. Put otherwise: Is it necessary to formulate the concept of human security before agreeing on a common definition? This article will show that while the concept of human security is closely linked with the developments of international law in the 20<sup>th</sup> century, a common definition has not yet been agreed on; indeed, the necessity of a definition was expressly referred to by the 2005 UN World Summit Outcome Document<sup>4</sup>.

For reasons of clarity the term *concept* needs clarification. *Concept* denotes, in its philosophical dimension, “*a general or abstract idea; a universal notion*”, it can also be understood as “*a theoretical construct*”<sup>5</sup>. It is between these two poles<sup>6</sup> – a powerful universal idea and a political construct of limited usefulness and applicability – that this article will develop the history of the

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<sup>3</sup> See the references contained in: Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, in *Global Governance* (Volume 11), 2005, pp. 185-203, at p. 186 (FN 15). They include, notably, Stoett, Peter, *Human and Global Security: An Exploration of Terms*, University of Toronto Press, Toronto, 1999 and Newman, Edward and Richmond, Oliver P. (eds), *The United Nations and Human Security*, Palgrave, Basingstoke, 2001.

<sup>4</sup> See under: II.B.4.c).

<sup>5</sup> *Websters Third New International Dictionary of the English Language Unabridged*, G. & C. Merriam Co. Publishers, Springfield, 1981, at p. 469, s.v. “*concept*”.

<sup>6</sup> Oberleitner (Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 197), who positions human security between an “*academic concept*” and a “*political agenda*” but does not formulate a decision.

conceptual debate on human security and international law, will shed light on some of the impact the concept has had on international issues of concern and will sketch, briefly, possible future developments.

As far as human security per se is concerned, international lawyers agree to disagree. Admittedly, “*the very premise of human security is highly controversial and fiercely contested*”<sup>7</sup>, as are its “*definition, scope and utility*”<sup>8</sup>. The ideas, however, that underpin and structuralize human security have numerous historical forbearers. Definitions of human security, and the semantic (and normative) challenges associated with establishing them, will be dealt with *infra*.

Human security, insofar as it gives incentives to international law can be seen as a paradigm for international non-statal normative and pre-normative development. Put succinctly, human security brings into focus, and provides answers for, the “*question of how we can place the security of the individual on the same level as the security of the state*”<sup>9</sup>. Fundamental components of human security include thus “*the security of people against threats to life, health, livelihood, personal safety and human dignity*”<sup>10</sup>. It is from this individual-centred dimension that the impact of human security on international law will be analyzed in this article.

A broad variety of ideas has been expressed as to the concept of human security and its possible verbalizations. They include human security as a “*new organizing principle of international relations*”, the “*natural step*”<sup>11</sup> towards an individual-centered approach in international law and the “*guiding principle of the vital need to protect civilian populations from the many insecurities generated by current threats and challenges*”<sup>12</sup>.

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<sup>7</sup> Owen, Taylor, “*Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for Threshold-Based Definition*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 373-387, at p. 378  
<<http://sdi.sagepub.com/cgi/reprint/35/3/373.pdf#search=%22Human%20Security%20%E2%80%93%20Conflict%20Critique%20and%20Consensus%3A%20Colloquium%20Remarks%20and%20a%20Proposal%20for%20Threshold-Based%20Definition%22>>.

<sup>8</sup> Oberleitner, Gerd, *Human Security and Human Rights* (ETC Occasional Paper Series Number 8), June 2002, at p. 2

<[http://www.etc-graz.at/cms/fileadmin/user\\_upload/ETC-Hauptseite/publikationen/Occasional\\_papers/Human\\_Security\\_occasional\\_paper.pdf](http://www.etc-graz.at/cms/fileadmin/user_upload/ETC-Hauptseite/publikationen/Occasional_papers/Human_Security_occasional_paper.pdf)>.

<sup>9</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 197.

<sup>10</sup> International Commission on Intervention and State Sovereignty (ICISS) (ed), *The Responsibility to Protect*

<<http://www.iciss.ca/pdf/Commission-Report.pdf>> All websites used in this essay were last checked on 14 September 2006.

<sup>11</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 198.

<sup>12</sup> General Assembly President, *Draft Outcome Document*, at p. 17 (para. 75)

<[http://www.reformtheun.org/index.php/united\\_nations/991](http://www.reformtheun.org/index.php/united_nations/991)>.

While it is not a simple task to encompass the multiple dimensions of human security within one concept, it can be safely argued that the important shift of the notion of security in international law has been instrumental in paving the conceptual way. Thus the role of human security in international law cannot be addressed without a brief overview of the semantic enrichment of international security by an individual dimension<sup>13</sup>.

***B. Changing the meaning of “security”: shifts in international law and the evolution of the concept of human security***

While the history of the ideas that underpin the traditional concept of human security can be said to stem from US President Roosevelt, who included “*freedom from want*” and “*freedom from fear*” among his four fundamental freedoms<sup>14</sup>, it was not until the end of the Cold War and the iconoclastic perspective change it engendered in international law that the *dichotomy* of the modern understanding of human security – as, on the one hand, security vis-à-vis conflicts and, on the other hand, security in the light of human development<sup>15</sup> – became a topic in international legal discourse. Whereas the reports from the 1982 Palme Commission, the 1983 Brandt Commission, the 1988 Brundlandt Commission and the 1995 Commission on Global Governance<sup>16</sup> laid the groundwork for the conceptual development of human security, it was the 1994 UNDP Human Development Report, and, later, other reports under its influence, that “*created and shaped*”<sup>17</sup> the concept and “*introduced*”<sup>18</sup> it to international fora.

***1. The UNDP Human Development Report (1994)***

Equating security with individuals rather than with states, the report<sup>19</sup> introduced a new approach to human security, examining both national and

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<sup>13</sup> See under: II.C.

<sup>14</sup> Roosevelt, Franklin D., *The Four Freedoms*, Address to Congress on 6 January 1941 <<http://www.libertynet.org/~edcivic/fdr.html>>.

Benedek, Wolfgang, “Der Beitrag des Konzeptes der menschlichen Sicherheit zur Friedenssicherung” in Dicke, Klaus et al. (eds), *Weltinnenrecht, Liber Amicorum Jost Delbrück*, Duncker & Humblot, Berlin, 2005, at p. 26.

<sup>15</sup> Benedek, Wolfgang, “Der Beitrag des Konzeptes der menschlichen Sicherheit“, at p. 26.

<sup>16</sup> For references to the reports see Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 185/198 (fn. 1-4).

<sup>17</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at p. 1.

<sup>18</sup> Benedek, Wolfgang, “Der Beitrag des Konzeptes der menschlichen Sicherheit“, at p. 26.

<sup>19</sup> United Nations Development Program (UNDP) (ed), *Human Development Report 1994*, Oxford University Press, New York, 1994, pp. 22-43 <<http://hdr.undp.org/reports/global/en1994/en>>.

global concerns related to it<sup>20</sup>. While underlining the importance of sustainable human development, the report identified the manifold threats and challenges to ensuring human security.

## 2. *The Responsibility to Protect: the 2001 report by the International Commission on Intervention and State Sovereignty*

In its December 2001 report<sup>21</sup> on the responsibility to protect, the International Commission on Intervention and State Sovereignty (ICISS) primarily provided a legal framework for the “so-called ‘right of humanitarian intervention’”<sup>22</sup>. The growing recognition worldwide of human security as “security of people – their physical safety, their economic and social well-being, respect for their dignity and worth as human beings, and the protection of their human rights and fundamental freedoms”<sup>23</sup> was expressly welcomed by ICISS. In its deliberations, the Commission made extensive reference to human security, mentioning the concept 20 times in its report and underlining that the concept of security has become “much broader since the UN Charter was signed in 1945.” The Commission stated that a shift had occurred in the security debate “from territorial security, and security through armaments, to security through human development with access to food and employment, and to environmental security”<sup>24, 25</sup>.

## 3. *Human Security Now by the Commission on Human Security (2003)*

The report<sup>26</sup> by the Commission on Human Security, an initiative of the Government of Japan<sup>27</sup>, proposed a new individual-oriented international security framework. The concept of human security was understood as focusing on empowering individuals to deal with internationalized threats. Human security issues are considered to be especially relevant in relation to people in conflict and post-conflict situations, people on the move, people in economically

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<sup>20</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 185.

<sup>21</sup> ICISS (ed), *The Responsibility to Protect*.

<sup>22</sup> ICISS (ed), *The Responsibility to Protect*, at p. vii.

<sup>23</sup> ICISS (ed), *The Responsibility to Protect*, at p. 31 (2.21).

<sup>24</sup> ICISS (ed), *The Responsibility to Protect*, at p. 31 (2.22).

<sup>25</sup> Shortly after this finding, and on the basis of the conceptual ideas behind human security the Commission draws the important conclusion that the “[UN] Charter’s strong bias against military intervention is not to be regarded as absolute when decisive action is required on human protection grounds” (ICISS (ed), *The Responsibility to Protect*, at p. 32 (2.27)).

<sup>26</sup> Commission on Human Security (ed), *Human Security Now*, Commission on Human Security, New York, 2003

<<http://www.humansecurity-chs.org/finalreport/index.html>>.

<sup>27</sup> Commission on Human Security (ed), *Human Security Now*, at p. iv.



difficult situations and/or faced with health care and education-related problems.<sup>28</sup>

4. *The concept of human security and UN reform*

a) *A More Secure World: Our Shared Responsibility by the High-level Panel on Threats, Challenges and Change (2004)*

In 2003 the Secretary General convened the High-level Panel on Threats, Challenges and Change to review the processes and mechanisms through which the United Nations responds to 21<sup>st</sup> century security threats. The High-level Panel report suggests reforms to enhance consensus and strengthen the UN and introduces the concept of a “*new security consensus*”<sup>29</sup> to answer the new threats to security that surface internationally. Human security is mentioned 13 times in the text. It is interesting to note that the High-level Panel, at numerous occasions, emphasizes the dichotomy between ‘*state security*’ and ‘*human security*’<sup>30</sup>, e.g. when determining the seriousness of a threat, states have to ask themselves whether the threat to “*state or human security [is] of a kind, and sufficiently clear and serious, to justify prima facie the use of military force*”<sup>31</sup>.

b) *In Larger Freedom: Towards Development, Security and Human Rights for all by the UN Secretary General (2005)*

In his 2005 report<sup>32</sup> UN Secretary General Kofi Annan took up many of the issues and recommendations formulated by the 2004 High-level Panel report. While underscoring many of the ideas associated with human security, Kofi Annan expressly mentions human security only once as a reference to the Millennium Declaration that “*reaffirmed the commitment of all nations to the rule of law as the all-important framework for advancing human security and prosperity*”<sup>33</sup>.

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<sup>28</sup> Commission on Human Security, *Human Security Now* (2003), at pp. 2, 4 and *passim*.

<sup>29</sup> General Assembly (ed), *A More Secure World: Our Shared Responsibility* (UN Doc. A/59/565), 2004, at p. 2 (para. 8) et seq.  
<<http://www.un.org/secureworld/report.pdf>>.

<sup>30</sup> General Assembly (ed), *A More Secure World: Our Shared Responsibility*, at p. 49 (para. 165).

<sup>31</sup> General Assembly (ed), *A More Secure World: Our Shared Responsibility*, at pp. 57+58 (para. 207).

<sup>32</sup> Annan, Kofi, *In Larger Freedom: Towards Development, Security and Human Rights for All*, Report of the Secretary-General (UN Doc. A/59/2005), 21 March 2005  
<<http://daccessdds.un.org/doc/UNDOC/GEN/N05/270/78/PDF/N0527078.pdf?OpenElement>>.

<sup>33</sup> Annan, Kofi, *In Larger Freedom: Towards Development, Security and Human Rights for All*, at p. 35 (para. 133).



proposed a thought-through “*threshold definition*”<sup>40</sup>, encompassing human security aspects mentioned by the Commission on Human Security 2002 report and possible threats to human security as pointed out by the 1994 UNDP Human Development report: “*Human security is the protection of the vital core of all human lives from critical and pervasive environmental, economic, food, health, personal and political threats*”<sup>41, 42</sup>.

### ***C. The ‘usefulness’ and relevance of human security in international law: developing concepts and raising conceptual concerns***

While some states, such as Canada, have agreed on human security as a “*a foreign policy priority*”<sup>43</sup>, and others have formed a “*coalition of the like-minded*”<sup>44</sup>, such as the *Human Security Network*<sup>45</sup>, some international lawyers, and states, still doubt the ‘usefulness’ of the concept of human security while, nevertheless, acknowledging its integrative role<sup>46</sup>.

As to the concept of human security, Taylor Owen identifies two basic conceptions: a narrow approach that focuses primarily on *violent* threats and does not include, as Keith Krause put it, all “*bad things that can happen*”<sup>47</sup>, and a broad conceptualization suggesting that “*human security means something more than safety from violent threats*”<sup>48</sup>. Gerd Oberleitner<sup>49</sup>, while also making mention of the narrow approach (“*relying on natural rights and the rule of law*”) and the broad approach (where human security and the “*global economy and globalisation*” are interlinked), adds a third, “*a ‘humanitarian’ approach*”. This approach uses the concept of human security to address humanitarian issues such as war crimes, genocide and humanitarian interventions.

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<sup>40</sup> Owen, Taylor, “*Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for Threshold-Based Definition*”, at p. 382.

<sup>41</sup> Owen, Taylor, “*Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for Threshold-Based Definition*”, at p. 383.

<sup>42</sup> For a consciously “*non-legal*” definition see Oberleitner (Oberleitner, Gerd, *Human Security and Human Rights*, at p. 5), who understands human security “*as an emerging new concept which i.) is concerned with the security of people and the individual rather than with the security of a territorial state [and] ii.) is concerned with ‘survival, daily life and dignity of human beings.’*”

<sup>43</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 188. See also Benedek, “*Der Beitrag des Konzeptes der menschlichen Sicherheit*”, at p. 27.

<sup>44</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at p. 1.

<sup>45</sup> Human Security Network:  
<<http://www.humansecuritynetwork.org>>.

<sup>46</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 187.

<sup>47</sup> Krause, Keith, “*The Key to a Powerful Agenda, if Properly Delimited*”, *Security Dialogue* (Volume 35, Number 3), 2004, pp. 367-368, at p. 367.

<sup>48</sup> Owen, Taylor, “*Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for Threshold-Based Definition*”, at p. 375.

<sup>49</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at p. 3.

The academic debate<sup>50</sup> on the conceptualization of human security in international law is instructive and indicative of future developments. Critique on the concept as such concentrates mainly on two aspects: an individual-oriented approach that defines a growing number of possible harms as security threats does not add anything of value to the debate on the relevant issues. Secondly, “labelling all potential harms to the individual security threats makes prioritizing political action impossible”<sup>51</sup>.

Barry Buzan complains about the ‘reductionism’ caused by human security in international security thinking; he stresses that “*individuals are not free standing, but only take their meaning from the societies in which they operate: they are not some kind of bottom line to which all else can or should be reduced or subordinated*”<sup>52</sup>. Roland Paris<sup>53</sup> and Andrew Mack both argue that threats are not easier to analyze when included in a holistic concept. Mack also criticizes the “*wooliness of much of the human security literature*”<sup>54</sup> and points out that by understanding the causes and correlations of human security threats better, the concept as a whole will be defined more clearly.

Defences of human security have been offered, *inter alia*, by Ramesh Thakur<sup>55</sup>, who points out that states cannot counter the globalized threats of today. The national security conceptions that are based on costly defence machineries fail to address the numerous non-violent issues of international concern. While Amitav Acharya<sup>56</sup> sees human security as an answer to the globalization of international policy, Fen Osler Hampson<sup>57</sup> praises human security as a tool to give a voice to marginalized groups.

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<sup>50</sup> For an interesting overview of current opinions on human security in academia see the Special Section “*What Is ‘Human Security’?*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 345-387

<<http://sdi.sagepub.com/content/vol35/issue3/>>.

<sup>51</sup> Owen, Taylor, “*Human Security – Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for Threshold-Based Definition*”, at p. 378.

<sup>52</sup> Buzan, Barry, “*A Reductionist, Idealistic Notion that Adds Little Analytical Value*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 369-370, at p. 370.

<sup>53</sup> Paris, Roland, “*Still an Inscrutable Concept*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 370-372, at pp. 370 et seq.

<sup>54</sup> Mack, Andrew, “*A Signifier of Shared Values*”, *International Security*, Security Dialogue (Volume 35, Number 3), 2004, pp. 366-367, at p. 366.

<sup>55</sup> Takur, Ramesh, “*A Political Worldview*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 347-348, at p. 348.

<sup>56</sup> Acharya, Amitav, “*A Holistic Paradigm*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 355-356, at p. 355.

<sup>57</sup> Hampson, Fen Osler, “*A Concept in Need of a Global Policy Response*”, Security Dialogue (Volume 35, Number 3), 2004, pp. 355-356, at p. 350.

### **III. The normative influence of the concept of human security on international law**

The non-binding nature of the reports, declarations and outcome documents that have included considerations linked to the concept of human security notwithstanding, human security has had a considerable impact on international law.

Gerd Oberleitner underlines that human security poses a manifold “*challenge*” to international law and the law and practice of international organizations<sup>58</sup>. Wolfgang Benedek argues more positively and stresses that the human security concept sets out to “*strengthen the rule of law in international relations*” and to support the development of public international law and multilateral diplomacy<sup>59</sup>. Whether as soft law or as customary law, the dynamic nature of international law opens many avenues of integration to the concept of human security<sup>60</sup>.

#### ***A. Human security and its structural impact on international normative processes***

Introducing human security as a structural principle in international normative processes leads to – and has indeed already resulted in – procedural changes in drafting international norms. Human security stands for an involvement of individuals in developing new international normative instruments. Gerd Oberleitner argues that “*documents resulting from these processes will possibly better reflect the balance between the concepts of State sovereignty and concern for the individual*”<sup>61</sup>. Wolfgang Benedek<sup>62</sup> analyzes that the concept provides for a “*holistic instead of sectoral*”, a “*participative instead of exclusive*”, and a “*preventive instead of reactive*” approach to international law<sup>63</sup>. By thus ensuring a common, individual-oriented framework

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<sup>58</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 197.

<sup>59</sup> Benedek, Wolfgang, “*Der Beitrag des Konzeptes der menschlichen Sicherheit*“, at pp. 34 (Translation by the author).

<sup>60</sup> It could be asked, however, whether the changes in international law, some of which are exemplified *supra*, are *caused* by the growing interest of global civil society and international actors in the concept of human security or rather by the normative dynamics in international law that can be *explained* and *justified* by arguments brought forth within the context of Human security. In other words: is human security the *cause* of or the *reason* for these tendencies?

<sup>61</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at p. 26.

<sup>62</sup> Benedek, Wolfgang, “*Der Beitrag des Konzeptes der menschlichen Sicherheit*“, at p. 35 (Translation by the author).

<sup>63</sup> As far as the holistic dimension of human security is concerned, cf. Uvin, Peter, “*A Field of Overlaps and Interactions*”, *Security Dialogue* (Volume 35, Number 3), 2004, pp. 352-353, at p. 353, who accentuates the function of human security as a conceptual

of thought and applying it to the development of new rules, the concept of human security has already made a valuable contribution to international law.

Through enhanced civil society and NGO participation – short: an inclusive approach – the creation of numerous human rights treaties has been influenced by human security. These treaties include, *inter alia*, the 1997 Ottawa Convention against Landmines, the 1998 Rome Statute of the International Criminal Court and the 2000 Protocols to the Convention on the Rights of the Child, which can be seen as “*human security treaties*”<sup>64</sup>. Further to that the 2000 Convention against Transnational Organized Crime and its protocols, and the Protocol to the Convention against Torture were influenced by human security concerns<sup>65</sup>. It should be noted that human security-related concerns have also substantially shaped the contents of these treaties, many of which cover issues of international concern that will be dealt with *infra*.

### ***B. Human security and its impact on selected international issues of concern***

Human security can be seen as a “*value-based and people-centred approach to security ... [that] will contribute to ... normative changes in the international legal order*”<sup>66</sup>. These changes, which are mostly due to the new approaches to and answers for many of today’s issues of international concern that are provided by the concept of human security, include, *inter alia*, a rise in the importance of the focus on the individual while the importance of state sovereignty is declining, a stronger focus on the legitimacy of humanitarian interventions, a more individual-centred conception of human rights<sup>67</sup>, an individual-oriented approach to UN reform and the recognition of new, and more diverse, threats<sup>68</sup>.

Enhancing the role of human security will lead to a broader understanding of security, namely, as encompassing threats other than those to the security of states in the sense of the UN Charter<sup>69</sup>. Additionally, human security “*can challenge fundamental concepts of international law such as*

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bridge between fields of humanitarian relief, development assistance, human rights advocacy and conflict resolution.

<sup>64</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 195.

<sup>65</sup> Benedek, Wolfgang, “*Der Beitrag des Konzeptes der menschlichen Sicherheit*“, at p. 34, Oberleitner, Gerd, *Human Security and Human Rights*, at p. 26 and Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 195.

<sup>66</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 185.

<sup>67</sup> On the impact of human security on human rights, see Oberleitner, Gerd, “*Porcupines in Love, the Intricate Convergence of Human Security and Human Rights*”, in *European Human Rights Law Review* (Issue 6), 2005, pp. 588-606.

<sup>68</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 197.

<sup>69</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at p. 8.

*territorial integrity and State sovereignty*”<sup>70</sup> and, related to that, humanitarian interventions. Lloyd Axworthy argues that human security inspires a growing body of law that provides “*international humanitarian standards to challenge the supremacy of national states sovereignty*”<sup>71</sup>. This new human security conditionality of sovereignty is also mentioned by Edward Newman, who points to the role of human security in reassessing the legitimacy of national sovereignty. He emphasizes that following the human security approach implies that states must “*serve and support the people from which [they] draw [their] legitimacy*”<sup>72</sup>.

Human security is considered as a unifying concept, bringing together and providing solutions to different fields of international law, such as, *inter alia*, human rights law, humanitarian law, the law governing people on the move and anti-terrorism law<sup>73</sup>. Thus the ‘human securitization’ of human rights law is of far-reaching importance. While it can be safely argued that human rights and Human security are mutually reinforcing, mutually enriching and share common concerns<sup>74</sup>, they need not always provide the same answers. Gerd Oberleitner considers their relationship to be “*close but not yet thoroughly analysed,*” with *Human security entailing a “broader concept”*<sup>75</sup>.

By shifting the focus from states to individuals, human security allows non-state actors to play a larger role in international fora and normative processes; put defensively, human security “*can also pose questions as to what will be the future role of non-state actors in the international legal order*”<sup>76</sup>.

Human security is closely linked with UN institutional reform. Whereas the Security Council in 2002 could still be seen as “*an obstacle to fostering human security*” rather “*than a mechanism for enhancing it*”, a new and enlarged

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<sup>70</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at p. 6.

<sup>71</sup> Axworthy, Lloyd, “*A New Scientific and Policy Lens*”, *Security Dialogue* (Volume 35, Number 3), 2004, pp. 348-349, p. 348.

<sup>72</sup> Newman, Edward, “*A Normatively Attractive but Analytically Weak Concept*”, *Security Dialogue* (Volume 35, Number 3), 2004, pp. 358-359.

<sup>73</sup> Oberleitner, Gerd, “*Human Security: A Challenge to International Law?*”, at p. 197.

<sup>74</sup> Benedek, Wolfgang and Nikolova-Kress, Minna (eds), *Menschenrechte verstehen. Handbuch zur Menschenrechtsbildung*, Neuer Wissenschaftlicher Verlag, Wien, 2004, at p. 19 (See also the 2nd edition of the English version: Benedek, Wolfgang, *Understanding Human Rights, Manual on Human Rights Education*, Neuer Wissenschaftlicher Verlag GmbH, Graz, Vienna, 2006. Also online available at: <<http://www.etc-graz.at/cms/uploads/media/Manual-engl.pdf>>).

<sup>75</sup> Oberleitner, Gerd, *Human Security and Human Rights*, at pp. 14 and 18. Cf. also *Human Security: A Challenge to International Law?*, at p. 197.

<sup>76</sup> Cf. Oberleitner, Gerd, *Human Security and Human Rights*, at p. 6; Benedek, Wolfgang “*Der Beitrag des Konzeptes der menschlichen Sicherheit*”, at p. 34.

Security Council is more likely to take human security-related considerations into account<sup>77</sup>.

#### IV. Conclusion

The debate on human security and international law has not yet drawn to a close. The ongoing conceptual discussions of human security notwithstanding, the concept has been acclaimed for its integrative impact in numerous international normative processes. A human security-oriented approach to international issues of concern guarantees a larger role for the individual in international fora and in the development, and application, of international law.

While it is true that states are the primary actors in the international legal system, it can be convincingly argued that the international legal order and its greatest organizational realization, the UN, are not limited, in their purposes, to ensuring cooperation and avoiding situations endangering the maintenance of international peace and security. As Kofi Annan put it, “*our guiding light must be the needs and hopes of peoples everywhere*”<sup>78</sup>. This “*guiding light*” should be powered, metaphorically speaking, by Human security concerns.

The solemn commitment by UN member states to further refining work on the definition of Human security at the most important international forum in 2005 is an important step for the conceptual debate on human security and international law. It is now up to the General Assembly to fulfil the task entrusted to it by UN members, i.e. to “*discuss and define the notion of human security*”<sup>79</sup>. However, a clear notion is but a start. Attention should be paid to the importance of analyzing, and understanding, the *de facto* and – to a much lesser degree – *de jure* implications of human security in international law. It is safe to say that today, more than ten years after the essential 1994 UNDP report, the role and relevance of human security is likely to increase in international processes leading to norm creation.

International law is dynamic and human security is a concept in motion, growing, as it should, with newly emerging human needs and international threats. It can thus be maintained convincingly that “*the traditional, narrow perception of security [that] leaves out the most elementary and legitimate concerns of ordinary people regarding security in their daily lives*”<sup>80</sup> is no longer internationally accepted.

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<sup>77</sup> Cf. Benedek, Wolfgang, “Der Beitrag des Konzeptes der menschlichen Sicherheit“, at p. 32.

<sup>78</sup> Annan, Kofi, *In Larger Freedom: Towards Development, Security and Human Rights for All*, at p. 12.

<sup>79</sup> General Assembly, *2005 World Summit Outcome (A/ RES/60/1)*, at para. 143.

<sup>80</sup> ICISS (ed), *The Responsibility to Protect*, at p. 31 (2.23).



With the increased importance of human security in international law the importance of states will not, conversely, decrease. Although it is doubtful whether “*individuals are not free standing, but only take their meaning from the societies in which they operate*”<sup>81</sup>, states are nonetheless responsible, with necessary non-statal support, for further integrating human security in international law.

From President Roosevelt’s “*Four Freedoms*” to the 2005 World Summit’s commitment, proponents of human security have succeeded in enriching international law by a structural idea that has the potential to increase worldwide recognition of the pivotal role of individuals in international law and, in the words of the UN Secretary General, “*to perfect the triangle of development, freedom and peace*”<sup>82</sup>.

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<sup>81</sup> Buzan (Buzan, Barry, “*A Reductionist, Idealistic Notion that Adds Little Analytical Value*”, at p. 370), who is quick to add that they “*are not some kind of bottom line to which all else can or should be reduced or subordinated*” (emphasis added).

<sup>82</sup> Annan, Kofi, *In Larger Freedom: Towards Development, Security and Human Rights for All*, at p. 12.

# From Global to Regional Approach to Human Rights Education: The Case of the OSCE

*Simona Drenik*

*Various frameworks have been developed during the last decade at the global level to strengthen human rights education. Yet, the implementation of global declarations at the national and/or local level needs to be enforced. Regional organizations such as the Council of Europe and the Organization for Security and Co-Operation in Europe (OSCE) play an important role in ensuring human security and promoting implementation as they represent a link between the universal approach and regional features.*

## **I. Introduction**

In order to link human security and human rights education, the general understanding of both concepts is needed for further deliberations. A general understanding of the concept of human rights education was outlined by UNESCO: *“The concept underpinning human rights education is that education should not only aim at forming trained, professional workers, but also at contributing to the development of individuals who possess the skills to interact in a society. Human rights education, human rights into education aim at providing pupils and students with the abilities to accompany and produce societal changes. Education is seen as a way to empower people, improve their quality of life and increase their capacity to participate in the decision-making processes leading to social, cultural and economic policies”*<sup>1</sup>. This concept represents a

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<sup>1</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), What is Human Rights Education?

<[http://portal.unesco.org/education/en/ev.php-URL\\_ID=1920&URL\\_DO=DO\\_TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/education/en/ev.php-URL_ID=1920&URL_DO=DO_TOPIC&URL_SECTION=201.html)> All websites used in this essay have last been checked on 14 September 2006.

<sup>2</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), What is Human Rights Education?

holistic approach to human rights education according to which human rights are implemented at all levels of the educational system and are taught through both content transmission and experiences.

The understanding of human security follows both the Commission on Human Security (CHS) and the Human Security Network (HSN) approaches. The two slightly differing approaches to human security complement each other. The CHS defines human security as the protection of “*the vital core of all human lives in ways that enhance human freedoms and fulfillment*”<sup>3</sup>. In this respect, human security means protecting fundamental freedoms; protecting people from critical and pervasive threats and situations; using processes that build on people's strengths and aspirations; creating political, social, environmental, economic, military and cultural systems that, when combined, give people the building blocks for survival, livelihood and dignity. It is a concept that comprehensively addresses both ‘freedom from fear’ and ‘freedom from want’. To attain the goals of human security, the Commission proposes a framework based on the protection and empowerment of people<sup>4</sup>. Meanwhile the HSN understands human security as freedom from pervasive threats to people's rights, their safety or even their lives. In this regard human security has become both a new measure of global security and a new agenda for global action. “*Safety is the hallmark of freedom from fear, while well-being is the target of freedom from want. Human security and human development are thus two sides of the same coin, mutually reinforcing and leading to a conducive environment for each other. A commitment to human rights and humanitarian law is the foundation for building human security*”<sup>5</sup>.

From the human security perspective, human rights education can function as an important means to promote and strengthen human security<sup>6</sup>. Within such understanding “*Human Rights Education and Learning should enhance knowledge, clarify values, promote solidarity, change attitudes and develop critical thinking and skills contributing to the respect for and enforcement of human rights and the promotion of human dignity, leading to an active commitment and to the defense of such rights and to the building of a holistic, fully comprehensive culture of human rights*”<sup>7</sup>. This approach was recognized in the

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<sup>3</sup> Commission on Human Security, *Human Security Now*, Commission of Human Security, New York, 2003, at p. 4. Also available online at:

<<http://www.humansecurity-chs.org/finalreport/English/FinalReport.pdf>>.

<sup>4</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Human Security*

<<http://ochaonline.un.org/webpage.asp?Page=1516>>.

<sup>5</sup> Human Security Network:

<[www.humansecuritynetwork.org](http://www.humansecuritynetwork.org)>.

<sup>6</sup> Human Security Network (ed), *Graz Declaration on Principles of Human Rights Education and Human Security*, 5<sup>th</sup> Ministerial Meeting, Graz, 8-10 May 2003 <[www.humansecuritynetwork.org/docs/8may2003-e.php](http://www.humansecuritynetwork.org/docs/8may2003-e.php)>.

<sup>7</sup> Human Security Network (ed), *Graz Declaration on Principles of Human Rights Education and Human Security (Preamble)*.

Graz Declaration on Principles of Human Rights Education and Human Security. However, what is lacking is the implementation of the global goals, commitments and declarations at the national and/or local level.

In this essay the main question is whether a systematic regional approach could be more effective to promote the implementation of the global human rights education agenda at the national and/or local level than a global approach.

## II. From a global to a regional approach

At the global level, states have adopted various international frameworks for programmes and action with a view to encourage, elaborate and implement effective, comprehensive and sustainable strategies for human rights education at the national level<sup>8</sup>. This also indicates a great level of attention of states as well as of non-governmental organizations to this important issue. The High Commissioner for Human Rights was requested on various occasions<sup>9</sup> to promote and technically assist, in close cooperation with the United Nations Educational, Scientific and Cultural Organization (UNESCO), the national implementation of the revised plan of action as well as to coordinate related international activities.

The need for a regional approach to human rights education is generally recognized by all relevant global documents, in which an appeal is made to all “*relevant organs, bodies or agencies of the United Nations system, as well as [to] all other international and regional intergovernmental and non-governmental organizations, within their respective mandates, to promote and technically assist when requested, the national implementation of the plan of action*”<sup>10</sup>. Yet, not enough focus is brought to turn this approach into a more comprehensive and systematic movement and to further encourage regional organizations to develop their own ‘region specific approach’.

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<sup>8</sup> UN General Assembly, *Development of Public Information Activities in the Field of Human Rights (A/RES/43/128)*, 8 December 1988; UN General Assembly, *United Nations Decade for Human Rights Education (A/RES/49/184)*, 23 December 1994; UN General Assembly, *International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001–2010) (A/RES/53/25)*, 10 November 1998; UN General Assembly, *World Programme for Human Rights Education (A/RES/59/113 B)*, 14 July 2005; UN General Assembly, *Revised draft plan of action for the first phase (2005–2007) of the World Programme for Human Rights Education (A/59/525/Rev.1)*, 2 March 2005; Human Security Network, *Graz Declaration on Principles of Human Right Education and Human Security, 5<sup>th</sup> Ministerial Meeting*, Graz, 8. - 10. May 2003.

<sup>9</sup> Commission on Human Rights (ed), *World Programme for Human Rights Education (RES/2005/61)*, 20 April 2005; UN General Assembly, *World Programme for Human Rights Education. (A/RES/59/113 B)*, 14 July 2005, at para. 3.

<sup>10</sup> UN General Assembly (ed), *World Programme for Human Rights Education (A/RES/59/113 B)*, 14 July 2005, at para. 4.

It is evident that in today's globalized world there are different needs as well as different levels of awareness about human rights guarantees. Some regions are facing extreme poverty, which is both a cause and an effect of human rights denials<sup>11</sup>. In other regions where the level of economic development is higher, people might also face various violations of human rights. It is obvious that an approach to raise awareness about human rights and fundamental freedoms should take into account different cultures, specific situation of different regions as well as country specific realities. The regional approach, which mainstreams the global agenda on one hand, and country-specific needs and realities on the other hand, seems to be the best approach towards the effective implementation of the human rights education world agenda and to translate the words into deeds. The advantage of the regional approach is to take into account the specific circumstances, conditions and values of certain regions and at the same time to promote the universally accepted culture of human rights. Yet, possible disadvantages or even threats of regional approach towards human rights education could be imposed by cultural relativism or misinterpretations of human rights themselves. Therefore, the regional approach should always be seen as supplementary to the UN action at the global level. Only in this light there seems to be little possibilities for potential conceptual misunderstandings or abuses of human rights education.

#### ***A. 2005 World Programme for Human Rights Education - regional perspective***

The Plan of Action for the first phase (2005-2007) of the World Programme for Human Rights Education recognizes the need for cooperation at all levels, including the regional one, in order to ensure the implementation of the action plan. However, it seems to acknowledge only courteously the role of regional organizations. Though there are some 20 references to the regional level or regional organizations, it is not very convincing that the need for effective regional involvement or rather leadership is taken seriously. It is rather predominated by the vague language of the Plan of Action, which states that the UN inter-agency coordinating committee "... *may consider seeking assistance of regional and sub-regional institutions and organizations with a view to monitor more effectively the implementation of this plan of action*"<sup>12</sup>.

The plan of action gives a strong call for international cooperation and support towards the implementation of the plan of action, which includes different regional governmental organizations, forums and institutions, as well as international and regional non-governmental organizations; however, it retains

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<sup>11</sup> In the Millennium Development Goals the need to cut the poverty down is recognized as the first among eight targets that governments have set out to meet by 2015.

<sup>12</sup> UN General Assembly, *World Programme for Human Rights Education (A/RES/59/113 B)*, at para. 43.

seemingly general references and avoids any specifications. For example, the implementation strategy at the national level<sup>13</sup> does not recognize the role of the regional experiences at all. While the implementation strategy recognizes that the situation of human rights education in school systems differs from country to country, it ignores the regional features, which would give a better idea for the states to take concrete measures.

### **III. The regional approach – the case of the OSCE**

In Europe, the Council of Europe (CoE) is the most active regional organization in implementing human rights education. It pronounced the year 2005 the European Year of Citizenship through Education (EYCE). In 1997 the CoE project on Education for Democratic Citizenship (EDC) was established and it encompasses various means of learning democratic citizenship, which includes in particular, human rights education, civic education, peace education, global education and intercultural education<sup>14</sup>.

Although the CoE is the major player in this field in Europe, as one of its main aims is to defend human rights, parliamentary democracy and the rule of law, it is the role of the European largest regional organization – the Organization for Stability and Co-operation in Europe (OSCE)<sup>15</sup> – that will be presented in this article. The reason is that the OSCE has a clear human security perspective to all of its activities. In its essence it is a security organization and its work is based on the comprehensive concept of security which includes politico-military, economical-environmental and human dimension as equally important for enhancing peace and stability in the region. OSCE participating states have also recognized that the respect for human rights, fundamental freedoms, democracy and the rule of law is at the core of the OSCE's comprehensive concept of security<sup>16</sup>.

The OSCE's work is only a small part of the overall global and regional effort aimed at the enhancement and promotion of human rights education and

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<sup>13</sup> UN General Assembly, *World Programme for Human Rights Education (A/RES/59/113 B)*, at part III.

<sup>14</sup> Council of Europe, *What is Education for Democratic Citizenship?*, <<http://www.coe.int/t/dg4/education/edc/>>.

<sup>15</sup> The Conference for Security and Co-Operation in Europe (CSCE) was established in Helsinki by the Helsinki Final Act in 1975 and was renamed to OSCE in 1994. The OSCE has 55 participating and 11 partner states and is also a regional arrangement under Chapter VIII of the Charter of the United Nations.

<sup>16</sup> OSCE (ed), *OSCE Istanbul Summit Declaration 1999*, 1999, at pp. 46–54 <[http://www.osce.org/documents/mcs/1999/11/4050\\_en.pdf#search=%22OSCE%20Istanbul%20Summit%20Declaration%201999%22](http://www.osce.org/documents/mcs/1999/11/4050_en.pdf#search=%22OSCE%20Istanbul%20Summit%20Declaration%201999%22)>.

training<sup>17</sup>. Participating states adopted a substantive set of human dimension commitments since 1975<sup>18</sup>, the focus of the activities lies on field work and on the assistance for participating states to fulfill their own political and legal commitments. The implementation of commitments at the national and local levels has therefore become a key focus of the organization. Even though the OSCE has so far not been very active in the field of human rights education, its activities are rapidly increasing. With its field operations, flexible and innovative approaches, it has had an important role in increasing the level of human security in the region.

#### ***A. OSCE Human Dimension Commitments Related to Human Right Education and Training***

The OSCE has numerous commitments relating to human rights education and training which are evident in the OSCE documents from Helsinki 1975 and 1992, Vienna 1989 and 2000, Moscow 1991, Copenhagen and Paris 1990, Prague 1992, Budapest 1994, Istanbul 1999, Bucharest 2001, Maastricht 2003, Sofia 2004 and Ljubljana 2005. In short, almost at every important OSCE meeting there were commitments to human rights education. With the Vienna Document 1989 the participating states of the OSCE committed themselves to publish and disseminate the texts of the Helsinki Final Act and other relevant international instruments in the field of human rights to make them known as widely as possible and to render them accessible to all individuals in their countries, in particular through public library systems. States committed themselves to effectively ensure the right of the individual to know and act upon her/his rights and duties in this field<sup>19</sup>.

Participating states committed themselves to encourage the consideration of the promotion and protection of human rights and fundamental freedoms<sup>20</sup> in schools and other educational institutions. This has led to the recogni-

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<sup>17</sup> OSCE/ODIHR, *Supplementary Human Dimension Meeting on Human Rights Education and Training, Final Report (GAL/33/04)*, OSCE/ODIHR, Vienna, 25-26 March 2004, at pp. 52 cont.

<[http://www.osce.org/documents/odihr/2004/05/2864\\_en.pdf#search=%22Organization%20for%20Security%20and%20Cooperation%20in%20Europe%2C%20ODIHR.GAL%2F33%2F04%2C%20Supplementary%20Human%20Dimension%20Meeting%20on%20Human%20Rights%20Education%20and%20Training%2C%20Final%20Report%22](http://www.osce.org/documents/odihr/2004/05/2864_en.pdf#search=%22Organization%20for%20Security%20and%20Cooperation%20in%20Europe%2C%20ODIHR.GAL%2F33%2F04%2C%20Supplementary%20Human%20Dimension%20Meeting%20on%20Human%20Rights%20Education%20and%20Training%2C%20Final%20Report%22)>.

<sup>18</sup> See: OSCE, *OSCE Human Dimension Commitments, Thematic Compilation* (Volume 1), OSCE/ODIHR, Warsaw, 2005; OSCE (ed), *OSCE Human Dimension Commitments, Chronological Compilation*, (Volume 2), OSCE/ODIHR, Warsaw, 2005.

<sup>19</sup> OSCE, *Concluding Document of Vienna – the Third Follow-up Meeting on Human Dimension* (Vienna Document 1989), 19 January 1989, at paras. 13.3. and 13.5.

<sup>20</sup> OSCE, *Concluding Document of Vienna – the Third Follow-up Meeting on Human Dimension* (Vienna Document 1989), at para. 13.6.

tion of the need for the promotion of human rights education. In 1991 at the Moscow Meeting of the Conference on Human Dimension of the CSCE, the participating states affirmed that human rights education is fundamental and that it is therefore essential that their citizens are educated on human rights and fundamental freedoms and they committed themselves to respect such rights and freedoms in domestic legislation and international instruments to which they may be parties. They recognized that effective human rights education contributes to combating intolerance, religious, racial and ethnic prejudice and hatred, including that against Roma, xenophobia and anti-semitism<sup>21</sup>.

At the beginning of the 1990s the participating states also committed themselves to encourage their competent authorities responsible for educational programmes to design effective human rights related curricula and courses for students at all levels, particularly law students, administration and social sciences as well as those attending military, police and public service schools. The participating states committed themselves to make information on all CSCE human dimension provisions available to their educators and to encourage organizations and educational establishments to co-operate in drawing up and exchanging human rights programmes at the national as well as the international levels<sup>22</sup>. It is obvious that in the early 1990s the OSCE was able to effectively address regional specifics, reflecting the needs of post-communist countries after the fall of the Berlin Wall.

In recent years, new challenges to security have emerged in Europe. The OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century adopted in 2003 states that "*[t]he OSCE's efforts will in particular be targeted at the younger generation in order to build up their understanding of the need for tolerance and the importance of reconciliation and peaceful coexistence. Their outlook and perspective on the future are key. Where appropriate, the OSCE will therefore take on a stronger role in the field of education. An area such as human rights education would deserve particular attention*"<sup>23</sup>. Following this decision there was a substantial exchange of ideas and information about human rights education and training at the first Supplementary Human Dimension Meeting in 2004<sup>24</sup>. The topics selected for discussion included formal human rights education, human rights education in school curricula, human-rights education and training of public officials, and informal human rights

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<sup>21</sup> OSCE, *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*, 3 October 1991, at paras. 42.1. and 42.2.

<sup>22</sup> OSCE, *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*, paras. 42.3.-5.

<sup>23</sup> OSCE, *OSCE Strategy to Address Threats to Security and Stability in the Twenty-first Century*, 2003, at para. 40.

<sup>24</sup> OSCE, *OSCE Supplementary Human Dimension Meeting on Human Rights Education and Training*, Vienna, 25-26 March 2004.



education. An action-oriented operational approach was recommended, especially at the local level<sup>25</sup>.

At the 2005 Ministerial Council, the participating states recognized that the promotion of human rights through education and training in the whole OSCE area is vital for the strengthening of respect for human rights and fundamental freedoms, as well as for the promotion of tolerance and non-discrimination. They also acknowledged the added value of multifaceted co-operation, including consultation, co-operation and co-ordination with relevant international and regional organizations<sup>26</sup>, as well as the benefits that countries can derive from each other's experiences and capabilities in the field of human rights education and training. The participating states moreover recognized the need to further enhance, with the involvement of civil society, systematic human rights education and training programmes, designed to promote respect for the inherent dignity of all human beings, and to make human rights a reality for each person in every community and society at large<sup>27</sup>.

The OSCE has also given specific attention to tolerance education, or rather to education for the promotion of mutual respect and understanding. The participating states committed, while implementing their commitments to promote tolerance and non-discrimination, to focus their activities in such fields as, *inter alia*, legislation, law enforcement, education, media, data collection, migration and integration, religious freedom, inter-cultural and inter-faith dialogue. They further committed themselves to encourage public and private educational programmes that promote tolerance and non-discrimination, and to raise public awareness of the existence and the unacceptability of intolerance and discrimination. In this regard, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) was assigned to assist, upon the request of participating States,

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<sup>25</sup> For the recommendations and final report of the meeting see: OSCE (ed), *Annual Report 2004*, OSCE/ODIHR, Warsaw, 2005, at pp. 57-58; OSCE (ed), *Supplementary Human Dimension Meeting on Human Rights Education and Training, Final Report* (ODIHR.GAL/33/04), Vienna, 25-26 March 2004.

<sup>26</sup> See: OSCE, *Moscow Document* (1991), at para. 42.6. and OSCE Ministerial Council, *Promotion of Human Rights Education and Training in the OSCE Area* (MC.DEC/11/05), 6 December 2005. The OSCE has been paying due attention to the need to avoid duplication, therefore participating states seek to ensure that activities undertaken with a view to promoting human rights education in the broader sense take into account experience, programs and forms of co-operation within existing international governmental and non-governmental bodies. Participating states take into account the efforts of other international organizations, including the UN's World Programme for Human Rights Education, the Council of Europe's Programme on Education for Democratic Citizenship as well as its youth programme '*All Different, All Equal*', and the EU's European Initiative for Democracy and Human Rights, as well as programs undertaken at the national level.

<sup>27</sup> OSCE, *Promotion of Human Rights Education and Training in the OSCE Area* (MC.DEC/11/05), 6 December 2005.

with its expertise in order to develop methods and curricula for tolerance education<sup>28</sup>.

### ***B. The role of the ODIHR in assisting participating states***

It is generally recognized that education and training in the field of human rights could be used to encourage respect for dignity of all human beings. Such activities can increase knowledge, clarify values, promote solidarity, change attitude, encourage critical thinking and develop skills that contribute to respect for, and protection of, human rights. Training and education also constitute a strong instrument for preventing conflicts and human rights violations. Being the main factor in achieving and mainstreaming human security, this has become one of the priority areas of the human rights programme of the ODIHR in recent years.

The ODIHR activities include training for governments and civil society, human-rights training for OSCE field staff, legal training<sup>29</sup>, and tolerance education and training, including education on the holocaust and on anti-semitism<sup>30</sup>. In human rights training and education, the focus has also been to enhance the professional capacity of civil society to monitor and report on the situation of human rights. ODIHR also offers training activities for public officials; including training in human rights as well as on securing human rights in the fight against terrorism, and pilot-training in this area has so far taken place in Kyrgyzstan and Austria.

Participating states recognized the contribution of the ODIHR and other OSCE structures, institutions and field operations, in promoting human rights education and training, in co-operation with participating states. The recent 2005 Ministerial Council called upon further strengthening the efforts by the OSCE to promote human rights education and training programmes in the OSCE area, as well as to extend the organization's support to participating states upon their request in carrying out their national programmes in the field of human rights education. The ODIHR was assigned, drawing on the relevant expertise and experience acquired by the OSCE structures, institutions and field operations, as well as the OSCE participating states, to produce a compendium of best practices for participating states in enhancing the promotion of human rights educa-

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<sup>28</sup> OSCE Ministerial Council, *Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding (MC.DD/10/05)*, 6 December 2005, at para. 5.

OSCE/ODIHR (eds), *Annual Report 2004*, OSCE, pp. 57-60.

<sup>30</sup> See: OSCE/ODIHR (eds), *Annual Report 2004*, pp. 66-67; OSCE/ODIHR (eds), *Why Should we Teach about Holocaust*, OSCE/ODIHR, Warsaw, 2004; OSCE/ODIHR (eds), *Education on the Holocaust and on Anti-Semitism: An Overview and Analysis of Educational Approaches*, OSCE/ODIHR, Warsaw, 2005

<[http://www.osce.org/publications/odihr/2006/04/18712\\_586\\_en.pdf](http://www.osce.org/publications/odihr/2006/04/18712_586_en.pdf)>.

tion and training, including the promotion of tolerance, mutual respect and understanding, and non-discrimination in the OSCE area<sup>31</sup>.

The ODIHR is also about to start its new project on Education Promoting Respect and Diversity. Its activities are going to include collecting information and material through a questionnaire, recommendations for national strategies on education promoting respect and diversity. The next phase of the project is aimed at the process of developing national long-term strategies or plans and is planned for few years.

### **C. 2005 OSCE Human Rights Education Pilot Project**

The human rights education pilot project is another implementation focused activity and was launched in 2005 in order to strengthen the implementation of human rights education commitments<sup>32</sup>. The aim was to develop knowledge and values as well as skills in respecting and implementing human rights among the young in the OSCE participating states. The new teaching tool "OUR RIGHTS" based on the UN Convention on the Rights of the Child (CRC) was prepared to be used across the region for children between 10 and 12 years old in any interested OSCE participating state. In the preparation for the implementation of the pilot project number of teams in different countries have been working together to get the pilot project started in schools at the beginning of the 2005 school year.

During the preparations of the project many teachers and public officials expressed the need for more concrete projects and materials for a direct use in the classrooms. They said that long, academic and theoretical books and action plans were for many of them difficult to be implemented. The project has offered the teaching material which could be used directly by teachers in the classrooms<sup>33</sup>. The teaching materials was translated and printed in 16 languages (Albanian, Azerbaijani, Bulgarian, Croatian, English, Flemish, French, German, Macedonian, Montenegrin, Roma, Russian, Serbian, Slovenian, Turkish and

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<sup>31</sup> OSCE Ministerial Council, *Tolerance and Non-Discrimination: Promoting Mutual Respect and Understanding (MC.DD/10/05)*.

<sup>32</sup> See: Jamnišek, Blanka, Kalčina, Liana et al. (eds), *Our Rights, Information for Teachers*, Ministry of Foreign Affairs of the Republic of Slovenia, Ljubljana, 2005 <<http://www.osce.org/documents/latest.php>>.

The OSCE Human Right Education Pilot Project was an initiative of the 2005 Slovenian OSCE Chairmanship. The pilot project is being financed by extra-budgetary funding provided by Slovenia, the United States, Finland and Belgium.

<sup>33</sup> The teaching material consists of: 1) the sets of cards containing similar texts on children's rights and an album for pupils to collect the cards; and 2) the information brochure for teachers. The brochure also includes the text of the CRC and a list of sources for further information about teaching human and children's rights.

Ukrainian), and was used in classrooms where these languages are spoken<sup>34</sup>. Not only in their countries of origin, but also in minority communities. For instance, the teaching material in the Roma language spoken in the Balkans – for which the CRC has been translated – was used in three different countries where Roma live and where the authorities decided to include them in the pilot project. At the beginning of 2006, the evaluation of the pilot project is intended to be shared with all interested participating states.

#### **IV. Conclusions**

Human rights education and training is an important mean to promote and strengthen human security. Though not perfect, the most effective and result-oriented approach seems to be to move from universal through regional approach towards national implementation. As indicated in this essay, the role of the regional organizations, such as the Council of Europe and the OSCE, is acknowledged at the global level, though mostly at the declaratory level. Yet, regional organizations could play a vital role in ensuring human security and promoting a culture of human rights, because they represent a link between the universal approach and regional features. For example, the OSCE was able to effectively address the post-Cold-War situation in the region. At present, an increasing human security issue in Europe is the promotion of tolerance and non-discrimination, mutual respect and understanding, including the integration of migrants. The OSCE activities and political commitments aim to effectively address this situation. In other parts of the OSCE region, there is a need for the promotion of basic rights and freedoms. Also the promotion of free and strong civil society is contributing to human rights awareness and protection.

Needless to say, global and regional commitments and declarations of states are only the first step. Further measures, which would have an impact and would make the difference, are institution and capacity building, including assisting in concrete reforms, projects, programmes or trainings. The OSCE has so far been able to address specific historical moments and needs of participating states quite effectively. However, the prime responsibility to implement international and regional commitments lies with the participating states themselves.

There seems to be a gap between global and national or local level action, which can be demonstrated by a low number of adopted national action plans which were suggested during the UN Human Rights Education Decade at the time being, as well as from a lack of effective implementation of the programmes. *“Calling for action”* and *“making human rights learning a dynamic and powerful force to fulfill the promise of the Universal Declaration of Human*

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<sup>34</sup> All translated language versions of the new teaching tool are also available online <<http://www.osce.org/cio/13741.html> and therefore accessible to anyone interested>.

*Rights*<sup>35</sup> should also mean to include in a more systematic way more regional expertise, experiences and know-how, to avoid unnecessary duplications, and to share concrete approaches, programmes and actions of various regional organizations within the region as well as among the regions. Also there is a need to include human rights education and training in the priorities of regional organizations.

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<sup>35</sup> People's Movement for Human Rights Learning (PDHRE), *Global Appeal For Human Rights Learning*, 10 December 2004  
<<http://www.pdhre.org/global-appeal.html>>.

# **Health, Aid and Development Workers under the Security Panopticon of Transnational Stakeholders and the State: The Case of HIV/AIDS Policies and Human Security Discourses in Ukraine (1995-2005)**

*Olga Golichenko and Margaret Leppard*

*The aim of this article is to identify why and how development, aid and health workers of the East European region, particularly in the Ukraine, are becoming increasingly concerned with the issue of human security. The issue of security has become important for development, aid and health workers because it is set on the agenda by the state and transnational stakeholders to contest their interests and reinforce their positions vis-à-vis each other. The four conditions which led to the development of the human security discourse in the field of HIV/AIDS from 1995 till 2005 in Ukraine are: lack of capacities and resources of the state to respond to the growing HIV/AIDS epidemic; involvement of non-governmental organizations active in the HIV/AIDS field; institutional and power transformations within the state and the division of responsibilities among international organizations.*

## **I. Introduction**

Competition between international forces and the state and the prioritization of security by both agents are inevitable consequences of globalization. A broad approach to human security which “links human security with the state of the global economy, development and globalization”<sup>1</sup> is

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<sup>1</sup> Oberleitner, Gerd, “Human Security: A Challenge to International Law?”, in *Global Governance* (Volume 11), 2005, pp. 185-203, at p. 188.

undertaken in my research. I borrow Thomas's definition of human security as "a condition of existence in which basic material needs are met and in which human dignity, including meaningful participation in the life of the community, can be met"<sup>2</sup>. Health security is regarded as an integral part of human security. In this article, I use the Vohlonen et al. definition of health security as "funding and service elements of a social security system that either protect against or alleviate the consequences of trauma, illness, or accident"<sup>3</sup>. In the article, I further look at the issue of security at the state level and, by and large, I am concerned with the security of private individuals (patients) rather than the security of professionals.

I argue that the issue of security has become important for development, aid and health workers because it is put on the agenda by the state and transnational stakeholders (TSs) in order to contest their interests and reinforce their positions vis-à-vis each other. The domination of transnational stakeholders and the state becomes possible because the processes of bureaucratisation, fragmentation and regulation of the role of professionals are taking place.

In this essay the terms 'professionals' or 'workers' refer to 'health, aid and development workers' which are involved in aid (including welfare), health and development domains of the state and transnational stakeholders. The state is an agency of disciplinary power practices<sup>4</sup> exercised on the population. Moreover, the state is independent from society and thus has its own interests and agenda<sup>5</sup>. Transnational processes and structures cut horizontally through states<sup>6</sup>. Transnational stakeholders are independent 'units of action' at the state level and in the international scene. They are "collectivities with their own members who have private interests"<sup>7</sup>. Transnational stakeholders include international organizations, such as the European Union (EU), the United Nations (UN), the World Bank (WB), the Global Fund to Fight AIDS, Tuberculosis and Malaria (the Global Fund) and multinational corporations. The state and transnational stakeholders are regarded as independent units of analysis which interplay between each other in society through particular issues, such as security.

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<sup>2</sup> Thomas, C., *Global Governance, Development and Human Security*, Pluto Press, The United States, 2000, at Preface.

<sup>3</sup> Vohlonen, I. et al., "Improving Health Security: A Pilot Study from Finland Linking Disability and Health Expenditures", in *Health Policy* (Volume 67), 2004, pp. 119-127, at p. 119.

<sup>4</sup> Foucault, M., *Discipline and Punish*, Penguin Group, Great Britain, 1977.

<sup>5</sup> Skocpol, T., "Bringing the State Back in: Strategies of Analysis in Current Research" in P. Evans, et al. (eds), *Bringing the State Back in*, Cambridge University Press, New York, 1985, at pp. 3-37.

<sup>6</sup> Gibbins, R. and Reimer, B., *The Politics of Postmodernity*, Sage Publications Ltd., London, 1999, at p. 116.

<sup>7</sup> Ness, D. and Brechin, S., "Bridging the Gap: International Organizations as Organizations", in *International Organizations* (Volume 42, Number 2), 1988, pp. 245-273, at pp. 269-270.

### **A. Theoretical framework and methodology of the research**

Beck's critical theory of "risk society"<sup>8</sup>, Foucault's post-structuralism theory of "power and governmentality"<sup>9</sup> and neo-liberal and constructivist international relations<sup>10</sup> build the theoretical framework of my research. They allow me to explain why risk and governmentality are used by transnational stakeholders and the state as tools for the reinforcement of their positions in a particular society.

Analysis of original texts and critical synthesis of some articles constitute the main methodology of the research reported in this article. A broad search of the above-mentioned themes has been undertaken in Medline, FirstSearch, ISSIA and IBSS. The case-study research was undertaken in Ukraine from 15 April - 6 May 2005. The aim of the research was to develop and test the argument of my master thesis "*International Organization, State and Civil Society: the Case of HIV/AIDS Policies in Ukraine (1995-2005)*"<sup>11</sup>. The methodology of the research consisted of fourteen semi-structured interviews with employees of state organizations, international organizations (IOs)<sup>12</sup> or civil society.

## **II. The source of professionals' concern with the issue of security**

### **A. Professionals as the 'agents of power' of TSs**

The EU countries are affected by transnational stakeholders, such as EU institutions, through the concept of the "*challenge of the growing shared risks of disaster, disease and disruptions*"<sup>13</sup> to a larger extent as a result of the process of

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<sup>8</sup> Beck, U., *Risk Society: Towards a New Modernity*, Sage, London, 1992.

<sup>9</sup> Foucault, M., "Governmentality" in Burchell G., Gordon C. and Miller P. (eds), *The Foucault Effect: Studies in Governmentality with Two Lectures by and an Interview with Michel Foucault*, The University of Chicago Press, Chicago, 1991, at pp. 87-104. Foucault, M., *Power. Essential Works of Foucault 1954-1984*, in Faubion J. (ed), Penguin Books, Great Britain, 1994.

<sup>10</sup> Youde, J., "Enter the Fourth Horseman: Health Security and International Relations Theory", in *The Whitehead Journal of Diplomacy and International Relations* (Volume 6, Number 1), 2005, at pp. 193-209.

<sup>11</sup> Golichenko, O., *International Organization, State and Civil Society: the Case of HIV/AIDS Policies in Ukraine 1995-2005* (Master Thesis), Central European University, Budapest, Hungary, 2005.

<sup>12</sup> IOs are defined in this article as a particular type of TSs.

<sup>13</sup> Missiroli, A. (ed), *Disaster, Diseases, Disruptions: A New D-Drive for the EU* (Chaillot Paper Number 83), Institute for Security Studies, 2005

<<http://www.iss-eu.org/chaillot/chai83.pdf>> All website used in this essay were last checked on 14 September 2006.



policy-making such as adaptation of the European Security Strategy<sup>14</sup> and development of a Human Security Doctrine for Europe<sup>15</sup>. Pre-accession and ‘third countries’ are mostly influenced through the mechanisms of aid and development, particularly health, as pre-accession and ‘third countries’ have lower levels of economic and social development and lesser participation in EU policies. One of the aims of such programs in ‘third countries’ is to decrease the threat by infectious diseases<sup>16</sup> for other EU neighbours.

The notion of the risk and a construction of an encompassing concept of human security are chosen by transnational stakeholders for manifestation of their presence at the state level in East European countries because of the following reasons: Firstly, the protection of the human security of individuals makes it possible for transnational stakeholders to influence the authority of the state; secondly, while human security and a sovereign state are not incompatible when a “cautious approach to human security is used (...a broader understanding of the concept challenges state sovereignty more fundamentally)”<sup>17</sup>.

I argue that transnational stakeholders use the concepts of risk and security in order to reinforce their position in society and to promote their interests, such as neo-liberal ideology and ‘third way’ welfare development<sup>18</sup>. Concern for the security in Eastern Europe is the reaction to a particular environment of societies in transition and a high level of risk in society created by the neo-liberal paradigm and ‘third way’ social policy. My argument is supported by a number of authors. Kemshall<sup>19</sup> states that “risk is replacing need as the central principle of social policy formation and welfare delivery” in contemporary society. While Joyce<sup>20</sup> claims that the management of health risk becomes the most fundamental form of governance within the neo-liberal health discourse. This is manifested in the duty of citizens to act prudently as consumers of health care. Duffield<sup>21</sup> extends the risk and security argument to

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<sup>14</sup> EU Institute for Security Studies, *European Security Strategy: A Secure Europe in a Better World*, 12 December 2003  
<<http://www.iss-eu.org/solana/solanae.pdf#search=%22EU%20Institute%20for%20Security%20Studies%20C%20European%20Security%20Strategy%3A%20A%20Secure%20Europe%20in%20a%20Better%20World%22>>.

<sup>15</sup> Canadian Department of Foreign Affairs and International Trade (ed), *Human Security: Safety for People in a Changing World*, April 1999  
<<http://summit-americas.org/Canada/HumanSecurity-english.htm>>.

<sup>16</sup> Missiroli, A. (ed), *Disaster, Diseases, Disruptions: A New D-Drive for the EU*.

<sup>17</sup> Oberleitner, Gerd, “Human Security: A Challenge to International Law?”, at p. 193.

<sup>18</sup> Kemshall, H., *Risk, Social Policy and Welfare*, Open University Press, Buckingham, 2002, at p. 133.

<sup>19</sup> Kemshall, H., *Risk, Social Policy and Welfare*, at Foreword.

<sup>20</sup> Joyce, P., “Governmentality and Risk: Setting Priorities in the New NHS”, in *Sociology of Health and Illness* (Volume 23, Number 5), 2001, at p. 599.

<sup>21</sup> Duffield, M., “Governing the Borderlands: Decoding the Power of Aid”, in *Disasters*, (Volume 54, Number 4), 2001, at p. 310.

the field of development and claims that “*development is a new, largely privatized form of security, which aims on changing the conduct of populations*”. The risk society, in which security is a vital issue, enables the existence of neo-liberal ideology and ‘third way’ welfare and thus this kind of society is constructed by transnational stakeholders. It is therefore created by states under the influence of transnational stakeholders.

Professionals are chosen as the agents of influence of transnational stakeholders on the population<sup>22</sup> because of a number of reasons. Firstly, they are able to communicate effectively issues of security to the patients because of the existing voluntary or involuntary trust between professionals and patients<sup>23</sup>. Secondly, professionals, particularly doctors, “*are trusted and highly regarded*”<sup>24</sup> by patients in most of Europe’s countries, despite low trust in the professionals in some regions of Eastern Europe. Governmentality analysis suggests that the closer transnational stakeholders “*become associated with the delivery of welfare (such as provision of human security) the more well defined and institutionalized professional autonomy becomes and individuals become passive consumers of collective health care provision*”<sup>25</sup>. Thus, thirdly, professionals are highly dependent on transnational stakeholders because of the transnational stakeholders’ powerful financial and information resources.

## **B. Professionals as the “agents of state power”**

Multinational corporations, growth of transnational communications and media systems, world finance and banking systems, transnational terrorism<sup>26</sup> as well as a number of other processes initiated or caused by the activities of transnational stakeholders have undermined the unity and efficiency of states and have led to the process of restructuring<sup>27</sup> and, particularly, to the reinforcement of the state among its population<sup>28</sup>. The domination of transnational stakeholders has happened in the countries of the European Union and is progressively spreading to the countries of Eastern Europe. According to Gibbins and Reimer<sup>29</sup>, states create structures and construct ‘defense spaces’ in

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<sup>22</sup> Castel, R., “From Dangerousness to Risk”, in Burchell, Graham, Colin Gordon, and Peter Miller (eds), *The Foucault Effect: Studies in Governmentality*, University of Chicago Press, at p. 293.

<sup>23</sup> Pidgeon, N., Henwood, K., and Horlick-Jones, T., “*Risk Communication: New Challenge for European Health Policy*”, in EuroHealth (Volume 5, Number 2), 1999, at p. 13.

<sup>24</sup> Coulter, A., and Magee H., *The European Patient of the Future*, Open University Press, 2003, at p. 235.

<sup>25</sup> Joyce, P., “*Governmentality and Risk: Setting Priorities in the New NHS*”, at pp. 596-597.

<sup>26</sup> Gibbins, R. and Reimer, B., *The Politics of Postmodernity*, at pp. 118.

<sup>27</sup> Gibbins, R. and Reimer, B., *The Politics of Postmodernity*, at pp. 115.

<sup>28</sup> Foucault, M., “Governmentality”.

<sup>29</sup> Gibbins, R. and Reimer, B., *The Politics of Postmodernity*, at pp. 120, 125-126.

order to retain power and resist the decision making of other superior powers. Borrowing on Foucault's theories of 'disciplinary power'<sup>30</sup> and 'governmentality'<sup>31</sup>, I argue that East European states use the concept of human security as a tool; professionals as the agents; development, aid and health care as power fields for retaining their influence and resisting transnational stakeholders. My argument follows the theory of 'governmentality' approach to risk which states that risk is a mode of constitution of society and functions as governmental rationality<sup>32</sup> by subjecting population to surveillance and self-regulation<sup>33</sup>. However, I expand the governmentality approach to risk by operationalizing the concept of risk as a mechanism of enhancing security on the population by the state.

The issue of security is used by the state in order to reinforce its powers because of the following reasons. Firstly, security is a highly sensitive priority for the population and thus, it is a very efficient and effective tool of influence on the individuals by the state. Secondly, the issue of human security, particularly health security, is perceived by the population as a direct responsibility of the state. Thirdly, apparatuses of security are essential mechanisms and the technical means of the performance of the state in the society<sup>34</sup>.

It is important for the state to be able to use the issue of security in a sophisticated and invisible manner in order to influence the population effectively. The understanding of the mentality of government, explained by Foucault through the concepts of disciplinary power and governmentality, is vital for capturing the mechanisms of influence of the state on the population through the issue of security. The purpose of government is not to exist for itself, but rather to work for the improvement of the welfare and health of the population. The government acts through a range of visible and invisible multiform tactics<sup>35</sup> exercised on population. They constitute the art of government<sup>36</sup> which is a particular form of the dissemination of state power on population.

Thus, the state constantly needs to reinforce its position in order to retain its powers in various societies *vis-à-vis* transnational stakeholders. It does this by constructing the notion of security in society and afterwards, protecting its citizens from the created risks and dangers. Thus, the stronger the threat for the

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<sup>30</sup> Foucault, M., *Discipline and Punish*

<sup>31</sup> Foucault, M., "Governmentality".

<sup>32</sup> Strydom, P., *Risk, Environment and Society*, Open University Press, Buckingham. 2002, at p. 45.

<sup>33</sup> Ewald, F., "Insurance and Risk", in Burchell, Graham, Colin Gordon, and Peter Miller (eds), *The Foucault Effect: Studies in Governmentality*, University of Chicago Press at pp. 197-211. Castel, R., "From Dangerousness to Risk", at pp. 281-299.

<sup>34</sup> Foucault, M., "Governmentality", at p. 102.

<sup>35</sup> Foucault, M., "Governmentality", at p. 95.

<sup>36</sup> Foucault, M., "Governmentality", at p. 98.

state from transnational stakeholders is, the stronger the state manifests its position among the population and thus the issue of security appears more often on the agenda.

The state uses professionals to communicate the issue of security to the population firstly because professionals are ‘standardized individuals’<sup>37</sup>, ‘agents of state power’<sup>38</sup> and, consequently, act on behalf of the state. Secondly because they are the main stakeholders of medicine, which is ‘a biopolitical strategy’ of the state<sup>39</sup>. Thirdly because they have direct access to the individual’s body, which is ‘a biopolitical reality’<sup>40</sup> – a field of the manifestation of the state’s powers. In the potential case of the avian flue epidemic among humans, the state communicates to professionals its approach and strategy of tackling the problem. When worried individuals approach professionals, they communicate to citizens the strategy of the state towards the epidemic and possibly deliver vaccination which can be regarded as the ‘injection’ of the state powers into the body of individuals. Citizens feel secure because the state has exercised its powers on them.

Individuals possess little autonomy *vis-à-vis* the state. Different approaches as well as general literature review<sup>41</sup> characterize the concept of patient autonomy as ambiguous, complex, contradictory and context-dependent. Existing at the theoretical level, the power and independence of patients in the process of professionals’ everyday decision making at the practical level, except for the few successful acute cases (such as the movement of people living with HIV/AIDS (PLWHA) in Western Europe and USA), is growing but is still quite limited to make a significant influence on the final decision of the doctor. This is particularly evident with patients with mental health problems who are situated under a particularly severe surveillance of the state through the ‘panopticon of nurses’<sup>42</sup>. Patients are heavily dependent and influenced by doctors and thus they become heavily contingent and concerned with the issue of security communicated by doctors. Doctors themselves are the slaves of the prisoners of the state panopticon<sup>43</sup>.

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<sup>37</sup> Foucault, M., *Power. Essentials Works of Foucault 1954-1984*, at p. 140.

<sup>38</sup> Castel, R., “From Dangerousness to Risk”, at p. 293.

<sup>39</sup> Foucault, M., *Power. Essentials Works of Foucault 1954-1984*, at p. 137.

<sup>40</sup> Foucault, M., *Power. Essentials Works of Foucault 1954-1984*, at p. 137.

<sup>41</sup> Cahill, J., “Patient Participation – a Review of the Literature”, in *Journal of Clinical Nursing* (Volume 7, Number 2), 1998, pp. 119/128.

<sup>42</sup> Holmes, D., “From Iron Gaze to Nursing Care: Mental Health Nursing in the Era of Panopticism”, in *Journal of Psychiatric and Mental Health Nursing* (Volume 8), 2001. Golichenko, O., “Social Enterprise as the Form of Deinstitutionalization of Mental Health Services in Ukraine”, in *Magisterium of Social Work and Public Health, Journal of National University of “Kyiv-Mohyla Academy*, 2005.

<sup>43</sup> Holmes, D., “From Iron Gaze to Nursing Care: Mental Health Nursing in the Era of Panopticism”.

### **III. Case study of HIV/AIDS policies and human security discourse in Ukraine**

The issue of human security has not appeared among Ukrainian professionals by chance. “*Securitization is a political move which rests upon the intersubjective identification of the core values of any given order*” by dominant actors of certain groups<sup>44</sup>. The human security discourse has started under particular internal and external conditions. A case-study set in Ukraine is helpful for exploring this argument. The development of the human security discourse among Ukrainian health, aid and development workers is chosen as the case-study for this paper because the issue of human security did not exist in Ukraine during Soviet times and has appeared in the country in the late 1990s. Moreover, professional fields of health, development and aid workers have experienced big changes because of the HIV/AIDS epidemic. Thirdly, the fight against HIV/AIDS epidemic in Ukraine represents a clear case of the contestation of the state and international organizations’ interests and the reinforcement of their positions on the state arena.

The research undertaken proves that the development of HIV/AIDS policies has brought the issue of human security on the public agenda in Ukraine. The development of the public discourse on the issue of human security became possible because of the competition for power of international organizations and the state in addressing the HIV/AIDS epidemic. The four conditions which led to the development of human security discourse from 1995 till 2005 in Ukraine are: the lack of capacities and resources of the state to respond to the growing HIV/AIDS epidemic, the involvement of non-governmental organizations active in the HIV/AIDS field, institutional and power transformations within the state and the division of responsibilities among international organizations.

The analysis of the result of the research allowed me to identify four turning points in the development of HIV/AIDS policies when the four conditions outlined above allowed for the development of human security discourse among professionals. Firstly, in 1998, UNAIDS and other international organizations which promoted harm reduction, became involved in the enactment of progressive AIDS legislation on the national level which enabled the legal development of harm reduction programs in the Ukraine. This was the first time when the human security discourse was introduced in the Ukraine. The participation of international organizations became possible because of the long-lasting and exhausting internal political conflicts between the Ministry of Health and the National AIDS Prevention Committee, which ended in 1997 with the removal of the Committee and the general weakening of state coordination of epidemic and implementation of policies until 2000.

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<sup>44</sup> Smith M., “*Into Cerberus’ Lair: Bringing the Idea of Security to Light*”, in *The British Journal of Politics and International Relations* (Volume 7, Number 4), 2005, pp. 485-508.

HIV/AIDS NGOs' participation became another source of influence to international organizations on the state and as supporting voices for international organizations. NGO workers were the key agents who started to provide security of PLWHA in the community<sup>45</sup>. When analyzing civil society in Ukraine, I deal with NGOs which are actively involved in the HIV/AIDS domain. When dealing with civil society in my research, I use a narrower definition of civil society than the one which consists predominantly of NGOs because the AIDS movement as such has not been developed in Ukraine, particularly during the period 1995-2001. That is why when analyzing the engagement of civil society in the development and implementation of the policies I concentrate mostly on the role of NGOs as the key players of civil society. The development of the NGO involvement in the AIDS field in Ukraine has happened under the influence and support of international organizations, thus the development is regarded as an integral part of the involvement of international organizations in the field. The conditions which allowed international organizations to participate in the enactment of law and in the introduction of the human security discourse among professionals were the institutional and power transformations within the state and the lack of capacities and resources of the state to respond to the starting HIV/AIDS epidemic.

Secondly, in 2001, an active involvement of civil society, particularly PLWHA, AIDS NGOs and national fundraising for the WB and the Global Fund finances through the state's active position towards AIDS at the international and national levels resulted in Ukraine's ratification of a number of international documents on AIDS, including the Declaration of Commitment on HIV/AIDS<sup>46</sup>, which made the state accountable for its work on AIDS, regulated relations between the state and international organizations and made respect of human security an important goal of the policies. The lack of capacity and resources of the state to respond to the growing HIV/AIDS epidemic, the involvement of NGOs active in the HIV/AIDS field made it possible for international organizations to get involved at this moment in time and develop the discourse of human security among professionals.

Thirdly, in 2002, the availability of the Global Fund brought in significant resources and consolidated the positions of international organizations and civil society in protesting against corruption, lack of capacity and accountability of the state to spend the available resources. The actions of international organizations and civil society resulted in the possibility of the Global Fund's direct coordination through the NGO International HIV/AIDS Alliance in Ukraine which became a main temporal recipient of the grant. Thus, the Global Fund created the precedence in which international organizations rather than the state became the major beneficiary and coordinator of significant finances. The presence of significant international finances for AIDS at the

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<sup>45</sup> Vercseg, I., "Central and Eastern Europe in the Limelight", in *Community Development Journal* (Volume 40, Number 4), 2005, at p. 399.

<sup>46</sup> Declaration on Commitment for HIV/AIDS, GA Resolution S-26/02 of 27 June 2001.

national arena resulted in the coordination of international organizations' efforts and resources among themselves. The lack of capacities and resources of the state to respond to the growing HIV/AIDS epidemic, involvement of non-governmental organizations active in the HIV/AIDS field and coordinated efforts of international organizations were the main conditions which provided for a high level of international organizations involvement. The domination of international organizations in the response to AIDS has reinforced the discourse on human security. International organizations have clearly stated that it is the lives of people, rather than interests of individual bureaucrats, which matter. This comment of the respondent from HIV/AIDS service NGO demonstrates a new attitude towards individuals. They are not the objects of the intervention, but have rather become important subjects of work in the field of AIDS.

Fourthly, in 2005, all of the above-mentioned conditions became available in which international organizations received two votes in the national coordinating body against AIDS. A strong consolidated civil society, coordinated the efforts of international organizations as a result of the Global Fund and the WB finances, the reinforcement of the position of the state as one of the results of the Orange revolution and thus the political will of the state to regain active position in the field of HIV/AIDS, resulted in the implementation of UNAIDS 'Three to One' initiative at the national level. This has created public space in which international organizations and civil society became able to express their position and thus conduct a constructive dialogue with the state which is much more efficient than individual meetings with the minister. The accumulation of all four conditions led to the highest involvement of international organizations and the introduction of the human security discourse in AIDS policies compared to previous times. At the moment, international organizations coordinate country responses to AIDS in equal partnership with the government and have representatives in the National Coordinating Council for HIV/AIDS prevention, whereas in previous years, international organizations had only consultancy authority. Last but not least, during the Global Fund project evaluation, the Alliance has criticized "*persisting repressive policies of law enforcement system*". Consequently, the lack of attention given to the implementation of the concept to human security is regarded as a major obstacle of the successful implementation of the Global Fund project and AID policies. Moreover, the state became more involved in the response to the epidemic and thus the state communicates its own message of security to the affected individuals through professionals.

#### **IV. Discussion and conclusion**

The role of aid, health and development workers in Eastern Europe is gradually changing under the influences of transnational stakeholders and the state, as the result of such changes professionals become more disciplined<sup>47</sup> and

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<sup>47</sup> Foucault, M., *Discipline and Punish*. Foucault, M., "Governmentality".

regulated<sup>48</sup>. They perform communicative<sup>49</sup> functions between the state, transnational stakeholders and the population and thus they become heavily dependent on the state and transnational stakeholders. The increased concern of professionals with security can have a negative impact on the population and therefore needs to be understood. The dependence of professionals on the state and transnational stakeholders can be decreased if professionals take a critical stand towards these agents. Professionals should not be “*mere agents*”<sup>50</sup> of the state or transnational stakeholders, but should use the given authority, resources, professional intuition and experimentation<sup>51</sup> in order to be able to act as independent agents.

Structural conditions which make possible that the development of the human security discourse in Ukraine coincide with structural conditions which allow international organisations to get involved in the development and subsequent implementation of HIV/AIDS policies during the period from 1995 till 2005<sup>52</sup>. Thus, it is possible to conclude that it is the involvement of international organizations which led to the development of the human security discourse in Ukraine. Public discourse on human security opens a way for the development of the health security discourse. A health security discourse can be beneficial for the quantitative and qualitative improvement of service delivery for PLWHA as well as all other citizens of Ukraine. A particular feature of Ukrainian realities is that the same professionals are working for international organisations and the state. The contestation of power of both stakeholders within one professional might result in individual’s internal conflict and individual’s overload with the issue of human security. Thus, the human security discourse should be developed among professionals with consideration of the legacies of the Soviet system and understanding of current realities of Ukrainian society.

The analysis undertaken makes it possible to identify two reasons for workers’ greater concern with the issue of patients’ human security. Firstly, the issue of security becomes important for professionals under the influence of transnational stakeholders, who present security as the major component of neo-liberal ideology and ‘third way’ welfare delivery. Secondly, it becomes essential because the state puts it on the agenda as the tool for the increase of its presence in society *vis-à-vis* the domination of transnational stakeholders. A particular nature of the response in Ukraine to HIV/AIDS epidemic of the state and international organisations has created favourable conditions for the development of a human security public discourse. Aid, health and development are the power fields of the intersection of interests of transnational stakeholders

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<sup>48</sup> Kemshall, H., *Risk, Social Policy and Welfare*.

<sup>49</sup> Anand, P., “*Health and Risk – an Emerging Field*”, in *EuroHealth* (Volume 5, Number 2), 1999, at p. 10.

<sup>50</sup> Castel, R., “From Dangerousness to Risk”, at p. 293.

<sup>51</sup> Foucault, M., *Power. Essentials Works of Foucault 1954-1984*, at p. 370.

<sup>52</sup> Golichenko, O. *International Organization, State and Civil Society: the Case of HIV/AIDS Policies in Ukraine 1995-2005*.



and the state. Professionals are the representatives of power of both entities and are caught between the interests of two agents. Administratisation, fragmentation and regulation of the role of professionals spread in the region and allow transnational stakeholders and the state to manipulate the workers.

# The Human Rights City Edmonton Project: Envisioning Human Rights at the Local Level

Stacey Sankey

*Picture a community where all institutions, organizations, businesses and individuals learn, understand, embrace and apply human rights principles to their daily lives; where respect for fellow humans is immediate and innate; and where everyone is included and has access to full membership and participation in the community. The Human Rights City Edmonton Project is working to ensure Edmonton is just such a community.*

## **I. A history of the human rights city**

In 1997, the People's (Decade) Movement for Human Rights Education (PDHRE), an international non-profit organization based in New York City, established the Human Rights Cities initiative, in collaboration with the United Nations Development Programme. The goal was to create communities which not only instilled continuous human rights learning as a way of life among their citizens, but which used a human rights framework to help strengthen community infrastructure and further societal development. As of October 2005, 13 communities have declared themselves Human Rights Cities. These are: Rosario, Argentina; Thies, Senegal; Nagpur, India; Kati, Mali; Bucuy Municipality, Philippines; Nimamobi, Ghana; Graz, Austria; Mogale, South Africa; and Porto Alegre, Brazil. Edmonton, Alberta, Canada is set to become the world's 14<sup>th</sup> and North America's first, Human Rights City<sup>1</sup>.

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<sup>1</sup> For detailed background information on the origins of the Human Rights City idea see People's (Decade) Movement for Human Rights Education (PDHRE): <<http://www.pdhre.org>> All websites used in this essay have last been checked on 14 September 2006.

## **II. The Edmonton process**

Edmonton began its journey towards declaration as a Human Rights City in April 2003. Facilitated by the John Humphrey Centre for Peace and Human Rights<sup>2</sup>, a feasibility study was conducted in order to determine what human rights gaps existed within the community, and whether there was community support for this initiative. Identified problems included the poverty and exclusion experienced by marginalized segments of the community, the continuation of culturally-based stereotypes, and a need for real compassion among the larger population. During consultations, a number of essential long-term outcomes for the initiative were also identified

- these included a city which demonstrates vision and leadership in diversity and human rights education;
- a city where every resident learns and understands their human rights;
- a city where everyone has input into programs and decision-making;
- and a city which strives to provide a decent standard of living to all.

The Edmonton Human Rights City process is now well into its second phase<sup>3</sup>. A Steering Committee, open to and inclusive of the entire community, has been established as has an Advisory Committee to provide guidance for the day-to-day development of the project. Participants at all levels are working to determine an action plan and priorities for the next phase of the project including an official City of Edmonton declaration in the near future.

## **III. The challenges ahead**

The City of Edmonton is a wealthy, developed community with established institutions, a diverse ethnic make-up, and a history of strong community activism. And while the city may not face the same challenges which developing communities experience, there are still a number of challenges ahead for the Human Rights City Edmonton. First and foremost, the project seeks not to duplicate other community services but rather to work with and support established programs, in order to further the work being done in the community. The project must identify how it can best serve the community and help forward the provision of human rights to Edmontonians.

A second challenge will be to raise the level of general awareness regarding the important role human rights play within our own community. A false impression is that human rights violations occur only in countries, which are less developed, or experiencing social, economic, environmental or cultural upheaval. The Human Rights City Edmonton must raise the understanding of the

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<sup>2</sup> John Humphrey Centre for Peace and Human Rights:  
<<http://www.johnhumphreycentre.org>>.

<sup>3</sup> Detailed information and regular updates on the Human Rights City Edmonton can be found at: <<http://www.johnhumphreycentre.org/city.htm>>.

role human rights play in each of our daily lives. We must make human rights relevant for every one of our citizens.

A third challenge will be to ensure the Human Rights City process is truly representative of and open to every community of interest, every individual, and every sector of our society and that it continues to be responsive to human rights needs within Edmonton.

Ultimately, the Human Rights City Edmonton project will be a goal with no end point. It will be a continual process of renewal, reflection and responsiveness in order to make the lives of our fellow citizens better. In doing so, it is fair to say we will contribute to the development of human rights around the world - as both an example and as a leader. The first step however must begin at home and through the Human Rights City Edmonton Project we can begin that journey.

# **Do We Reckon (again) without the People? Human Security for the Inclusive City and the Political Dimension of Intercultural Dialogue**

*Klaus Starl*

*The core question of this article is whether a human security approach may contribute to social inclusion in an (European) urban society. Which human security concept could be appropriate and what role plays intercultural dialogue in this respect. One of the conclusions is that a shift in understanding from nation states towards societies and communities will be useful for political thinking and acting.<sup>1</sup>*

Respected Ladies and Gentlemen,

When I first read the titles and catchwords in the invitation letter I was fascinated. I did not only find them interesting, but I thought that I will be able to contribute from my own experience in the work on human rights at the local level. After a while, I started to ask myself a couple of critical questions on the concepts behind the catchwords and the intended goals:

What concept of security?

What concept of human security?

What does 'inclusive' mean?

What are inclusive cities?

Which Europe is meant? States, societies, EU, including candidates, Council of Europe members?

Which cultures shall have an intercultural dialogue? And, what kind of dialogue?

Is the concept of new citizenship a utopian notion?

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<sup>1</sup> This paper is based on a keynote speech, held by the author on 24 April 2006, at the University of Padua at the starting conference on „Intercultural Dialogue and Human Rights: Inclusive Cities in an Inclusive Europe“.

Where to start with human rights mainstreaming? Particularly in cities which are usually not the source of human rights legislation and mostly not directly accountable for human rights implementation or human rights violation?

Most of the questions are, though not yet answered, filled with substance by Prof. Papisca's Conference working paper<sup>2</sup> which already gives an excellent outline of where research has to begin; he shows the direction and gives a framework of agreed and accepted concepts and basic documents.

In the following, I will touch three topics, namely

- I. human security in cities
- II. human rights instruments at the local level
- III. the example of the Human Rights City Graz

and I will conclude with four hypotheses concerning the political dimension of the intercultural dialogue.

### **I. Human security in the city**

Human security in the city is undisputed as a promising policy concept for cities, especially mega-cities, in so-called developing countries and particularly in such involved in violent conflicts or in post-conflict situations, as the narrow understanding of human security deals with situations of violent conflict as a topic of foreign and development policy. There has been much discussion about the threats the human security policy should protect people from. The UNDP approach considered threats to economic, food, health, environmental, personal, community and political security. However, different approaches and definitions tried to broaden or narrow, reduce or subsume the list. In his recent study for UNESCO, *Human Security and Human Rights*, Wolfgang Benedek suggested a definition of human security as "*the security of people against threats to human dignity*".<sup>3</sup>

This definition has some advantages:

1. It gives no space to value security higher than dignity and human rights.
2. It has the same central point and justification as human rights have: human dignity.
3. It encompasses all threats that have been mentioned and gives the threshold for political action, namely when human dignity is in dan-

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<sup>2</sup> Papisca, Antonio, *Intercultural Dialogue and Human Rights: Inclusive Cities in an Inclusive Europe* (Working Paper), Padua, 2006.

<sup>3</sup> Benedek, Wolfgang, *Human Security and Human Rights Inter-Action* (Study for the UNESCO), April 2006 (The study is upon request available at the Institute of International Law and International Relations of the University of Graz).

ger, and it complies with the human security formula 'freedom from fear and freedom from want'.

Finally, it opens the door to arguments for human security policies in cities with high levels of welfare. There has been some discussion on why human security in European cities should be an internal affair. I think I do not have to convince you, we will basically agree on the necessity of this approach. But, allow me to bring forward some arguments in order to conceptualise the approach.

In a paper presented in the ETC-Human Security Perspectives 2004, I introduced a few notions based on the idea that governments (or societies) have to establish conditions which give individuals the space and the chance to the "freedom of pursuing well-being and living the life they value"<sup>4</sup> (as Sen formulated it). In doing so, threats are prevented. Of course, this does not say anything about how societies could act to protect their members from threats to human dignity.

The next question is whether a human security approach is appropriate or justified if most of the conditions are already provided for the majority of residents, i.e. rule of law and democracy?

Two problems arise with this statement. Firstly, the question is whether human security, fear, want, the need of self-respect and social recognition, yes, even human dignity can be defined objectively by the society or the government (even though democratically elected), as these concepts are individually and subjectively perceived and felt. My answer is: no, they cannot. This derives from the social choice theory (impossibility theorem by Arrows). You just cannot aggregate individual utility functions based on preferences to a social utility function; the same is true for (potential) 'human security functions'. I guess that, among others, 'the life you value' is correlated with the level of economic welfare and mutually interlinked with social and cultural values. In order to participate actively in a society and to be recognized as a valuable member, it might be necessary to have a mobile phone, clean shoes, a TV set; it matters where you live and what job you have. Threats to human security are not operationalised in absolute terms but they vary with the society one is living in or a member of.

Secondly, the problem of majority and with this, the question of distribution and weaknesses of democratic concepts arise. One significant difference between cities in developing countries and European cities is that in the former, a vast majority suffers from a lack of human security while in the latter, it is the various minorities who are in danger of being denied appropriate security and

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<sup>4</sup> Starl, Klaus, „Human Security – What Does it Mean in the Context of a „Rich“ City?“, in Human Security Perspectives (Volume 1, Issue 1), 2004, at p. 31  
<<http://www.etc-graz.at/cms/index.php?id=576>> All websites used in this essay have last been checked on 14 September 2006.

safety. Discrimination, the denial of equal rights, treatment and opportunities are the prerequisites of threats to human security. Discrimination is any treatment which offends a person in her/his identity and thus denies human dignity. Members of minorities are discriminated against in many ways:

1. As in a democratic process majorities take decisions, minorities depend on the protection of their vital interests by the majorities. But majorities often do not consider this and behave as it is individually advantageous and rational and therefore do not follow automatically a human security approach.
  - a) If minorities have the right to vote, they are frustrated by being overruled in many cases;
  - b) If they do not have the right to vote, they have no formal opportunity to change their situation in political participation.
2. Minorities are (often) socially segregated or marginalised, economically disadvantaged, in danger of poverty - their daily life is determined by uncertainty and insecurity.
3. The consequences are well-known: less favourable education, unemployment, risk of ill health, drug addiction, crime, denied social recognition, frustration – fear and want, a life you will not value. All in all, a clear call for a human security agenda in the (European) city.

## **II. Human rights instruments at the local level**

In fact, human security and human rights do enhance each other. However, there is no right to human security. Therefore, the human rights approach as a legally binding instrument and a system of empowerment is needed. What can human rights contribute at the local level? The state is responsible for protection, promotion and prevention. So, why should cities...? And how if there is the absence of a competence for legislation and judicial enforcement? The need for involvement is clear:

- Half of the world's population lives in urban areas;
- City populations are socially and culturally diverse;
- Conflicts arise out of this situation and need to be resolved without violence;
- Cities are the focal point of residential identification (rather than states);
- The human rights concept provides a guiding principle for peaceful living together and for the prevention and resolution of conflicts.

The goals of any city government may be pursued by applying the human rights approach, as it is an organising principle to

- ensure peace;
- protect liberty;
- guarantee equality and



- give reasons for identification and integration.

This leads us to human rights mainstreaming. I will shortly present three concrete examples of introducing human rights mainstreaming at local level: the Charter for Human Rights in the City, the Human Rights Cities and the Coalition of Cities against Racism.

The charter was formulated by four Western European cities as a document translating international human rights into the context of the local level. The charter is formulated as a guiding principle for their political action for city governments. The goal is the achievement of standards and results. Thus, it has a procedural and a substantial component of achievement. The subscribed cities are informally organised in a network. The network organises a biannual conference for the more than 220 cities and attempts to provide some evaluation of the achievement, which is, of course, a rather weak instrument (the same is true for international organisations where the persons in charge evaluate their own doing). However, progress has been made and the exchange of experience and examples of good practice seems to be attractive. The network operates almost exclusively at government level.

The initiative of human rights cities is NGO-centred. It puts emphasis on the procedure to achieve a peaceful, diverse society. The human rights cities concept commits itself to continuous efforts for human rights education at all levels of society. Accordingly, some institutions and measures are required to ensure continuity, progress and consequences. In the first stage, a human rights inventory has to be made by a human rights assembly consisting of all stakeholders concerned. This forms the basis for the elaboration of an action plan which should be agreed on by the city council to get formal commitments. A human rights committee has to be set up. The committee monitors and evaluates the progress. Institutions for human rights education for various target groups will be assigned. There is, however, no formal network of the cities.

UNESCO launched the Coalition of Cities against Racism. The coalition is an institutionalised network with a steering committee and scientific support of UNESCO and assigned research institutions (as the European Training and Research Centre for Human Rights and Democracy (ETC) for example). The coalition focuses on

- promoting vigilance against racism
- monitoring of incidents
- protecting vulnerable groups
- empowering vulnerable groups
- sanctioning race offenders.

Acceding cities sign ten commitments for action against racism encompassing monitoring, housing, education, labour market, racist crime and others.

### III. The example of the Human Rights City Graz

What does the example of Graz show? Can we learn about intercultural dialogue, human rights mainstreaming and the implementation of human security concepts? Yes, there are some good practises and I would say that they are applicable to other cities irrespective of their size. But unfortunately, we can also learn about difficulties, barriers, reluctance, ignorance ...

So, what has been done in Graz? The Human Rights City had a magnificent start in 2000. The former mayor strongly promoted the project. Initially, the city council adopted a resolution stating that human rights are the *underlying principle of all political activity* and the evaluation measure for its outcome (human rights mainstreaming). Human rights education is recognized as the key to progress towards a city of self-responsible citizens whose dignity is respected. Living a culture of human rights shall be achieved. The stakeholders' assembly elaborated an inventory and a plan of action, proposing activities as well as redefining tasks of authorities and NGOs. The ETC was assigned with the coordination of the process. After the elections and the assignment of a new mayor, stagnation prevails. A period of tiresome lobbying by NGOs for keeping the track still continues.

What we can learn is that a paternalistic concept of top-down implementation bears some risks to progress. In Graz, the project would be asleep if it were not for NGOs and institutions established which keep it alive. However, some progress has been made.

A good basis of institutions to provide a framework and forum for dialogue was established. Graz counts on the system of 'advisory boards' – I call it the 'way of counselling'. There is now a migrants' council, a human rights council, an inter-religious council and a department for integration. All of them are assigned with 'dialogue'.

But some questions have remained without answers. As the boards and their expert members advise the government, the dialogue might be *inter pares*; but, there is no dialogue between people and authorities. The dialogue between the councils is not institutionalized, the membership or participation of council members in the human rights council is discussed, but not decided yet.

Beside these structural questions, there are some systematic and procedural ones: There is no guarantee that the dialogue will take place in reality and on whose initiative and on what incidences it will take place. It is not sure whether there will be solutions. There is neither a mechanism ensuring that proposals will be discussed by politicians or authorities nor that appropriate and binding decisions will be taken. Even though the dialogue within civil society is a good balance to governmental activity, it remains open who will be responsible for implementation, realisation, enforcement. Who is accountable and who will evaluate the achievements? Yes, of course, in the end, the electorate will do it

with the next elections. But will they realise changes and will they *value* the achievements? And, are the people concerned allowed to vote? It is often not very attractive for politicians to support the interests of non-voting minorities.

*So, do we reckon (again!) without the people concerned?*

#### **IV. Concluding hypotheses**

Let me now conclude with four hypotheses which might be useful for further research:

1. All societies are 'developing' societies - as long as human security is not achieved by all, which will never happen;
2. The 'inclusive city' is a goal, which can be pursued by participatory democracy and 'solidary individualism', recognizing that there is no 'social human security function';
3. a) Intercultural dialogue is the method of participatory democracy and  
b) Human rights mainstreaming / a culture of human rights provides the framework of negotiation and is the basic principle of conflict resolution. It is understood as a bottom-up approach to balance the rather paternalistic conceptions of protection by governments.
4. City networks are the catalyst for an inclusive Europe as they reflect a union of societies rather than a union of states.

# Human Rights Cities Program

*Viviana Della Siega*

*In this essay the author focuses on the human rights cities program and tells of the experience of the human rights city Rosario.*

## **I. Introduction**

The program “human rights cities” has been fostered by the People’s Movement for Human Rights Education (PDHRE) in different places around the world and has the approval of the United Nations Development Program (UNDP). Created in 1989, PDHRE is a NGO, responsible for the Declaration of the Decade of Education of the United Nations, which lasted from 1995 to 2004.

In the words of its founder, Shulamith Koenig, “*imposed ignorance is a human rights violation in itself, and I sustain that the fundamental change could only be attained if every human being was aware that he or she is a human rights owner, that everybody should be human rights educators, monitors and driving forces from generation to generation.*” Consequently, the first requisite to be able to exercise a right is to know it.

The conviction of the need for continual human rights learning in the city is the starting point for:

- enhancing knowledge;
- clarifying values;
- changing attitudes;
- developing critical understanding;
- promoting solidarity;
- altering personal and institutional behaviors and/or practices.

There are three pivotal premises to the approach applied:

- 1- universality, indivisibility and interdependence of all human rights;
- 2- gender perspective;
- 3- inclusion of fundamental principles in people’s daily lives

## **II. How is the human rights cities program implemented?...**

...basically, through five steps, although the idiosyncrasy of each place determines its own and particular characteristics.

1. invitation;
2. creation of a steering committee;
3. drafting a plan of action;
4. citizens that learn and adopt human rights as a way of living;
5. citizens that commit themselves through learning, monitoring and documentation to city planning.

In the steering committee different sectors of society are represented. And they focus in their work on the community's critical issues.

The plan of action has to emerge from collective participation, which calls for a training stage and the sharing of knowledge.

It must be taken into consideration that this is an everlasting, ongoing process, whose success is guaranteed by the extent of participation of the different social, economic, cultural and academic sectors, which will be getting involved as they are summoned and consensus is achieved.

It is not the kind of process that can be developed top-down, even when in some cases the first summoning (invitation) is sent by governmental institutions. And this premise is not a minor point, since human rights learning - the core of the project - implies a real commitment to the change of personal and institutional practices, which can only become a reality through the embodiment of human rights.

In a democratic state, in-depth changes are the result of public policies based on the interconnection of laws, governmental actions and cultural transformations that demand reflection, time and conviction.

## **III. The experience in rosario**

In Argentina, the development of human rights started in 1977, during the military dictatorship, through organizations that addressed themselves to claiming civil and political rights. The Mothers of Plaza de Mayo, Grandmothers, Relatives of the Missing, the Human Rights Ecumenical Movement, among others, waived the human rights flag in Argentina during very hard times, when state terrorism committed the most outrageous violations. Later, when democracy was restored, new organizations were created, broadening the human rights' scope: women's movements, defense against the auction of housing destined to living only, protection of the environment, economic, social and cultural rights, minorities' rights. In tune with what was happening on the regional and international level, where the human rights paradigm was being broadened, the society was getting organized and taking over its own defense.

At the same time, the state started to set up its own organizations at the municipal, provincial and national level, in conformity with democracy, to guarantee, protect and promote human rights, like in the case of the ombudsman's offices, the bodies regulatory of privatized public services, the assistance centers for victims of sexual abuse, the woman's national council, the municipal and provincial human rights departments, just to mention a few examples.

Most of the countries in the region have endorsed the human rights covenants, treaties and conventions, both of the United Nations' system and of the Organization of American States' (OAS). In the case of Argentina, they have been integrated into the 1994 constitutional plexus.

This is not enough because in practice neither the States guarantee the respect and promotion of all the human rights of all and everyone of their people, nor the inhabitants acknowledge themselves as subjects of right. And this happens here and in the rest of the world.

It is in this local and international framework in which our experience takes place.

The Argentinean city Rosario, in the province of Santa Fe, was the first city, which was declared a *Human Rights City* in 1997, boosted by the program carried out by the Institute for Gender, Law and Development (INSGENAR), headquarters of PDHRE in Latin America.<sup>1</sup>

On July 30th 1997 more than 35 institutions (human rights organizations, indigenous peoples, sexual diversity groups, academic bodies, development associations, the women's movement, etc.) signed the Commitment Act in the Auditorium of the City Hall of Rosario, in the presence of city mayor, the director of INSGENAR, Dr. Susana Chiarotti, and the president of PDHRE, Ms. Shulamith Koenig.

This is how Rosario became the first link in this ambitious program that is to show the world with cities where human rights are known and exercised.

#### **IV. The steering committee**

The steering committee of the city was progressively constituted by governmental and non-governmental organizations which INSGENAR has been working with for some years in different activities.

This Committee meets regularly to debate and discuss their interventions and activities.

INSGENAR has stimulated the training of the participating organizations through seminars and courses.

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<sup>1</sup> INSGENAR:

<<http://www.insgenar.org>> All website used in this essay were last checked on 14 September 2006.

These organizations hold a plurality of ideas, varied backgrounds and differing views. In a fragmented society, such as the Argentinean, and in the exacerbated individualism of postmodernism, we believe that this is the program's core: the challenge of articulating a medley of institutions demonstrating that it is possible to agree on proposals and carry them forward, working on what we have in common and creating areas to analyze the conflicts we go through and find plausible answers in the human rights framework.

Our purpose is to widen the Steering Committee –as we have been doing all these years- incorporating as many actors as possible, always on the basis of mature and productive agreements.

## **V. Development of the program**

The proposal provides for two working areas:

a) Rosario, Human Rights City: with the aim of internalizing the human rights culture and creating a space for the prevention and resolution of conflicts characteristic of human coexistence. It includes different activities for different sectors, ages and interests:

- \* human rights learning for teachers, security forces, health agents, magistrates, professionals, children, artists, social communicators and district organizations.

- \* promotion of gender equity.

- \* care of the environment.

In order to accomplish the aim different tools are used, such as contests, workshops, research, seminars, articles in mass media and others.

b) Latin American and Caribbean Program for Human Rights Education: Training of human rights educators, chosen among people with the capacity of leading processes of cultural changes in their own communities. This program was implemented in 2004 with the International Seminar on Human Rights and is sustained through a network of educators who exchange experiences, information and pedagogical material.

## **VI. Which is our main objective?...**

...to contribute to the construction of a culture based on the knowledge, debate and exercise of the principles and values of human rights, conceived from a gender perspective and the principle of universality, indivisibility and interdependence.

We are not unaware that the main reason for human rights violation, is the unfair distribution of wealth.

Perhaps it is not in our power to solve immediately the injustice produced by the huge gap between the haves and those who are marginalized from all possessions, but we can report it and take it into account in our analyses and proposals. To make discrimination visible and denaturalize it is the first requisite to be able to combat it.

It is vital to understand that basic needs cannot be at the mercy of the charity of state programs and policies, but that they must be defined as rights.

This perspective offers a different view in front of needs and demands, both to the governing class and to society as a whole.

The task is daunting, but not impossible.

As the Uruguayan writer Eduardo Galeano has put it in his book *Eager to Do*, “*They are little things, they don’t put an end to poverty, they don’t get us out of underdevelopment, they don’t socialize the means of production and exchange, they don’t expropriate the Ali Baba’s caves. But maybe they trigger the happiness of doing and translate it into acts, and after all, to act upon reality and change it, even if a little bit, is a way of proving that reality can be transformed.*”

This is what we set out to do: to show that step by step even the harshest reality can be transformed; that we are not content with the passive acceptance that it has always been like that, that there must be a reason for it, that it is naturalized that people live in permanent insecurity because of lack of food, housing, health care, or because they get them in meager supplies, as handouts from the state when, in fact, it is a right that belong to them because every person, for being human, has the same rights as everybody else, in a multicultural context in which differences make the extraordinary richness of the human race.

We agree with the Portuguese sociologist Boaventura de Souza Santos when he states that: “*We have the right to be equal when our differences make us inferior, and we have the right to be different when our equality decharacterizes us. Hence the need of equality that reproduces differences and difference that does not produce, feed or reproduce inequalities.*”

And that is why the human rights city Rosario is more than a program. It is a shared dream, a hope, a challenge, a deeply-held conviction and firm commitment.

Viviana Della Siega  
Coordinator  
Program’s Steering Committee  
Rosario, Human Rights City