



## HUMSEC Journal Issue 2



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### *Introduction*

The HUMSEC Project is a Sixth Framework Programme Coordination Action, whose purpose is to contribute to a better understanding of the link between transnational terrorist groups and criminal organisations in the Western Balkans and their role in the peace-building process in the region. Its main tasks are to establish a network of scientists working in the project field and to enhance the dialogue among scientists from the European Union and the Western Balkan region.

In specific, the HUMSEC Journal aims to widen the discussion on the issue of human security in general and in particular on the connection between transnational terrorist and criminal organisations and their impact on the peace-building process of the Western Balkan region.

The second issue of the HUMSEC Journal presents a diversity of papers on the main topic of *“The influence of transnational terrorist and criminal organisations on the state and on the society”*. In this concern, Iztok Prezelj, describes the challenges in conceptualizing and providing Human Security. Contributing to the discussion, Santhosh Persaud highlights that the human rights community should adopt the concept of human security in order to shape its content in line with its interests, whereas Francesco Strazari engages with the public debate on contemporary armed conflicts and their “messy aftermath”.

Particularly on the topic of terrorism, Steffen Roth and Jens Aderhold establish a neutral perspective on the debate on terror and anti-terror measures.

Case studies are also contained in this edition of the journal. Ivana Tomovska investigates the security challenges in today’s Macedonia and Anar M. Valiyev examines the activities of foreign terrorist groups in Azerbaijan. In addition, as a result of a rumorous debate, Tzvetomira Kaltcheva engages on the topic of independence in Kosovo and the likelihood of inter-clan conflict. Beyazit H. Akman considers the role of the International Tribunal for the Former Yugoslavia and its Truth and Reconciliation Commission for taking legal action against the atrocities in the former Yugoslavia.

On trafficking of human beings, Yuliya Zabyelina brings about a new perspective: the role of the network society in the trafficking of women whereas Alline Pedra Jorge-Birol demonstrates the importance of proper help and protection for trafficked victims, highlighting best practices.

We hope that this issue will contribute to the general debate on human security. Finally, we thank the authors who contributed to this issue, the members of the Editorial Committee for their detailed revision of each of these papers and Andreas Jantscher for designing the cover page of the journal.

Enjoy reading!

Sincerely,

Maddalena Vivona

Alline Pedra Jorge-Birol

April 2008

# Challenges in Conceptualizing and Providing Human Security

*Iztok Prezelj*<sup>1</sup>

*Changes in the security environment after the end of Cold War have seriously affected our security concepts and paradigms. Human security was finally conceptualized and presented to the global public in a Human Development Report in 1994. The concept has evolved since then and, today, we can identify quite a number of seriously conceptualized definitions and theoretical approaches that have led to the formation of a number of practical attempts to provide it. This concept is theoretically rather well substantiated, attractive and modern. It seems that it is the concept of the future for interpreting and approaching most of security situations as it integrates human rights, security and sustainable development. It puts an accent on the individual – the most significant and vulnerable part of society. However, the concept and practice of human security face some serious challenges that need to be identified, analysed and explained to relevant professional and political publics if we want to achieve an optimal approach to human security situations and effective implementation of human security preventive and reactive measures. The goal of this article is to identify some key challenges in conceptualizing human security. Discussed challenges stem from the lack of conceptual coherence, lack of interdisciplinary approaches and cooperation, lack of joint methodology, mistaken perception that the content of human security is something entirely new, understated importance of finding the appropriate balance between human security and other human rights, neglecting the technical foundation of human security and the problem of subjectivity in threat perception. The author analyses these problems and proposes solutions for the human security theory, aiming to optimize the concept of human security itself.*

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## I. Introduction

The concept of human security evolved as a result of the changes in security environment after the end of the Cold War. A combination of many factors led to its formation. A decreased threat of global nuclear war created a cognitive space for non-military threats to be perceived with greater intensity. At the same time, the process of democratization reached a new level as democracy spread to the developing countries. This meant also that individual human life and well-being received more attention and obtained more importance. Consequently, the role of human rights and freedoms and their implementation at the national and international level became much more significant. At the global level, one could observe a process of increasing globalisation, leading to shrinkage of space and time as well as the withering of borders. The role of (geographical and) physical distance has decreased, and technology has increased the speed of various transfers on the global scale. The meaning of national borders as cornerstones of national and international stability has also decreased to a certain extent.

All mentioned factors opened space for increased development. On the other hand, an increasing number of internal violent conflicts erupted in Africa, Asia and Europe (Balkans), leading to huge humanitarian crises, increasing differences in economic development between North and South emerged and the problem of terrorism gradually became a more serious and recognized threat. In such circumstances, the concepts of national and international security simply did not reflect the environment and the needs stemming from it. This is why a kind of intellectual ‘revolution’ started, aiming to provide the most appropriate and fitting concept that would make interpretation and analysis of security easier. Neorealist focus on states and military security proved to be increasingly narrow and unfitting.

In this respect, the narrow politico-military focused strategic studies evolved towards much broader security studies, encompassing also many non-military aspects of security. Prominent journals *International Security* and *Foreign Affairs* published two theoretically breaking articles both titled “*Redefining Security*”. The first article, published in 1983 by Ullman, substantiated broadening of security to the economic and developmental issues. He questioned the utility of focusing on military security, since it conveys a profoundly false image of reality and causes states to concentrate on military threats and to ignore other and perhaps even more harmful dangers. He thought that such an approach actually reduces our total security.<sup>2</sup> The second article was published later in 1989 by Mathews, substantiating broadening of security towards environmental, resource and demographic issues.<sup>3</sup> Even the journal *Survival*, which was known for its neorealist approach, published an article on non-military aspects of security in 1989. Perhaps the most compre-

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<sup>2</sup> Ullman, Richard, *Redefining Security*, in: *International Security* (Volume 8, Number 1), The MIT Press, Cambridge, 1983, pp. 129 – 153.

<sup>3</sup> Mathews Tuchman, Jessica, *Redefining Security*, in: *Foreign Affairs* (Volume 68, Spring), Council on Foreign Relations, New York, 1989, pp. 162 – 177.

hensive approach to security after the end of Cold War was substantiated by the “Copenhagen School” led by Barry Buzan, Ole Waever, Jaap de Wilde and others. In their key publications such as *People, States and Fear, An Agenda for International Security Studies in the Post-Cold War Era*, *The European Security Order Recast: Scenarios for the Post-Cold War Era*, and *Security: A New Framework for Analysis*,<sup>4</sup> its representatives defined security as an inherently multisectoral phenomenon consisting of military, environmental, economic, political and societal sectors. The Copenhagen School pragmatically combined traditional and emerging approaches in security studies.<sup>5</sup> After 9/11, a concept of asymmetric threats became increasingly recognized and used by the scientific community worldwide.<sup>6</sup> Asymmetry refers to the disproportionality between the threatening subject and the threatened subject, which refers mostly to terrorists on one side and the state and society on the other side.

What actually happened with the security at the conceptual level after the end of Cold War is simultaneous horizontal and vertical broadening. This is where the roots of human security are to be found. Horizontal broadening refers to incorporating “new”<sup>7</sup> non-military aspects of security, such as environmental, economic, demographic, criminal, terrorist, health, information, immigration and other aspects (or sectors and dimensions as called by some), while vertical broadening of security referred to incorporation of other non-state referent objects, such as individuals, local communities, groups of people by common ethnic, religious or ideological characteristics, global community, etc. It is this combination of non-military security dimensions and non-state referent objects that gave birth to the concept of human security.

The human security was finally conceptualized and presented to the global public in a *Human Development Report* in 1994. The concept has evolved since then, and today we

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<sup>4</sup> Buzan, Barry, Ole Waever and Jaap de Wilde, *Security: A New Framework for Analysis*, Lynne Rienner Publishers, London, 1998; Buzan, Barry, *People, States and Fear, An Agenda for International Security Studies in the Post-Cold War Era*, Harvester Wheatsheaf, London, 1991; Buzan, Barry, Morten Kelstrup, Pierre Lemaitre, Elizabeta Tromer and Ole Waever, *The European Security Order Recast: Scenarios for the Post-Cold War Era*, Pinter Publishers, London, 1990.

<sup>5</sup> Also many other security schools and approaches appeared after the end of Cold War, however this article addresses only those most relevant for making the main point on the circumstances of development of human security approach. For a good elaboration on security schools see Smith, Steve, *The Increasing Insecurity of Security Studies: Conceptualizing Security in the Last Twenty Years*, in: Croft, Stuart and Terry Terrif (eds.), *Critical Reflections on Security and Change*, Frank Cass, London, 2000.

<sup>6</sup> The concept of asymmetric threats began to appear in the USA in the late 1990s. It was quickly exported to other countries and represents one of the key ways of understanding threats in the 21st century.

<sup>7</sup> The frequent use of the term “new threats to security” by many scientists and professionals after the end of Cold War should be disputed. They said that historical changes brought about new threats (e.g. environmental, economic, health, illegal immigration, etc.), which in fact were not new as they existed also in the Cold War. New was the environment that with minimizing the military threat created a cognitive space for other pre-existing threats to be perceived. Conceptually the new security sector that appeared has been only the information sector. For more on this see Prezelj, Iztok, *Grožnje varnosti, varnostna tveganja in varnostni izzivi v sodobni družbi: razreševanje nekaterih terminoloških dilem*, in: Teorija in Praksa (Volume 38, Number 1), Faculty of Social Sciences, Ljubljana, 2000, 127-141.



can observe quite a number of seriously conceptualized definitions and theoretical approaches. General goal of this article is to discuss the concept human security in a reflective and rather critical way, identifying key challenges that should be understood and taken into account by the scientific community in order to achieve better results in application of human security worldwide. After comparing the concept of human security with traditional security concept for the purpose of achieving a better conceptual clearance, the author will compare different conceptualizations of human security along the perceived referent object, identified human values at stake, identified threats and means for providing human security. In our sample of definitions, we have academic definitions, UNDP definition, a Canadian definition and a definition of the Human Security Network, a Japanese definition and a definition by the Commission on Human Security, a Thai understanding, etc. It is not the intention of this paper to elaborate all those relevant definitions. Our intention is to extract their common denominators and stress some differences by using the qualitative comparative method.

The concept of human security is inherently related and even to certain extent integrated into the concept of human development, which will be shown by this article. At empirical level, many uncoordinated international approaches, policies or even programs for providing human security exist, which brings the author to the observation that providing human security is incoherent in large proportion due to the complexity of human security and related insufficient conceptual coherence. The concept of human security is theoretically substantiated, attractive and modern, however it embraces almost everything, making it difficult to implement.

## **II. The Concept of Human Security**

For the purpose of writing this article, many academic and non-academic definitions of human security were analyzed and compared. The concept has attracted much attention, which is reflected in quite a large number of sources on this topic. Providing as much conceptual clearance as possible is a first necessary step in any serious academic and practical debate about human security and related challenges.

### **A. *Human Security versus Traditional Security***

Firstly, the concept of human security should be clearly distinguished from the traditional and narrow concept of security. The former evolved in the nineties as a compensation for deficiencies of a traditional concept of security. Understanding of the term security has broadened along the vertical and horizontal dimensions. The “horizontal broadening” referred to including other security dimensions next to political and military, such as environmental, economic, health, social, etc., while the “vertical broadening” referred to including other referent objects next to the state. The individual became a key referent

object in human security, differentiating it from the traditional approach. The vertical and horizontal broadening was taking place simultaneously. Table 1 shows key differences between human and traditional concepts of security.

Table 1: Comparison of human and traditional security concepts.<sup>8</sup>

	<b>Traditional national security</b>	<b>Human security</b>
<b>Security for whom (referent object)</b>	Primarily states	Primarily individuals
<b>Values at stake (security of what values)</b>	Territorial integrity and national independence	Personal safety and individual freedom
<b>Security from what (threats and risks)</b>	Traditional threats (military threats, violence by countries...)	Non-traditional and also traditional threats
<b>Security by what means</b>	Force as the primary instrument of security, to be used unilaterally for a state's own safety	Force as a secondary instrument, to be used primarily for cosmopolitan ends and collectively; sanctions, human development, and humane governance as key instruments of individual-centered security.
	Balance of power is important; power is equated with military capabilities.	Balance of power is of limited utility; soft power is increasingly important.
	Cooperation between states is tenuous beyond alliance relations.	Cooperation between states, international organizations and NGOs can be effective and sustained.
	Norms and institutions are of limited value, particularly in the security/military sphere.	Norms and institutions matter; democratization and representativeness in institutions enhance their effectiveness.

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<sup>8</sup> Bajpai, Kanti, *Human Security: Concept and Measurement*, Kroc Institute Occasional Paper (Number 19), University of Notre Dame, Notre Dame, Indiana, 2000, at p. 48.

We can see from Table 1 that the differences in understanding key referent objects, values, threats and risks correspond to differences in understanding the appropriate means for providing security. Certain means are gaining importance, while others are losing it.

Table 1 above can give us also an impression that human security is about to replace the traditional security concept. Yet, Axworthy noted that the concept of human security does not oust or replace the traditional security concept. Both concepts represent rather different ideas how to respond to existing threats. The basis of the traditional security concept is sovereignty of a state, while the basis of the concept of human security is sovereignty of an individual.<sup>9</sup> We can observe that the right of the state and the right of the individual somehow coexist in the security environment and influence each other. In this respect, both concepts also coexist. Important is that human security is not negating traditional security because it incorporates traditional threats and means. Naturally, extreme stressing of one of them leads us to exposing conceptual differences. On this basis, we can not confirm the thesis that human security is something completely opposite from traditional security. The concepts are different, but at the end they are both human-centred, i.e. they bring human (directly or indirectly) to the forefront.<sup>10</sup> This means that human security is complementing the notion of national and international security by focusing it more on the human component (and not on critical infrastructure, institutions or territory). Today, it has become a fundamental element of the concepts and policies of national, regional and international (and even global) security. It has become also a logic that determines to a certain extent how these policies will be formed and implemented.

### ***B. Broad Concept of Human Security: Similarities and Differences among Definitions***

The development of the concept of human security was deeply influenced by the political and security context after the end of the Cold War. Several factors created a cognitive space that was necessary for developing such a concept:

- decreased threat of global nuclear war,
- predominance of non-traditional and non-military threats,
- democratization,
- strengthening of human rights and freedoms in national and international policies,

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<sup>9</sup> Axworthy, Lloyd, *Human security: Safety for People in a Changing World*, Department of Foreign Affairs and International Trade, Ottawa, Canada, 29 April 1999.

<sup>10</sup> By saying that traditional security concept is indirectly also human-centred we refer to the fact that the motivational drive behind conceptualizing traditional politico-military concept was, among other things, also a concern how security circumstances could threaten the human population. The state, its representatives and institutions might have been in focus of traditional security approach, but the relation between the security of the state and its people is undeniable. Both securities are connected.

- increase awareness of the importance of human life and well-being,
- globalization and related consequences,
- increase poverty and differences between developed North and poor South,
- increase number of internal armed and violent conflicts,
- spread of small arms and light weapons, as well as the issue of anti-personnel mines.

Because the above mentioned phenomena are unevenly spread around the world, they create slightly different input or context in the process of conceptualization of human security. Some regions have more conflicts, different social, cultural, economic and geostrategic context than other regions.<sup>11</sup> This is why many (mostly similar, but slightly different) academic and political definitions of human security have been developed.

A comparison of conceptualizations of human security (along the perceived referent object, identified human values at stake, identified threats and means for providing human security) shows great similarity among concepts. Differences stem from slightly different contexts, which are mostly regionally conditioned. Comparison shows that all concepts stress that the key referent object is individual, while only some concepts also stress the centrality of human communities (e.g. ethnic groups, minorities etc.). The criterion for this selection is the vulnerability of individuals to traditional or non-traditional threats.

Comparison of human security approaches further shows a lower degree of unity regarding the identified human values. The values most often stated as “at stake” in human security situations are survival, safety, livelihood, freedom, well-being and dignity. For example, Bajpai<sup>12</sup> stressed that the fundamental values at stake in human security are physical safety and well-being and individual/personal freedom. This brings us to the question of relationship between human security and human liberty and freedom, which will be addressed later.

A comparison of the concepts of human security regarding perceived and identified threats to individuals shows a great variety of potential threats. All approaches stress mostly non-traditional threats; however traditional ones are mentioned and stressed by some as well. The threat spectrum includes the following threats:

- economic threats,
- food threats,
- health threats,
- environmental threats,
- personal threats,

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<sup>11</sup> For example, debate on human security in Asia was shaped by the economic crisis in the nineties.

<sup>12</sup> Bajpai, Kanti, *Human Security: Concept and Measurement*, Kroc Institute Occasional Paper (Number 19), University of Notre Dame, Notre Dame, Indiana, 2000, at pp. 38-39.

- community threats,
- political threats,
- demographic threats,
- crime in all forms, including terrorism,
- natural disasters,
- violent conflicts and wars,
- genocide,
- anti-personnel mines, SALW, etc.

A difference among approaches in terms of giving different prioritization to different threats can be identified. Some approaches<sup>13</sup> mention also the structural violence of different forms as a threat to human security. Freedom from fear is many times mentioned as a key element of human security. Freedom from fear is actually measured by the (opinion polls on) threat perception. Some approaches also mention an “acceptable quality of life” (see the Canadian approach). It is very important that many approaches understand the interconnection among threats (transborder interconnection and intersectoral interconnection).<sup>14</sup> The latter refers to the fact that complex human security situations embrace a broad spectrum of more or less interconnected and correlated threats from different dimensions or sectors. This also means that extreme escalation of threat in one dimension leads to escalation of threats in other dimensions. For example, the wartime situation in Bosnia and Herzegovina was an example of extreme escalation of military threat that has led to the escalation of economic threats (e.g. unemployment, economic crisis), environmental threats (environmental damage and pollution), terrorism, organized crime (e.g. looting during the war operations), health threats (e.g. unbearable health conditions), disrespect of human rights, etc.<sup>15</sup> In this respect, we should support Oberleitner’s finding that individuals actually face an endless spectrum of potential threats.<sup>16</sup>

One must also note that human security is directly related to the concept of international peace and security. The report by the UN High-level Panel on Threats, Challenges and Change entitled *A More Secure World: Our Shared Responsibility* makes a distinction between threats from non-state actors and states to human security as well as state secu-

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<sup>13</sup> For example Møller, Bjørn, *National, Societal and Human Security – A General Discussion with a Case Study from the Balkans*, Paper for the First International Meeting of Directors of Peace Research and Training Institutions, Paris, 27-28 November 2000.

<sup>14</sup> For example, UNDP wrote in its report from 1994 that the components of human security are interdependent. The consequences of human security situations spread transnationally. In this respect, threats to human security are no longer just personal or local and national. They are becoming global. See United Nations Development Programme, *Human development Report 1994*, Oxford University Press, Oxford, 1994.

<sup>15</sup> For more on the concept of complex security threat see Prezelj, Iztok, *Nacionalni sistemi kriznega menedžmenta*, FDV Ljubljana, 2005.

<sup>16</sup> Oberleitner, Gerd, *Human Security and Human Rights*, ETC Occasional Paper Number 8, ETC, June 2002, at p. 13.

ity.<sup>17</sup> Human security is in such perception put directly along the state security in national and international context. The panel proposed a comprehensive system of collective security that tackles both new and old threats, and addresses the security concerns of all states - rich and poor, weak and strong. The UN Secretary General confirmed in his introduction to this report that the UN strategies must be comprehensive and its institutions must overcome their narrow preoccupations and learn to work across the whole range of issues, in a concerted fashion. The report by the former UN Secretary General *In Larger Freedom: towards Development, Security and Human Rights for All* stressed the relationship between the rule of law and human security. The report stressed the rule of law as the all-important framework for advancing human security and prosperity. Yet, in many places governments and individuals continue to violate the rule of law, often without consequences for them but with deadly consequences for the weak and the vulnerable. In other instances, those who make no pretence of being bound by the rule of law, such as armed groups and terrorists, are able to flout it because the peacemaking institutions and compliance mechanisms are weak.<sup>18</sup>

It is also very obvious that the UN broadened its understanding of the threat to international peace and security from conflicts among states to human security crises within states. Internal wars, genocides and other extreme violations of human rights can be treated as threats to international peace and security. The history of UN resolutions shows us that many of them (also within the 7<sup>th</sup> Chapter of the UN Charter) were adopted because of such situations and such interpretations<sup>19</sup>. For example, Resolution 668 (1991) on Iraq stressed that suppression of civilian population represents a threat to international peace and security. The Security Council authorized the use of force in 1992 in Somalia and Haiti on behalf of civilian population and without the consent of the state. In Bosnia and Herzegovina, ethnic cleansing was labelled as violation of international humanitarian law and as a threat to peace and security. The genocide in Rwanda in 1995 was labelled in a similar way. Many related UN documents reflect the fact that international peace and security has an increasingly important human security aspect.

Comparison of understanding means for protection of human security shows that the state is actually the most important subject. Some approaches explicitly and some also implicitly stress the importance of non-governmental actors. The central goal of the human se-

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<sup>17</sup> United Nations, Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, 2004, at p. 1.

<sup>18</sup> UN General Assembly, *In Larger Freedom: Towards Development, Security and Human Rights for All*, Report of the Secretary-General, United Nations, A/59/2005, 2005, at p. 35.

<sup>19</sup> See Faulenbach, Jürgen et al., *Informationen zur politischen Bildung, Internationale Beziehungen II, Frieden und Sicherheit zu Beginn des 21. Jahrhunderts*, Bundeszentrale für politische Bildung (BpB), Bonn, 2002; Lodgaard, Sverre, *Human Security: Concept and Operationalization*, Seminar Paper, Expert Seminar on Human Rights and Peace, Palais Wilson, Geneva, 8-9 December 2000, pp. 1-21; Axworthy, Lloyd, *Human security: Safety for People in a Changing World*, Department of Foreign Affairs and International Trade, Ottawa, Canada, 29 April 1999; Mathews, Jessica Tuchman, *Power Shift*, in: *Foreign Affairs* (Volume 76, Number 1), January/February 1997, pp. 50 - 66.

curity agenda is to help the threatened people. Approaches identify two groups of means or measures: preventive and reactive. Preventive measures refer to all measures that aim to minimize the vulnerability of human beings, while reactive means are understood as secondary means for providing human security. The use of force is interpreted only as a last resort. The following means for providing human security are frequently mentioned:

- humanitarian intervention or humanitarian help,
- peacekeeping operations,
- peacebuilding,
- arms verification operations,
- respect for human rights and liberties,
- sustainable economic development,
- early warning,
- diplomatic missions,
- focused (smart) sanctions,<sup>20</sup>
- preventive deployment of armed forces,
- preventive diplomacy,
- stronger civil society,
- empowerment strategies,<sup>21</sup>
- assuring the minimal life standards, etc.

Approaches again differ in prioritizing these means. Many people claim that it is easier to ensure human security through early prevention than through later intervention; however it seems that this is not always considered in practice.

Our overview of means suggests that human security has become an inseparable part of national and international security policy performed by states, international organizations and non-governmental organizations. Human security plays a direct or at least an indirect role in formulating and implementing these policies.

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<sup>20</sup> The case of so-called smart economic sanctions is exemplary for showing how human security concern affects the international security mechanism. The experiences after years of sanctions showed that many times the sanctioned regimes were not hurt by sanctions that much as the ordinary population. Due to the sanctions, there was for example no fuel or no particular medicines to the ordinary population but for high officials and politicians who actually motivated those sanctions. The practice of international economic sanctions had therefore changed into more focused measures, such as freezing the bank accounts of political elite, etc. By such focusing on more “guilty” members of the society, the general human security situation in the sanctioned country would not suffer that much.

<sup>21</sup> Empowerment strategies refer mostly to practices that make individuals stronger and more robust for coping with human security situations. In this respect they incorporate various education processes.

1. *Interconnection between the Human Security and Human Sustainable Development*

Human security approaches stress that the search for security must be based on human development. This is very important for human security as it puts it into a sustainable perspective. Actually, the sustainable development leads to environment where human security is less threatened because the emergence of violent conflicts is less likely. This is why the concept of human security is inherently and strongly connected with the concept of sustainable human development. This concept was formed in the second half of the eighties by the UN World Commission on Environment and Development and refers to the development that meets the needs of the present without compromising the ability of the future generations to meet their own needs. The commission defined this connection clearly by saying that sustainable development requires meeting the basic needs of all and extending to all the opportunity to satisfy their aspirations for a better life. In their view, a world in which poverty and inequity are endemic will always be prone to ecological and other crises.<sup>22</sup> Similar thinking on inextricable link between development and security can be found in the already mentioned Report by the UN Panel on Threats, Challenges and Change. The report acknowledges that a more secure world is only possible if poor countries are given a real chance to develop. Extreme poverty and infectious diseases threaten many people directly, but they also provide a fertile breeding-ground for other threats, including civil conflict.<sup>23</sup>

Human development is measured by the Human Development Index. This index actually measures the average achievements in a country in three basic dimensions of human development: a long and healthy life, knowledge and a decent standard of living.<sup>24</sup> The strong connection between human development and human security brings us to consideration if conceptualizing the human security index would be possible.

Fundamental precondition for sustainable development is empowerment of people, referring to their education. By educating them, the key barrier to human development – human mind – can be surpassed. Means for achieving sustainable human development are rule of law, respect for human rights, economic development, social development, environmental development, creation of adequate norms and regimes. Many peace-building practices around the world reflect how development is connected to safety of people. Safe

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<sup>22</sup> Model of sustainable development become internationally recognized topic after the report by the World Commission on Environment and Development was published in 1987. The report substantiated the concept of sustainable development based on the analysis of threatening environmental trends and its symptoms and causes. See United Nations, *Report of the World Commission on Environment and Development: Our Common Future*, Transmitted to the General Assembly as an Annex to document A/42/427 - Development and International Co-operation: Environment, New York, 1987.

<sup>23</sup> United Nations, Panel on Threats, Challenges and Change, *A More Secure World: Our Shared Responsibility*, 2004, at p. viii.

<sup>24</sup> Human development index is calculated for 177 countries and areas of the world. Information. Available online at: <http://hdr.undp.org/en/>.



environment is a precondition for implementation of any kind of developmental projects, which further influence the well-being of population. Population with more satisfied basic needs is less likely to turn to violence in solving its problems.

### **III. Partial Coherence of the Human Security Concept as a Challenge**

Human security is a multidimensional phenomenon because it refers to a number of security dimensions (threats), almost all aspects of human life and a broad spectrum of means. This is why a multidisciplinary approach to human security is being shaped. Human security can be discussed from the perspective of human rights, security, law, humanitarian, economic, environmental, developmental and other perspectives or angles. For example, a Human Security consortium that was formed under the 6<sup>th</sup> Framework Research Program, financed by the European Commission, consists of a wide spectrum of research institutions, such as human rights studies, security studies, criminology and law.<sup>25</sup> We can observe that a kind of “human security studies” is being shaped which is indicated by new human security research projects, courses in universities, conferences, HUMSEC journal, etc. Only a broad approach to human security can lead us to comprehensive and correct understanding of the human security situation.

One crucial problem arises from this “multi approach” however. The concept of human security actually refers to almost all security aspects (threats and risks). The question is how to build theory and implement it in the practice if it refers to everything. Such a broad concept actually lacks coherence and consequently, lacks focus. The problem of focus makes it difficult to implement the concept of human security in practice (in policy). This means that the concept of human security is theoretically well substantiated, attractive and modern; however it embraces almost everything, making it difficult to implement. The scientific community needs to operationalize this concept better if we want to avoid the inflation of this concept and the trap of broad understanding of security. Broad understanding of human security may be correct, but it is a labyrinth for which we need a better conceptual and political compass. What we perhaps really need is the development of a human security index, as already proposed and discussed by some scholars.<sup>26</sup> Such index would enable the international community to monitor the human security situation in crisis areas and elsewhere systematically and permanently. It would give a clear benchmark upon which the preventive and reactive actions could be better prepared and more comprehensive. Already mentioned parallels with the Human development index could be valuable in addressing the challenge of conceptualizing and implementing the human security index.

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<sup>25</sup> See European Commission, *Annex 1 to the Project Human Security in the Western Balkans Region: the Impact of Transnational Terrorist and Criminal Organisations on the Peace-Building Process of the Region*, Contract Number 028795, Brussels, 2006.

<sup>26</sup> See Bajpai, Kanti, *Human Security: Concept and Measurement*, Kroc Institute Occasional Paper (Number 19), University of Notre Dame, Notre Dame, Indiana, 2000, pp. 55 - 59.

The second problem stems from the fact that complex security environment created possibilities for faster interconnection among different categories (dimensions or sectors) of threats to human security. Human security crises are actually situations where threats from several dimensions escalate. They are strongly correlated. There is no one way or one mechanism for solving such crises. Many disciplines are involved, but they do not communicate enough with one another. There are no joint methodologies and also such need is not perceived and comprehended by most scholars. An interdisciplinary approach is currently the Achilles heel of human security. Inter-disciplinarity in this respect refers to disciplines working together (not parallel) to achieve joint goals with joint methodologies. Also many actors that implement human security policy do not interact enough (OSCE, EU, NATO, OAS, G7/G8, UN, Human Security Network, Commission on Human Security, etc.). For example, the EU is looking for possible ways to increase human security in Kosovo in its new mission. The exploration of these possibilities should take into account the already existing activities of a large number of other foreign actors in Kosovo.<sup>27</sup>

Complex security environments and corresponding human security situations and crises require optimal approaches. Partial approaches (by one actor) can be more or less efficient; however complex situations can not be solved by partial approaches. Interorganizational and interdisciplinary cooperation is therefore a necessity in the formulation of human security policy, decision making and implementation. We must take an additional step from our practice of broad initiatives and partitioned implementation to the practice of comprehensive implementation. A tool for this is better horizontal cooperation.

#### **IV. A Challenge of Balancing Human Freedoms and Security in the Human Security Concept: Relationship between Human Needs and Rights**

Human security by its content opens the question of relationship between freedom and security. Concept and practice of human security is strongly connected to human rights. For some scholars, human security refers to the protection of personal safety and individual freedom. In the contemporary security environment, it seems that too many times a view on competing concepts prevails. Interpretations that we need to take sides in question of security versus freedom are prevailing. This is to a large extent stimulated by the intensive (legal or illegal) violations of human rights by states in the fight against terrorism. However, some scholars and politicians claim that the relationship should be understood in a more complementary manner. This is not a new thesis, as Benjamin Franklin

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<sup>27</sup> International organisations keep on forgetting taking into account other international organisations when conceptualizing their approach to emerging human security situations and topics. At this point, we should stress the example of good practice by the OSCE in the field of terrorism. The OSCE had studied the role of all international organisations and initiatives before it actually defined its role in the field of anti-terrorism. This study was conducted under the assumption that the new OSCE anti-terrorist role(s) shall not duplicate already existing roles by other actors.

already took this perspective in 1795. These are mutually supporting concepts because they are both human needs and human rights. Article 3 of the *Universal Declaration on Human Rights and Freedoms* states that everyone has the right to life, liberty and security of person.<sup>28</sup> Kofi Annan also stressed the positive correlation among human rights, security and development in his report in *Larger Freedom: Towards Development, Security and Human Rights for All*.

In his opinion, the notion of larger freedom (that was introduced in his report) encapsulates the idea that development, security and human rights go hand in hand. He creates a triangle of interconnected elements – security, human rights and development. The former Secretary General argues that these three elements increasingly reinforce each other. This relationship has only been strengthened in our era of rapid technological advances, increasing economic interdependence, globalization and dramatic geopolitical change. Accordingly, we will not enjoy development without security, we will not enjoy security without development, and we will not enjoy either without respect for human rights. Unless all these causes are advanced, none will succeed.<sup>29</sup>

Accordingly, the Human Security Concept refers to providing security within the limitations of respect for human rights. However, there are some limitations on human rights and freedoms due to some predefined interests of national and public security. This is the point at which the problems emerge, especially in the effective fight against the terrorism. Terrorism is a threat deeply incorporated in our societies.

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<sup>28</sup> UN General Assembly, *Universal Declaration on Human Rights and Freedoms*, General Assembly Resolution 217 A (III), New York, 10 December 1948, art. 3.

<sup>29</sup> UN General Assembly, *In Larger Freedom: Towards Development, Security and Human Rights for All*, Report of the Secretary-General, United Nations, A/59/2005, 2005, at pp. 5-6. We also quote the following examples of the relationship among human rights, security and development from this document:

‘Even if he can vote to choose his rulers, a young man with AIDS who cannot read or write and lives on the brink of starvation is not truly free. Equally, even if she earns enough to live, a woman who lives in the shadow of daily violence and has no say in how her country is run is not truly free. Larger freedom implies that men and women everywhere have the right to be governed by their own consent, under law, in a society where all individuals can, without discrimination or retribution, speak, worship and associate freely. They must also be free from want — so that the death sentences of extreme poverty and infectious disease are lifted from their lives — and free from fear — so that their lives and livelihoods are not ripped apart by violence and war. Indeed, all people have the right to security and to development’.....”While poverty and denial of human rights may not be said to “cause” civil war, terrorism or organized crime, they all greatly increase the risk of instability and violence. Similarly, war and atrocities are far from the only reasons that countries are trapped in poverty, but they undoubtedly set back development. Again, catastrophic terrorism on one side of the globe, for example an attack against a major financial centre in a rich country, could affect the development prospects of millions on the other by causing a major economic downturn and plunging millions into poverty. And countries which are well governed and respect the human rights of their citizens are better placed to avoid the horrors of conflict and to overcome obstacles to development’.

According to the European Police Office (EUROPOL) altogether 498 terrorist attacks were carried out in the EU in 2006. The vast majority of them resulted only in limited material damage and were not intended to kill. A total of 706 individuals were arrested as suspects of terrorism in the same year.<sup>30</sup> In the past several years, we have witnessed major arrests of terrorist suspects every month by European security services. The fight against terrorism has become a priority for many European and non-European states and international organisations. Basic security documents of these actors clearly reflect this priority.<sup>31</sup>

The effective fight against terrorism obviously draws in large part upon the limitation of human rights and freedoms. This is due to prevailing preventive focus in fight against terrorism. The states are responsible for providing human security and also human rights. By defending some human rights, they obviously decrease some other human rights and freedoms. Finding a right balance is one of the biggest challenges of contemporary states and societies. This, however, is also a challenge of the Human Security Concept. The concept should be shaped and developed in a complementary way, balancing human security and human rights. This is not only a question of law and human rights experts, but a question of and for all disciplines dealing with human security. A better multidisciplinary dialogue should be developed within human security studies focusing on this question. The concept of human security should help to find an answer how to strive for acceptable (not maximal) level of security with minimal violations of human rights. More conceptual clearance would help various institutions within the states (e.g. police services, intelligence services, oversight bodies, political parties) and also international bodies, such as the EU. The process of establishing an Area of Freedom, Security and Justice within the EU can be successful only if the mentioned balance or equilibrium is found.

The process of finding a balance between human security and other human rights should at least draw upon the existing documents, such as the Universal Declaration on Human Rights,<sup>32</sup> European Convention on Human Rights,<sup>33</sup> Guidelines on Human Rights and the Fight against Terrorism<sup>34</sup> and Johannesburg Principles on National Security, Freedom of Expression and Access to Information<sup>35</sup>. These documents approve certain exceptions and situations in which human rights can be legally violated, however they also draw a strict line that can not be crossed by states in pursuit of security.

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<sup>30</sup> EUROPOL, *EU Terrorism Situation and Trend Report 2007*, March, 2007, pp.3-4.

<sup>31</sup> E.g. EU Security Strategy from 2003, NATO strategy from 1999 and Riga declaration from 2006.

<sup>32</sup> UN General Assembly, *Universal Declaration on Human Rights and Freedoms*, General Assembly Resolution 217 A (III), New York, 10 December 1948, art. 3.

<sup>33</sup> Council of Europe, *The European Convention on Human Rights*, Rome, 1950.

<sup>34</sup> Council of Europe, *Guidelines on Human Rights and the Fight against Terrorism*, Directorate General of Human Rights, 11 July 2002.

<sup>35</sup> Article 19 – Global Campaign for Free Expression, *Johannesburg Principles on National Security, Freedom of Expression and Access to Information*, London, November 1996. Available online at: <http://www.article19.org/pdfs/standards/joburgprinciples.pdf>.

Looking at the critical examples in practice, we have no problem of identifying many cases where human rights were violated by organisations wanting to provide human and national security. But first, it should be clearly stated that sole terrorist attacks represent a gross violation of the human right to life. On the response side, we witnessed heavily militarized counter-terrorism, which is probably the first step in the wrong direction in addressing predominantly civilian terrorist threat. Definitions of terrorism are still not precise enough, leaving an open space for abuse by security services. Personal data exchange among countries is not necessarily subjected to the highest human rights standards, some states have been rendering their suspects to other states where human rights standards are not adequate, proactive stimulations for committing a criminal and terrorist act by European and US police services were identified, profiling terrorists can lead to religious or ethnic discrimination, pre-charge detention periods are increasing, violence used by states in crisis management operations outside Europe and US is not subject to the same limitations as at home, the concept of enemy combatant has been misused, Guantanamo bay detention camp proved to be a place where torture was used to extract information from suspects, where suspects are being held without temporal limits, and military commissions (courts) were used to trial detainees, etc. Telecommunication and internet providers needed to prolong the storage time for communications that took place among users, universal data bases are being created for data mining purposes, simultaneously creating worries on how to control access and prevent misuse of personal data. Some terrorist suspects were detained in Europe by the CIA at secret locations, where torture and other illegal practices were most likely used. This list of disputable or critical practices simply does not end. This fact just proves our statement that balancing between human rights and security is one of the most important challenges of the human security studies community.

## **V. Neglecting the Technical Foundation of Human Security**

Besides the evolution of the concept of human security and practice, the concept of critical infrastructure protection is gaining importance. The concept is focusing on threats to and protection of critical infrastructures, such as:

- energy (oil and gas production, refining, treatment and storage, electricity generation, transmission of electricity, gas and oil, distribution of electricity, gas and oil),
- information and communication technologies – ICT (e.g. Internet, provision of fixed telecommunications, provision of mobile telecommunications, radio communication and navigation, satellite communication, etc.),
- transport (road transport, rail transport, air transport, sea transport),
- water systems (provision of drinking water, control of water quality, control of water quantity),
- food (provision of food and safeguarding food safety and security),

- health systems (medical and hospital care, medicines, serums, vaccines and pharmaceuticals, bio-laboratories and bio-agents),
- financial systems (payment services/payment structures, etc.),
- state infrastructure, (ministries, relevant objects) etc.<sup>36</sup>

These are all important systems that consist of objects and processes vital for human society. Vitality refers to criticality for normal functioning of human society. Many authors understand critical infrastructures as networks of mutually connected elements upon which normal functioning of society depend.<sup>37</sup> Some authors stress that societal dependence from these systems is increasing.<sup>38</sup>

Threats to critical infrastructures are, in fact, the same or at least similar to threats to human security. Critical infrastructure can be damaged, destroyed or disrupted by three categories of threats:

- disasters (broad spectrum of more or less coincidental events coming from system external environment),
- intentional attacks and
- failures (due to internal malfunctions in systems).

Damaged, destroyed or disrupted critical infrastructure for any reason directly or indirectly affect or even threaten human society, state and individuals. Human vulnerability in this area is increasing together with increasing dependence on vital support systems. We can identify plenty examples where human security was threatened also because of the malfunctioning of critical infrastructures. Most bigger terrorist attacks destroyed beside human lives also critical infrastructure. 9/11 was an attack against financial, military and political centres. The London and Madrid attacks involved rail infrastructure. Terrorist hijacking of airplanes involve air transport infrastructure. Natural disasters, such as hurricane Katrina and the tsunami in Asia, led to such destruction of critical infrastruc-

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<sup>36</sup> See for example European Commission, *Green Paper on a European Programme for Critical Infrastructure protection*, COM(2005) 576, Brussels, 17 November 2005; Lewis, Ted, *Critical Infrastructure Protection in Homeland Security: Defending a Networked Nation*, Wiley Interscience, New Jersey, 2006; Dunn, Myriam, *The Socio-political Dimensions of Critical Information Infrastructure Protection*, in: *International Journal of Critical Infrastructures*, Inderscience Publishers (Volume 1, Number 2/3), 2005, pp. 258 - 268; Radvanovsky, Robert, *Critical Infrastructure: Homeland Security and Emergency Preparedness*, Taylor & Francis, New York, 2006.

<sup>37</sup> Ellison, Robert et al, *Survivability: Protecting Your Critical Systems*, CERT Coordination Center, Carnegie Mellon University, Pittsburgh, 1999, at p. 1; Boin, Arjen, Patrick Lagadec, Michel-Kerjan Erwann and Werner Overdijk, *Critical Infrastructures under Threat: learning from the Antrax Scare*, in: *Journal of Contingencies and Crisis Management*, Inderscience Publishers (Volume 11, Number 3), 2003, pp. 18 – 29; Erwann, Michel-Kerjan, *New Challenges in Critical Infrastructures: A US Perspective*, in: *Journal of Contingencies and Crisis Management*, Inderscience Publishers (Volume 1, Number 3), 2003, pp. 132 – 141.

<sup>38</sup> Ellison, Robert et al, *Survivability: Protecting Your Critical Systems*.

tures that human lives (not to mention well-being) were threatened. These events triggered the biggest humanitarian operations of the recent past. Europe and America have witnessed some big electric blackouts in the past ten years, which caused economic damage. Some serious humanitarian crises (e.g. Sudan, Kosovo, Macedonia in time of conflict) alarmingly showed that critical infrastructure is extremely important for human security. The worst case scenario regarding the “millennium bug” or Y2K included seriously disrupted human life due to potential malfunctioning of multiple critical infrastructures (financial, information, transport, energy and other infrastructures).

Despite such importance of critical infrastructures, the concept of human security has not addressed this problem at all. The problem is the predominantly technical orientation of scientists dealing with critical infrastructures and predominantly non-technical orientation of disciplines dealing with human security. These disciplines and approaches are not really capable of looking over the self-imposed boundaries to strongly connected problems. Human security has many non-technical aspects; however, the unaddressed technical aspect is increasingly important. This has also serious effects on practice, especially formulation and implementation of human security measures. Interdisciplinarity and comprehensiveness proved again to be the Achilles heel of human security.

## **VI. Inevitability of Subjectivity in Assessing Human Security Situations – a Challenge of Conflicting Perceptions**

One further problem is to be found in predominant subjectivity of human threat perception. Similar human security situations can be perceived quite differently around the world. The constructivist approach in social sciences substantiated the idea of contemporary reality as a social construction. Our reality is only a function of our knowledge about the world. This knowledge is socially constructed. Aristotle, in *Metaphysics*, argued that there is a difference among the truth, its appearance and our perceptions.<sup>39</sup> Baudrillard stressed in this regard that we live in some kind of objective illusion of reality or a kind of simulation of reality.<sup>40</sup> Similarly, Schopenhauer in his famous work *The World as Will and Representation* argued that the existing world is a reflection of our perceptions and will.<sup>41</sup>

Similar logic was applied to the field of security. W. B. Gallie has as early as in 1962 noted that security is essentially a contested concept. Buzan and Patman stressed that the decision on what security is has been based on the subjective elements, such as politics,

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<sup>39</sup> Aristotle, *Metaphysics*, in: Irwin, Terence and Gail Fine (Translators), *Aristotle – Selections*, Hackett Publishing Company, Indianapolis, 1995, Book VI, Chapter 5, pp. 266-267.

<sup>40</sup> See Horrocks, Christopher, *Baudrillard and the Millennium*, ICON Books, Cambridge, 1999, pp. 5-7.

<sup>41</sup> Schopenhauer, Arthur, *The World as Will and Representation*, Dover Publications, New York, 1969, at p. 4.

morality, ideology and similar elements.<sup>42</sup> Individuals, social groups, societies, states and international community perceive and interpret human security situations through their own lenses and from their own perspectives. Also, their immediate or long-term interests influence their perceptions. Because human in-security in its broadest meaning lies predominantly in the eyes of beholder, the real threats to human security are not necessarily the perceived ones and vice versa. The problem gets even worse as real and perceived threats change over time. For example, the threat by terrorism today can be interpreted on the one hand as the threat number one or only as one among the potential threats on the other hand. The exodus of Serbs from Kosovo in 1999 can be interpreted as rescuing people from a kind of ethnic cleansing or as a phase of liberating the country from the oppressors. Military intervention by NATO in Kosovo in the same year can be interpreted as a military humanitarian support mission with goal to protect Kosovars from the genocide and ethnic cleansing, or as a threat to human security and a military aggression on an independent country. The list of such different interpretations can just not end. The point is that this paradox has not been resolved yet at conceptual level in security studies and also not in the social practice. In relation to this problem, Buzan, Waever and de Wilde warn against the extreme error in threat perception, such as paranoia. Paranoia in this regard refers to perceiving threats that do not exist.<sup>43</sup>

The question and a challenge in human security studies is how to objectivize human security despite the fact that insecurity and threats are social and cultural constructions. Is there some concept that would indisputably lead the beholders towards more objective perception? Naturally, the perception of human security situations will always be to a certain extent subjective and conflicting, however this is not a reason that should prevent the scientific community to contribute to minimizing these differences. We need some kind of objectivization of human security in crisis and non-crisis situations. Again, a clear benchmark, such as for example a human security index, would be helpful in this regard. The scientific communities, dealing with human security, have not addressed the question of varying and conflicting perceptions at all. Ample opportunities and challenges still remain to be dealt with.

## **VI. Conclusion**

The concept of human security has evolved in changed security environment after the end of Cold War. Simultaneous vertical and horizontal broadening of security necessitated a formation of a new concept that would explain the existing security circumstances better.

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<sup>42</sup> Buzan, Barry, *People, States and Fear, An Agenda for International Security Studies in the Post-Cold War Era*, Harvester Wheatsheaf, London, 1991; Patman, Robert, *Introduction: Security in a Post-Cold War Context*, in: Patman, Robert (ed.), *Security in a Post-Cold War World*, Macmillan Press, London, 1999, at p. 2.

<sup>43</sup> Buzan, Barry, Ole Waever and Jaap de Wilde, *Security: A New Framework for Analysis*, Lynne Rienner Publishers, London, 1998, at p. 57.



The concept adds value to the traditional approach by taking a different perspective on the common topic. A virtue of this concept is to be found in incorporating also traditional threats and traditional means into its framework. This means that the concept of human security should be understood as a complement to the traditional security concept and not a substitution. Today, human security has become an inseparable part of national and international security policies as shown by the article.

The author identified many slightly different understandings (or definitions) of human security. Their joint denominator is actually only partially controllable wideness, especially in the field of threats and means. The precise study of the concept and reality in which we try to implement it shows that this concept is actually in its infant or at least pubertal stage of development. Many conceptual challenges were identified in the article. The problem is that the scientific community (or human security studies community) is not aware of them or is not addressing them comprehensively.

The first such challenge is inadequate conceptual coherence. The Human Security Concept addresses almost all aspects of human life, which is theoretically attractive, modern and comprehensive at first sight, yet almost no serious interdisciplinary work exist at theoretical and practical level. Disciplines do not interact enough, there are no joint methodologies, operational institutions that try to provide human security work too much parallel and too little in close interaction. For these reasons, this concept is difficult to implement. The Western Balkan complex human security situation is an excellent proof for this.

A further challenge is to make clear to the scientific community that the concept of human security by its content is not something really new. This is believed by many people, who represent human security related topics as something new. New are only the concept, stronger focus on individuals as referent objects and comprehensiveness involved.

The central challenge in conceptualizing human security likely refers to balancing human security with other human rights. It is clear that people need to be safe and enjoy a reasonable, if not optimal, level of human rights. Our arguments in the article also made it clear that states are obliged to provide all human rights, including security. How to achieve this balance is simultaneously a theoretical and practical dilemma. At the theoretical level, the concept of human security has not answered sufficiently how to achieve this balance and does not integrate various disciplines enough to at least be in position to do it. For the mean time, let us be pleased with formulation that the Human Security Concept refers to providing security within the limitations of respect for human rights.

An interesting challenge appears with parallel and apparently unconnected development of human security studies and critical infrastructure protection studies. Both actually deal with effects of threats on safety and security of people but from different aspects. Fine, but again a big opportunity for new scientific achievements lies precisely at the merging point of two approaches. So far, both sides do not possess the knowledge of how to do it.

The key again is in the greater interdisciplinary that would, in this case, exceed social sciences and natural sciences.

The last challenge addressed in this article refers to the problem of subjectivity in threat perception. This is a fundamental problem in security studies as threat perception determines shaping and implementing security policies. Some more objective measure of human security situation should be developed, and a benchmark in shape of a Human Security Index would be helpful.

# How Should the Human Rights Community Strategically Position Itself towards the Concept of Human Security?

*Santhosh Persaud<sup>1</sup>*

*According to proponents of human security, human security and human rights are mutually reinforcing. However, while the concept of human security frequently refers to human rights, the human rights community is most wary of human security. The decision of whether to adopt, reject or ignore human security must be based on an analysis of the effect of human security on human rights. The nature of this effect depends on the various types of definitions of human security. Since the impact is not only positive and might even be damaging in the case of narrow definitions, the human rights community should adopt the concept of human security in order to shape its content in line with its interests. A threshold definition of human security seems to suit best the interests of the human rights community.*

## **I. Introduction**

The concept of human security became known on the international scene when the United Nations Development Programme (UNDP) published its 1994 Human Development Report.<sup>2</sup> Ever since, the concept has known growing success, which is illustrated by the foundation of the Human Security Network, the installation of the United Nations (UN) Trust Fund for Human Security and the publication of the Human Security Report.<sup>3</sup> However, the rising awareness of the concept is not at all mirrored within the human rights community. The human rights community in this paper is to be understood in a broad sense (not delving into discussions on ‘epistemic communities’) encompassing all human rights professionals, whose work focus lies on human rights and

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<sup>2</sup> United Nations Development Programme (UNDP), *Human Development Report 1994*, Oxford University Press, New York, 1994.

<sup>3</sup> Human Security Centre, *The Human Security Report 2005*, Oxford University Press, New York, 2005.

who, through their work, shape the discourse on human rights, be it NGOs, state officials and institutions, international organizations or researchers.

While the human security community (also understood in a broad sense) frequently refers to human rights and often includes human rights in the definition of human security, the human rights community seems to be most wary of human security. As Boyle and Simonsen explain, “*While the writing on human security acknowledges the importance of human rights, there has been little evidence to date that human rights theory or practice has responded.*”<sup>4</sup>

According to critics of human security, “*this is so precisely because [the human security] agenda offers nothing that does not already exist in human rights law*”.<sup>5</sup> Human security proponents on the other hand usually claim that human rights and human security are “*mutually reinforcing.*”<sup>6</sup> Elsewhere, the relationship between human rights and human security has been described as “*close yet problematic – ‘porcupines in love’*”.<sup>7</sup> So far, however, this love seems to be a one-way street.

In view of these diverging opinions, how should then the human rights community strategically position itself towards human security? The present paper will try to answer this question by analyzing the impact of human security on human rights. Based on these findings, it will be possible to make an informed choice between the different options that can be distinguished as follows: reject, ignore or adopt human security. The present paper argues that the human rights community should be less reluctant and adopt human security as a tool for the promotion of human rights.

A (small) number of texts have already been published on the relation of human rights and human security. This paper differs in two respects. First, it is narrower than most of these texts in the sense that it does not analyze mutual relationships but only the impact of human security on human rights. Second, it is broader in its scope since it does not

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<sup>4</sup> Boyle, Kevin and Sigmund Simonsen, *Human Security, Human Rights And Disarmament*, in: Disarmament Forum (Number 3), United Nations Institute for Disarmament Research (UNIDIR), Geneva, 2004, pp. 6–14, at p. 5. Available online at: <http://www.unidir.ch/pdf/articles/pdf-art2137.pdf> (All websites used in this essay were last checked on 16 October 2007). As an example, the standard textbook on human rights from Steiner and Alston does not have an entry for human security in its index for more than 1.400 pages, Steiner, Henry and Philip Alston, *International Human Rights In Context – Law, Politics, Morals*, Oxford University Press, (2<sup>nd</sup> edition), Oxford, 2000.

<sup>5</sup> Saul, Ben, *The Dangers Of The United Nations’ “New Security Agenda”: “Human Security” in the Asia-Pacific Region*, in: Asian Journal of Comparative Law (Volume 1, Issue 1), Berkeley Electronic Press, Singapore, 2006, at p. 15. Available online at: <http://www.bepress.com/asjcl/vol1/iss1/art10>

<sup>6</sup> Commission on Human Security, *Human Security Now: Final Report*, Commission on Human Security, New York, 2003, at p. 10.

<sup>7</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, in: European Human Rights Law Review, Sweet and Maxwell, London, 2005, pp. 588 – 606, at p. 588.

adopt a working definition of human security that would serve as a basis for analysis.<sup>8</sup> The variety of human security definitions requires an analysis of how these different definitions impact on human rights in order to allow for a decision which definition suits best the interests of the human rights community.

The next section will set out four classes of definitions of human security and their linkages to human rights (II). The subsequent sections provide an analysis of the different ways in that human security impacts on human rights. In this respect the major characteristic of human security is that it establishes a link between human rights and security (III). The concept might both contribute to and impede the universal respect of all human rights (IV). Lastly, human security can make a contribution to addressing current and future challenges for human rights and help create an environment conducive to human rights (V). An evaluation of these findings permits to give a policy recommendation regarding the attitude that the human rights community should adopt towards human security (VI).

## **II. Human Security Definitions and Human Rights**

In order to understand the impact of human security on human rights one has to know what human security is. However, this very question continues to provoke controversy and there is no agreement on a common definition.<sup>9</sup> It is not even possible to identify a mainstream definition as all currents have gained considerable support. For the purpose of this paper four types of definitions will be distinguished: (i) a narrow definition; (ii) a broad definition; (iii) a threshold definition; and (iv) a human rights definition. This section sets out the conceptual linkages between the different definitions of human security and human rights. The following sections will then explain how these definitions relate to the promotion of human rights.

Narrow definitions (i) have been adopted by a number of governments. Many of these definitions include the respect for human rights as a condition for human security. The Swiss foreign ministry for example defines human security as follows: *“In its narrower definition, human security aims at protecting individuals against forms of menaces such as violent conflicts, human rights violations, the arbitrary, use of mines, sexual violence, internal displacement or trafficking in human beings.”*<sup>10</sup>

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<sup>8</sup> See for example Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, applying such an approach.

<sup>9</sup> Burgess, Peter J. et al., *What Is Human Security? Comments By 21 Authors*, in: *Security Dialogue* (Volume 35, Number 3), Sage Publisher, London, 2004, pp. 345–372. In this special issue, 21 researchers suggest a wide variety of definitions for human security.

<sup>10</sup> *“Dans sa définition plus stricte, la sécurité humaine vise à protéger les individus contre les formes de menaces telles que les conflits violents, les violations des droits humains, l’arbitraire, l’utilisation des mines, la violence sexuelle, les déplacements internes ou la traite des êtres humains.”*. Translation by the

However, the context proves that the reference to human rights is more a token reference than a sincere commitment to all human rights. If all human rights were meant by this reference, social rights or the right to development should be covered as well. But the examples chosen focus on security from physical violence. This is why narrow definitions are associated with freedom from fear and civil and political rights, notably the right to life and freedom from torture.

Broad definitions (ii) on the other hand integrate ‘freedom from fear’ and ‘freedom from want’. They have a second focus on non-traditional threats and development. UNDP for instance defined human security as “*safety from chronic threats such as hunger, disease and repression*” and “*protection from sudden and hurtful disruptions in the patterns of daily life – whether in homes, in jobs or in communities.*”<sup>11</sup> It stressed that “*such threats can exist at all levels of national income and development.*”<sup>12</sup> Identifying seven security sectors, UNDP also included threats such as unemployment, cardiovascular diseases and losses in agricultural production due to pollution.<sup>13</sup> As regards human rights broad definitions are generally associated with civil and political rights and economic, social and cultural rights.<sup>14</sup> Proponents of a narrow approach usually reject these definitions<sup>15</sup> providing yet another proof that they focus on civil and political rights.

A threshold definition<sup>16</sup> (iii) starts from a broad definition of human security but limits it to its ‘vital core’<sup>17</sup>, usually concentrating on critical but not necessarily life-endangering threats. Not all human rights are then directly part of a definition, e.g. the right to education. Other rights are limited to a core, such as the right to health. As Alkire puts it: “*One of the motivational forces of human security is that it addresses*

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author, emphasis added. Département fédéral des affaires étrangères de la Confédération Suisse, *Sécurité Humaine*. Available online at: <http://www.eda.admin.ch/eda/fr/home/topics/peasec/sec/humsec.html>.

<sup>11</sup> United Nations Development Programme (UNDP), *Human Development Report 1994*, at p. 23.

<sup>12</sup> United Nations Development Programme (UNDP), *Human Development Report 1994*, at p. 23.

<sup>13</sup> United Nations Development Programme (UNDP), *Human Development Report*, at pp. 25, 27, 29 respectively.

<sup>14</sup> Benedek, Wolfgang, *Human Rights And Human Security: Challenges And Prospects*, in: Yotopoulos-Marangopoulos, Alice (ed.), *L’Etat Actuel Des Droits De L’homme Dans Le Monde*, A. Pédone, Paris, 2006, pp. 97–110, at p. 100.

<sup>15</sup> Human Security Centre, *The Human Security Report 2005*, at p. VII.

<sup>16</sup> See 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), Sage Publisher, London, 2004, pp. 373–387, at pp. 381 and following. For a concrete proposal of a threshold approach, see King, Gary and Christopher J. L. Murray, *Rethinking Human Security*, in: *Political Science Quarterly* (Volume 116, Number 4), Academy of Political Science, New York, 2001, pp. 585–610, at pp. 593 ff.

<sup>17</sup> Commission on Human Security, *Human Security Now: Final Report*, at p. 4; Alkire, Sabina, *A Vital Core That Must Be Treated With The Same Gravitas As Traditional Security Threats*, in: Burgess, Peter J., et al. (eds.), *What Is Human Security? Comments By 21 Authors*, pp. 359 – 360, at p. 360.

what most would consider being the most basic and universal of human rights.”<sup>18</sup> One could wonder whether the right to life entirely covered this definition of human security; however, although interpretation of the right to life by the Human Rights Committee acknowledged dangers like malnutrition and bad health, it did not proclaim strict legal duties of states in this respect.<sup>19</sup>

Human rights definitions (iv) understand human security solely in terms of human rights, i.e. human security is the full respect for all human rights.<sup>20</sup> As an exception to the above-depicted weak receptiveness of the human rights community towards human security, Amnesty International titled its 2006 annual report “*The Search For Human Security*” and in the report it adopted a human rights definition: “*For AI, genuine human security means that all rights – civil, cultural, economic, political and social – are realized.*”<sup>21</sup>

The above paragraphs already illustrate that the conceptual linkages of human security with human rights depend on the definition of human security one adopts. Before proceeding to an in-depth analysis, a last question has to address whether the human right to security<sup>22</sup> corresponds to human security in one of its definitions. Although the *travaux préparatoires* to the Universal Declaration of Human Rights show that security was understood in rather broad terms, the following interpretation of the legally binding International Covenant on Civil and Political Rights leads to the conclusion that “*personal security cannot be equated with human security*”.<sup>23</sup> A systematic argument can be made as well: the inclusion of a somewhat all encompassing human right to security would deprive other human rights in the same document of their significance.

<sup>18</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, Centre for Research on Inequality, Human Security and Ethnicity, Oxford, 2003, Crise Working Paper Nr. 2., at p. 38. Available online at: <http://www.crise.ox.ac.uk/pubs/workingpaper2.pdf>.

<sup>19</sup> Nowak, Manfred, *The United Nations (UN) Covenant On Civil And Political Rights: CCPR Commentary*, N.P. Engel, Kehl am Rhein, 2005, at p. 124.

<sup>20</sup> Ramcharan, Bertrand, *Human Rights And Human Security*, Commission on Human Security, Contribution to the Workshop on Relationship Between Human Rights and Human Security in San Jose, Costa Rica, 2 December 2001, at p. 1. Available online at: <http://www.humansecurity-chs.org/activities/outreach/ramcharan.pdf>.

<sup>21</sup> Amnesty International, *Report 2006 – The Search For Human Security*, Amnesty International, London, 2006. Available online at: <http://web.amnesty.org/report2006/intro-eng> Key issues of the report are Arms Control, International Justice, Displaced People, Stop Violence Against Women, Death Penalty, despite the reference to economic, social and cultural rights in the introduction.

<sup>22</sup> Article 3 of the Universal Declaration of Human Rights, 1948: “*Everyone has the right to life, liberty and security of person.*”; Article 9 of the International Covenant on Civil and Political Rights, 1966: “*Everyone has the right to liberty and security of person.*”

<sup>23</sup> Oberleitner, Gerd, *Human Security And Human Rights*, European Training- and Research Centre for Human Rights and Democracy, Graz, 2002, Occasional Paper Nr. 8, at p. 16. Available online at: [http://www.etc-graz.at/typo3/fileadmin/user\\_upload/ETC-Hauptseite/publikationen/Occasional\\_papers/Human\\_Security\\_occasional\\_paper.pdf](http://www.etc-graz.at/typo3/fileadmin/user_upload/ETC-Hauptseite/publikationen/Occasional_papers/Human_Security_occasional_paper.pdf).

Concluding, one can affirm that all definitions of human security have significant overlap with human rights;<sup>24</sup> most threats to human security can be formulated as human rights violations.<sup>25</sup> Consequently, the promotion of human security entails the promotion of human rights: “A gain for human security would be a gain for human rights and vice versa.”<sup>26</sup>

However, the following sections show that this statement of positive correlation obscures possible negative effects of human security on human rights and that the positive effects are contingent upon the definition of human security.

### III. Linking Human Rights with Security

#### A. *Securitization: Making Human Rights a Priority*

The past has shown that traditional security concepts focusing on states do not necessarily entail the security of humans,<sup>27</sup> drastically illustrated by gross violations of human rights committed by states. Similarly, national security as a concept does not yield satisfactory results in light of the decreasing power of states due to globalized interconnectiveness and even less so in failed states. Hence, there is a strong need to go beyond security interests of states in order to protect individuals. A parallel with the prevailing doctrine in development - from GDP/state development towards human development - can be drawn.<sup>28</sup>

All proponents of human security therefore agree that securitization of the individual, i.e. making the individual a (not ‘the’!) referent object of security, is imperative to remedy human insecurity. But what does securitization entail? Its purpose is to attract attention on the issue and to ensure priority treatment and extraordinary resources to address it.<sup>29</sup> Attributing the “*security label*”<sup>30</sup> signifies urgency. Human security thus helps make human rights a policy priority. Whereas human rights today are often treated as being of rather little interest to state policies, human security lifts human rights to the realm of high politics.

<sup>24</sup> For a detailed comparison of human security sectors and human rights see the table in Tadjbakhsh, Shahrbanou and Anuradha M. Chenoy, *Human Security: Concepts And Implications*, Routledge, London, 2007, at pp. 128-129.

<sup>25</sup> Oberleitner, Gerd, *Human Security And Human Rights*, at p. 19.

<sup>26</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, at p. 40.

<sup>27</sup> On the context of the evolution of the concept and the shortcomings of classical security, see Commission on Human Security (2003), pp. 2-6.

<sup>28</sup> Ul Haq, Mahbub, *Reflections On Human Development*, Oxford University Press, New York, 1995, referring to human security in the context of human development in chapter 9.

<sup>29</sup> Buzan, Barry et al., *Security, A New Framework For Analysis*, Lynne Rienner, Boulder, 1998, at pp. 21, 23-24.

<sup>30</sup> Thakur, Ramesh, *A Political Worldview*, in: Burgess, Peter J. et al. (eds.), *What Is Human Security? Comments By 21 Authors*, pp. 347-348, at p. 347.



All definitions of human security have the potential to entail such an effect, although to different degrees. The more convincingly human security can argue to address issues that merit priority treatment, the greater is the likelihood that these issues will effectively become a priority. In this respect, a multitude of researchers rightly criticize that very broad definitions do not allow for prioritization and hence lack workability; securitizing everything means securitizing nothing.<sup>31</sup> Interestingly, UNDP itself has not managed to put its policy into practice.<sup>32</sup>

A similar criticism can be made as to human rights definitions. Human rights cover a wide range of situations. Take for example a typical civil law suit of a person against her/his neighbor on the issue of fallen leaves. During the hearing, the judge asserts that in his opinion suits between neighbors are ridiculous and that he will therefore reject the claim. This is surely a violation of the right to a fair hearing. The example is not at all meant to debase the importance of human rights. But it does illustrate that everyday human rights cases might not always merit to be understood as a matter of human security.

Furthermore, another distinctive feature of human rights is their ambiguity: reasonable persons can reasonably disagree on a large number of human rights issues. Should Muslim women teachers be prohibited to wear a headscarf at school? How much privacy does a person of public interest deserve and so forth? These are questions subject to intense discussions in human rights law. But the fact that these cases might yield different results in different contexts, i.e. not necessarily cultures but also societal trends, makes them less suitable for human security. The ambiguities inherent in some human rights cases are difficult to translate in human security terms.

From the above it becomes clear that narrow definitions which are obviously closer to a traditional understanding of security and threshold definitions can more convincingly justify securitization of human rights issues.

As shown, the advantage of prioritization depends on the definition. However, prioritization as such, i.e. linking human rights to security, creates the risk of transferring a security mindset<sup>33</sup> onto human rights.

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<sup>31</sup> Paris, Roland, *Human Security: Paradigm Shift Or Hot Air?*, in: *International Security* (Volume 26, Number 2), MIT Press, Cambridge, 2001, pp. 87–102, at p. 92; Krause, Keith, *The Key To A Powerful Agenda, If Properly Delimited*, in: Burgess, Peter J. et al. (eds.), *What Is Human Security? Comments By 21 Authors*, at pp. 367-368; Macfarlane, S. Neil, *A Useful Concept that Risks Losing Its Political Salience*, in: Burgess, Peter J. et al. (eds.), *What Is Human Security? Comments By 21 Authors*, pp. 368 -369, at p. 369; King, Gary, and Christopher J. L. Murray, *Rethinking Human Security*, at p. 591.

<sup>32</sup> Hampson, Fen Osler et al., *Madness In The Multitude: Human Security And World Disorder*, Oxford University Press, New York, 2002, at pp 158-163.

<sup>33</sup> Buzan, Barry et al., *Security, A New Framework For Analysis*, at p. 29.

## **B. Dangers of the Security Mindset**

A primary objection to linking human rights with security stems from fears that this will cause a growing militarization of human rights issues. The report on the responsibility to protect<sup>34</sup> and the general discussion of redefining state sovereignty in order to allow for military intervention for human security purposes have contributed to such concerns.<sup>35</sup> Misguided definitions of human security like “*human security should mean a situation in which the life, the body and the socio-economic-political well-being of a person have been protected through the use of physical force*”<sup>36</sup> were not reassuring either in this context.

But even if we accept military intervention as a last resort to address human insecurity<sup>37</sup>, it is the very purpose of human security to demilitarize discourse and action in the field of security. The concept of human security, therefore, has the capacity to deal with attempts to militarize its concerns. This is especially the case for those definitions that focus on non-traditional threats as well which obviously cannot be dealt with by military means.

In addition, the human rights community should not forget that there was no need for human security in order to discuss the issue of humanitarian intervention. Gillespie’s article in 1993 (i.e. before UNDP published its report) already addressed all major issues linked to humanitarian intervention without a single reference to human security but only in terms of human rights.<sup>38</sup> However, it is possible to contend that human security, especially a narrow definition, appeals more to proponents of traditional security and thus establishes a stronger link to military circles than human rights do.

Securitization is not only about militarization, but also about the fact that everything should be done to achieve security. Hence, there is a danger to take “*security as the desired end*”<sup>39</sup> which might lead to pursuing human security with extraordinary means

<sup>34</sup> International Commission on Intervention and State Sovereignty (ICISS), *The Responsibility To Protect*, International Development Research Center, Canada, 2001.

<sup>35</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at pp. 603-604.

<sup>36</sup> Naidu, M.V., *State Sovereignty, Human Security And Military Interventions*, in: Institute for Defense Studies and Analyses (ed.), *State Sovereignty In The 21st Century, Concepts, Relevance And Limits*, IDSA, New Delhi, 2001, pp. 49-73, at p. 51.

<sup>37</sup> As does the International Commission on Intervention and State Sovereignty, see International Commission on Intervention and State Sovereignty, *The Responsibility To Protect*.

<sup>38</sup> Gillespie, Thomas R., *Unwanted Responsibility: Humanitarian Military Intervention To Advance Human Right*, in: Peace and Change (Volume 18, Number 3), Blackwell Publishing, Boston, 1993, pp. 219-246; Steiner, Henry and Philip Alston, *International Human Rights In Context – Law, Politics, Morals*, at pp. 648-662, who present excerpts on the issue of intervention for the protection of human rights with no reference to human security.

<sup>39</sup> Buzan, Barry, *A Reductionist, Idealistic Notion That Adds Little Analytical Value*, in: Burgess, Peter J. et al. (eds.), *What Is Human Security? Comments By 21 Authors*, pp. 369 – 370, at p. 370.

outside the legal framework. The US American ‘renditions’<sup>40</sup> are an illustration of such a danger.

Buzan et al. assert: “*Basically, security should be seen as negative, as a failure to deal with issues as normal politics.*”<sup>41</sup> One could wonder if human rights were therefore not better served by trying to reject all links between human rights and security.<sup>42</sup> However, security is almost always ensured within the legal framework by a wide range of measures. If there is a risk that human security might damage human rights, human security proponents have reason to assume that this risk is limited.

Saul fears that human security could lead to an increased implication of the United Nations (UN) Security Council in development issues that would better not be dealt with within this forum.<sup>43</sup> However, this fear seems highly artificial. Human rights proponents do not generally argue for more Security Council involvement precisely for the many counter-arguments Saul presents, be they legal or political. However, in case of general inaction to address e.g. the consequences of natural disaster, human security proponents might judge it favorable if the Security Council used its power to oblige states to take necessary measures in order to address non-military but equally pressing (!) issues.

Risks of securitizing human rights thus exist. But they are limited in scope and become less important in light of further advantages. As the next sub-section illustrates, human security protects human rights by countering national security arguments.

### **C. Human Security Instead of National Security**

As pointed out above, human security requires recalibrating security considerations towards the individual. Human security, therefore, becomes an instrument to defend human rights against national security interests.<sup>44</sup> Human rights treaties, for instance, that allow for derogating from certain human rights in cases of emergency should be construed in a way that restrictions be legal only if it is for human security reasons.<sup>45</sup> Con-

<sup>40</sup> “*The secret and unlawful transfer of detainees between countries.*” Definition of Amnesty International, *Global Report 2007*, Amnesty International, London 2007. Available online at: <http://thereport.amnesty.org/eng/Regions/Americas/United-States-of-America> .

<sup>41</sup> Buzan, Barry et al., *Security, A New Framework For Analysis*, at p. 29.

<sup>42</sup> Buzan, Barry, *A Reductionist, Idealistic Notion That Adds Little Analytical Value*, at p. 370; Krause, Keith, *The Key To A Powerful Agenda, If Properly Delimited*, at p. 368, who asserts: “[I]t is not clear that anything is gained by linking ‘human security’ to issues such as education, fair trade practices or public health challenges.”

<sup>43</sup> Saul, Ben, *The Dangers Of The United Nations’ “New Security Agenda”*: “Human Security” In *The Asia-Pacific Region* ,at pp. 31-33.

<sup>44</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 601.

<sup>45</sup> Werther-Pietsch, Ursula, *International Security - Human Security: Security Concepts And Human Rights*, at p. 6.

sequently, this will lead to a greater respect for human rights in these cases. More generally, state discretion with regard to security arguments will be reduced owing to human security.<sup>46</sup> “*Human security cannot be achieved at the expense of human rights.*”<sup>47</sup>

However, one should not be too optimistic. Human security can be manipulated in the national interest.<sup>48</sup> National policies today can easily be wrapped in human security terms. While it might have been rather easy to discard 18<sup>th</sup> century imperial wars that uniquely served a very restricted elite interest at the expense of the larger population, these cases are rather rare today. North Korea could be an illustration of a national policy that is completely disconnected from its people’s interests.

With regard to anti-terrorist measures, however, the case is much less clear. Since terrorist attacks are aimed at civilians, preventing these attacks clearly is a human security task and intends to make citizens feel more secure. Restricting civil liberties for this purpose poses problems of human security. Conflicting human security interests thus have to be balanced - a challenge human rights doctrine has dealt with for a long time. The added value of human security when defending human rights against security measures is thus limited. It forces policy makers to prove that their policies actually serve human security, and therefore permits a critical analysis of security policies. Since it articulates human rights concerns in terms of security, the results of this analysis are likely to be taken more seriously by policy makers.

As a last beneficial effect of securitization of human rights, human security raises awareness of the importance of human rights for international security.

#### ***D. Linking Human Rights and International Security***

Human rights have a contribution to make to international security, but in the past their influence was rather weak. Human security can explain why human rights are important for sustainable conflict prevention and post-conflict rebuilding.<sup>49</sup> Boyle and Simonsen have made a case for establishing a link between human rights and disarmament.<sup>50</sup> For

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<sup>46</sup> Seidensticker, Ellen, *Human Security, Human Rights And Human Development*, Commission on Human Security, Harvard, 2002, at p. 1. Available online at: <http://www.humansecurity-chs.org/activities/outreach/0206harvard.pdf>.

<sup>47</sup> Benedek, Wolfgang, *Human Rights And Human Security: Challenges And Prospects*, at p. 101.

<sup>48</sup> Saul, Ben, *The Dangers Of The United Nations’ ” New Security Agenda”*: “*Human Security*” In *The Asia-Pacific Region*, at p. 4.

<sup>49</sup> Oberleitner, Gerd, *Human Security And Human Rights*, at p. 22; Werther-Pietsch, Ursula, *International Security - Human Security: Security Concepts And Human Rights*, at p. 25.

<sup>50</sup> Boyle, Kevin and Sigmund Simonsen, *Human Security, Human Rights And Disarmament*, at p. 11.

Oberleitner, human security has the potential to reconcile the UN Charter values of international security and human rights.<sup>51</sup>

Linking human rights to international security finds a base in international human rights. “*National security and international security cannot be achieved without respect for individual security in the form of respect for human rights and fundamental freedoms.*”<sup>52</sup> Article 28 of the Universal Declaration of Human Rights (UDHR) stipulates that “[e]veryone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.” So far, this right has been rather devoid of concrete meaning - a *lacuna* human security could help to overcome. In relation to the right to life the Human Rights Committee has stated that states have the “*supreme duty to prevent wars*”.<sup>53</sup>

This section has demonstrated that human security creates a linkage between human rights and security that underlines the importance of human rights but also creates certain – although limited – dangers. But human security does not only link human rights to security, it also provides for a different framework of analysis. Section III shows how human security impacts on the universal respect for all human rights; section IV sets out how human security will help human rights to address current and future challenges.

#### **IV. Impact on the Universal Respect for All Human Rights**

##### **A. Increase the Acceptance of Human Rights**

According to its proponents, human security will enhance the acceptance of human rights. “*The language of human security is sometimes appealing because it can be used in contexts where the language of human rights would meet entrenched opposition*”<sup>54</sup> Tadjbakhsh and Chenoy contend that human security might actually promote universality of human rights.<sup>55</sup>

It is true that human rights face continued criticism of being an instrument of Western domination, notably opposed to so-called ‘Asian values’. When discussing the role of

<sup>51</sup> Oberleitner, Gerd, *Human Security And Human Rights*, at p. 9.

<sup>52</sup> Ramcharan, Bertrand, *Human Rights And Human Security*, in: Disarmament Forum (Number 1), United Nations Institute for Disarmament Research (UNIDIR), Geneva, 2004, pp. 39–48, at p. 40. Available online at: <http://www.unidir.ch/pdf/articles/pdf-art2137.pdf>.

<sup>53</sup> Human Rights Committee, *General Comment Number 6 on article 6 (Right to Life)*, 30 April 1982, at para. 2 and Human Rights Committee, *General Comment Number 14 on article 6 (Right to Life)*, 9 November 1984, at para. 2. Available online at <http://ohchr.org/english/bodies/hrc/comments.htm>.

<sup>54</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, at p. 39.

<sup>55</sup> Tadjbakhsh, Shahrbanou and Chenoy, Anuradha M., *Human Security: Concepts And Implications*, at p. 136.

human security in increasing the acceptance of human rights, one can distinguish two levels: the concept as such and its content.

Human security as a concept applies to every human being and thus has universal ambition. However, the very same criticism that states put forward against human rights applies to human security as well.<sup>56</sup> Many fear that human security is just another attempt to justify occidental interventionism, and therefore criticize human security even more than human rights. In addition, states that are generally favorable of human rights reject references to human security in UN resolutions.<sup>57</sup> Support for human security thus far is rather weak, which is why speaking of human security as such does not entail a significant increase in the acceptance of human rights as a concept. In fact, every state on earth has ratified at least one major human rights treaty, signifying that all states acknowledge the concept of human rights. The criticism of human rights is hence much less about the concept itself but about contents.

Regarding contents, in contrast, human security might actually make a difference in the promotion of human rights. Making a difference, of course, requires being different. A human rights definition of human security does not add any new content. Broad and threshold definitions in turn establish a link between human rights and economic and social security and promote development thanks to securitization of development issues.<sup>58</sup> Among developing countries, acceptance of human security might therefore be greater as for civil and political rights alone, rights that many donor countries focus on.<sup>59</sup> Having said this, it becomes clear that narrow definitions give rise to criticism from developing countries.

Human security thus has the capacity to increase the acceptance of human rights. The problematic nature of narrow definitions also shines through when it comes to increasing pressure on policy makers to respect human rights.

### ***B. Pressuring Policy Makers to Respect Human Rights***

The very fact that human security prioritizes human rights increases pressure on governments to respect their obligations. Two elements complement this asset. First, human

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<sup>56</sup> Tadjbakhsh, Shahrbanou and Chenoy, Anuradha M., *Human Security: Concepts And Implications*, at p. 138. Benedek, Wolfgang, *Human Rights And Human Security: Challenges And Prospects*, at p. 106: "Consequently, they [human rights and human security] face the same negative reactions by some states preoccupied with protecting their sovereignty."

<sup>57</sup> Benedek, Wolfgang, *Human Rights And Human Security: Challenges And Prospects*, at p. 108.

<sup>58</sup> Saul, Ben, *The Dangers Of The United Nations' "New Security Agenda": "Human Security" In The Asia-Pacific Region*, at p. 12.

<sup>59</sup> Saul, Ben, *The Dangers Of The United Nations' "New Security Agenda": "Human Security" In The Asia-Pacific Region*, at p. 12. Tadjbakhsh, Shahrbanou and Anuradha M. Chenoy, *Human Security: Concepts And Implications*, at pp. 138-139.

security has different means to promote human rights. Second, it also limits state discretion with regard to the respect of economic, social and cultural rights.

As to the instruments employed for its implementation, human security varies distinctively from human rights. Human rights obviously are essentially about legal obligations while human security is essentially political.<sup>60</sup> “*Economic, political and military instruments*” are at its disposal.<sup>61</sup> In this sense, human security can be seen as complementary in its approach to promote human rights. However, there is an inherent danger of weakening the legal force of human rights. Established standards could become subject to questioning and the very fact that legal implications are consumed by a political concept obscures the existence of these very standards.<sup>62</sup> As already mentioned the link between human security, especially of narrow definitions, and humanitarian intervention – presumably stronger than between human rights and intervention – also provokes criticism.

As with national security it is argued that human security can help reduce state discretion with regard to the progressive realization<sup>63</sup> of economic, social and cultural rights.<sup>64</sup> Although even proponents of human security wonder how such a difficult question could be answered by a vague concept (which is true in respect of broad definitions),<sup>65</sup> it can be argued that human security provides a strong argument against states that hide behind the shield of progressive realization to justify slow or even no progress. Especially threshold definitions of human security imply that states should aspire to guarantee essential access to e.g. health as a matter of urgency while the concept of progressive realization – despite a clear stance of the Committee on Economic, Social and Cultural Rights<sup>66</sup> – gave the impression that economic, social and cultural rights were a matter of political good will only.

<sup>60</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 596, recalls that human rights are of course also political and that human security by incorporating human rights consumes its legal value.

<sup>61</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, at p. 40.

<sup>62</sup> Saul, Ben, *The Dangers Of The United Nations' "New Security Agenda": "Human Security" In The Asia-Pacific Region*, at p. 14.

<sup>63</sup> Article 2 para. 1 of the International Covenant on Economic, Social and Cultural Rights:

“*Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.*” .

<sup>64</sup> Seidensticker, Ellen, *Human Security, Human Rights And Human Development*, at p. 1.

<sup>65</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 597.

<sup>66</sup> Committee on Economic, Social and Cultural Rights, General Comment Number 3 on article 2 para. 1 (The nature of States parties obligations), 14 December 1990, at para. 10. Available online at: <http://ohchr.org/english/bodies/cescr/comments.htm>

“*On the basis of the extensive experience gained by the Committee, as well as by the body that preceded it, over a period of more than a decade of examining States parties' reports the Committee is of the view*

However, lobbying for the respect of human rights might have negative side effects if it focuses on some rights only. Prioritization might undermine the indivisibility of human rights.

### C. *Prioritization versus Indivisibility*

Definitions that do not cover all human rights, i.e. narrow and threshold definitions, are potentially dangerous for the indivisibility of human rights, as laid down in the Vienna Declaration and Programme of Action. “*All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.*”<sup>67</sup> Since securitizing means prioritizing these human security definitions might imply that certain human rights are more important than others. Oberleitner contends that human rights do not “*allow for prioritising rights on the basis of a needs-based analysis or threat-level analysis.*”<sup>68</sup> It is a general trait of the human rights community to refrain from prioritizing.<sup>69</sup>

In order to respond to this criticism, one must understand what exactly the exclusion of a human right from the definition of human security means. It does not entail that this right does not have any impact whatsoever on human security. The indivisibility and interdependence of human rights proves that all human rights are important for the implementation of human security. The best example in this regard is education. Education creates positive externalities and is thus an important element of guaranteeing human security in the long term. However, a lack of access to education does not constitute a critical threat. Hence, a human security policy would never encourage a neglect of education because it contributes to maintaining human security; it does not demand the realization of some human rights at the expense of others. But human security policies

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*that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, prima facie, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its raison d'être.” (emphasis added)*

<sup>67</sup> World Conference on Human Rights, *Vienna Declaration and Programme of Action*, A/CONF.157/23, 12 July 1993, at para 5. Available online at:

[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/A.CONF.157.23.En](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/A.CONF.157.23.En) .

<sup>68</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 599.

<sup>69</sup> Alston, Philip, *Ships Passing In The Night: The Current State Of The Human Rights And Development Debate Seen Through The Lens Of The Millenium Development Goals*, Human Rights Quarterly (Volume 27, Number 3), The Johns Hopkins University Press, Baltimore, 2005, pp. 755–829, at p. 807; Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*, in: *European Journal of International Law* (Volume 12), Oxford University Press, Oxford, 2001, pp. 917-941, at pp. 918-919.



require that in a setting of resource constraints where difficult choices have to be made, priority is given to those human rights that protect the vital core of human beings.<sup>70</sup> Human security would also argue for giving priority to vital health interests in the case of access to antiretroviral treatment for HIV/AIDS patients over private intellectual property rights. As Alston recalls, it would be “*a misunderstanding of the consequences of [the indivisibility and interdependence of all rights] to suggest that setting priorities is unacceptable.*”<sup>71</sup>

Furthermore, the indivisibility of human rights does not rule out a hierarchy within human rights.<sup>72</sup> Some human rights are part of *jus cogens*, others are not; some human rights are non-derogable and therefore have to be respected in times of emergency, while others may be infringed upon; core obligations of economic, social and cultural rights are not subject to mere obligations of progressive realization; and the right to life is frequently referred to as the ‘supreme right’.<sup>73</sup> Such a hierarchy expresses common values.<sup>74</sup> Two ideas underlie this concept. First, one can speak of basic rights that are more important than others;<sup>75</sup> second, core obligations correspond to basic needs.<sup>76</sup> The same reasoning applies to human security: prioritizing what is commonly accepted as vital for human beings and responding to basic security needs.

However, it is precisely because of this correlation that Saul asserts that human security brings nothing new since human rights already know how to prioritize.<sup>77</sup> But the different sets of hierarchies in human rights law are not consistent with one another, neither are the different lists of non-derogable rights in different human rights treaties.<sup>78</sup> Nowak therefore concludes that not the listing in itself but the idea behind it is crucial: “*that*

<sup>70</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, at pp. 39-40.

<sup>71</sup> Alston, Philip, *Ships Passing In The Night: The Current State Of The Human Rights And Development Debate Seen Through The Lens Of The Millenium Development Goals*, at p. 807.

<sup>72</sup> Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*.

<sup>73</sup> Nowak, Manfred, *The United Nations (UN) Covenant On Civil And Political Rights: CCPR Commentary (2nd edition)*, at p. 121.

<sup>74</sup> Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*, at pp. 936-937.

<sup>75</sup> Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*, at p. 921.

<sup>76</sup> Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*, at pp. 925-926.

<sup>77</sup> Saul, Ben, *The Dangers Of The United Nations’ “New Security Agenda”: “Human Security” In The Asia-Pacific Region*, at p. 14.

<sup>78</sup> Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*, at p. 920; Nowak, Manfred, *The United Nations (UN) Covenant On Civil And Political Rights CCPR Commentary (2nd edition)*, at p. 85.

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*certain essential rights [...] that are particularly endangered in emergency situations may not be restricted under any circumstances [...]*"<sup>79</sup>

Human security thus underlines the importance of a secure environment for the full development of human rights. In this sense, the two different approaches, prioritization and equal respect, are in fact complementary. The guiding human security offers to resolve conflicts between human rights should be perceived as an added value of human security.<sup>80</sup>

The reasoning presented above demonstrates the compatibility of a threshold definition of human security with human rights. It even provides an advantage in comparison to a broad and a human rights definition since it helps resolve conflicts between human rights.

But does the argument of compatibility also hold true for a narrow definition? Narrow definitions exclude a large number of human rights, e.g. the right to food or the right to housing. Applying the same reasoning as before, a human security policy would impose a priority on crime prevention even though an earthquake might have devastated the country. Such a type of prioritization is incompatible with the respect for human rights. The deficiencies of narrow definitions also play a role in the context of another argument frequently put forward in favor of human security, which will be examined now.

Proponents argue that human security as a concept is "*not burdened by problematic cold war history*"<sup>81</sup> and can therefore help overcome the divide between civil and political rights and economic, social and cultural rights. It was precisely in this perspective that interdependence and interrelatedness of human rights were stressed in the Vienna Declaration.<sup>82</sup>

But the definitional struggles within the human security community, notably between broad and narrow definitions, currently undermine any such potential.<sup>83</sup> The differing approaches of Canada and Japan towards human security come close to a renewed East-West divide. Most narrow definitions make a token reference to human rights without spelling out which rights should be covered. The following definition of a report for the African Human Security Initiative illustrates how narrow definitions strengthen civil and political rights to the detriment of economic, social and cultural rights.

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<sup>79</sup> Nowak, Manfred, *The United Nations (UN) Covenant On Civil And Political Rights: CCPR Commentary (2nd edition)*, at p. 95.

<sup>80</sup> Seidensticker, Ellen, *Human Security, Human Rights And Human Development*, at p. 1.

<sup>81</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, at p. 38.

<sup>82</sup> Teraya, Koji, *Emerging Hierarchy In International Human Rights And Beyond: From The Perspective Of Non-Derogable Rights*, at p. 925.

<sup>83</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 597.

Human security requires, at a minimum, secure access to the essential requirements for an adequate human life. These essential requirements are, in turn, specified by a conception of human rights. The human rights that must be respected in order for human security to prevail in a shared social context surely today include the following: freedom from arbitrary arrest and detention; freedom from torture, and other forms of cruel, inhuman and degrading treatment and punishment; personal security and safety; access to the courts; rights to fair, equitable and transparent judicial processes before independent tribunals; and freedom to express opinions and to seek, receive and impart information.<sup>84</sup>

Civil and political rights merit the label ‘security relevant’ whereas economic, social and cultural rights are somewhat luxury items that can be addressed once security is established. Similarly, the goals and achievements of the Human Security Network are only linked to armed conflict and crime.<sup>85</sup>

If one adheres to the indivisibility of human rights, it is difficult to sustain a definition that puts a sole emphasis on civil and political rights. The focus on physical man-made violence ignores other vital threats. The fact that it does not matter for people whether they are shot by a government agent or starving or dying from tuberculosis strongly argues against narrow definitions. The human rights community should therefore be advised to reject narrow definitions of human security and to question token references to human rights within a context that understands human rights as civil and political rights only. Other definitions of human security, however, have indeed a potential to close the divide between civil and political rights and economic and social rights.

This section has argued that except for the problematic narrow definitions, human security enhances the acceptance and the promotion of all human rights. The next section sets out which role human security can play with regard to current and future challenges in the promotion of human rights.

## **V. Current and Future Challenges: Create an Environment Conducive to Human Rights**

Proponents of human security frequently assert that the concept will help create an environment that is conducive to human rights by having a broader vision. It is clear that a human rights definition cannot have an added value in this sense since it does not pro-

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<sup>84</sup> Cherubin-Doumbia, Giliane, *African Commitments To Human Rights, A Review Of Eight New Partnership of African's Development (NEPAD) Countries*, African Human Security Initiative – Institute for Security Studies, Pretoria, 2004, at p. 4. Available online at:

<http://www.iss.co.za/pubs/Other/ahsi/ChrubinMono/Contents.html> .

<sup>85</sup> Benedek, Wolfgang, *Human Rights And Human Security: Challenges And Prospects*, at pp. 102-103.

vide for new elements of analysis.<sup>86</sup> The other types of definitions, however, contribute to understanding which conditions are necessary to protect human rights in two respects that are difficult to integrate in the human rights framework: actors that are external to the relation between duty bearer and right holder, and threats.

#### **A. *Beyond the Relation Between Duty Bearer and Right Holder***

Human rights focus on rights holders, individuals, and duty bearers, the state. Human security proponents therefore assert that human rights have difficulties to include other actors. Human security as a concept does not exclude threats to human security depending on the quality of the actor. Conversely, the concept does not assume that the state would be the only actor that could provide security. It is precisely the aim of human security to widen the focus. Not only states can endanger and guarantee the security of individuals but also non-state actors. Human security therefore helps to include non-state actors both as threats and protectors of human rights.<sup>87</sup> However, one has to take a closer look at the added value of human security in this respect.

The human rights community has shown commitment and creativeness in tackling these challenges. With regard to business actors, efforts to achieve more regulation have been made. They have been complemented by partnerships such as the Global Compact and growing voluntary undertakings. International criminal law and the establishment of the International Criminal Court on the other hand are examples of how non-state actors in armed conflicts can be prevented from violating human rights.

Tomuschat – although rather critical of human security – has also put forward that human security argues more forcefully for the engagement of the international community in ensuring human security and thus human rights,<sup>88</sup> however, it was already shown above that based on human rights Gillespie had contended that a duty to intervene should exist in international law. Human rights conditionality in bilateral or multilateral treaties show that states are involved in the protection of human rights beyond their borders.

Hence, the human rights community has the potential to include international and non-state actors. But the examples mentioned above have not yielded satisfactory results. The fact that human rights are intrinsically linked to the state hampers their capacity to pursue the efforts undertaken with more success. Human security therefore can make a valuable contribution to support the widening of the human rights perspective towards non-state actors and the international community.

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<sup>86</sup> Oberleitner, Gerd, *Porcupines In Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 601.

<sup>87</sup> Oberleitner, Gerd, *Human Security And Human Rights*, p. 23-25.

<sup>88</sup> Tomuschat, Christian, *Human Rights: Between Idealism and Realism*, Oxford University Press, Oxford, 2003, at pp. 56-57.

In a very optimistic and revolutionary vision, Werther-Pietsch even sees a potential for human security to establish a regime of rights and duties for every person towards a direct application of human rights between all individuals.<sup>89</sup> The possibility that one day this vision will come true cannot be ruled out, but it is certain that it will only be in the long term. In a short term perspective, the human security focus on threats might strengthen the capacity of human rights to promote an environment conducive to human rights.

### ***B. Threats Instead of Violations***

Since human rights generally operate in terms of violations, they have difficulties to cope with mere threats if they are not about to become a violation. In contrast, broad and threshold definitions of human security have a capacity to address e.g. economic crises, disaster, environmental degradation or proliferation of small arms.<sup>90</sup> These threats cannot be construed as human rights violations, either because there is no actor, as with disaster, or the problem is systemic, as with economic crisis or general environmental degradation, or the causal link between act and possible violation is too weak to establish a precise human rights violation, as it is with arms trade. But the aforementioned events or situations are most relevant for the respect of human rights. Human security helps to understand that policies that prevent these situations or mitigate their effects are human rights policies. As such, human security helps to “*understand the interrelatedness between poverty, security and human rights.*”<sup>91</sup>

Again, the human rights community has also tried to broaden its vision of possible threats via so-called third generation human rights. The right to development and the right to a healthy environment are examples. However, in contrast to the visible progress made with respect to private actors and the international community, these third generation rights so far are only hollow obligations. Although they have aroused academic interest and provided arguments for the political debate, they have not been put into practice.

This last section on the impact of human security on human rights has explained that all definitions of human security except for those that equate human security with human rights help create conditions that are conducive to the protection of human rights. Hu-

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<sup>89</sup> Werther-Pietsch, Ursula, *International Security - Human Security: Security Concepts And Human aRights*, at pp. 9 and 13.

<sup>90</sup> Oberleitner, Gerd, *Porcupines in Love: The Intricate Convergence Of Human Rights And Human Security*, at p. 600.

<sup>91</sup> Werther-Pietsch, Ursula, *International Security - Human Security: Security Concepts And Human Rights*, at p. 8. Ben Saul contends that “*human security would be irrelevant with regard to development since the concept of human development would already broaden the focus. However, this does not take into account the positive effects of securitization.*” See Saul, Ben, *The Dangers Of The United Nations’ ” New Security Agenda”*: “*Human Security” In The Asia-Pacific Region*, at p. 17.

man security gives fresh impetus to efforts within the human rights community to include new actors and to cope with a wider variety of threats.

## **VI. Evaluation and Conclusion**

Based on the above findings it is now possible to assess how the human rights community should position itself towards human security. It is obvious that the frequent reference human security makes to human rights has an impact on the understanding of human rights. If actors such as the European Union, the UN and a number of states frame their (foreign) policies also in terms of human security, there are possible repercussions on their human rights policies. Proponents of human security have articulated their strong interest to benefit from the advantages of human rights – longstanding tradition, well-established concept, wide acceptance and their legal value – to promote human security.

In this regard, it would be a profound mistake to adopt a ‘wait and see’ attitude. As shown above, human security has a potential of damaging human rights. The human rights community should therefore not be an idle bystander in the human security debate that will be led by development and security experts not always sensitive to human rights issues.

Having discarded the option of ignoring human security, there remain two options: rejecting the concept or adopting it. Saul opts for rejecting the concept. In his opinion, the short term political gains of human security are outweighed by the damage it causes to the international legal framework.<sup>92</sup> However, rejecting human security at the current stage seems neither feasible nor necessary. After more than a decade of human security discussions, it would be hardly convincing to suddenly contest the concept. In addition, human security and human rights share so much content that observers would be surprised to see the human rights community criticize human security.

But more importantly, this paper has demonstrated that human security has distinctive advantages for the promotion of human rights. It would be a missed opportunity if the human rights community did not adopt the concept. Boyle and Simonsen affirm that linking human rights to international security would be one of most interesting aspects that could motivate NGOs to adopt a human security approach.<sup>93</sup> This paper has proven that other elements of human security may enhance the promotion of human rights as well.

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<sup>92</sup> Saul, Ben, *The Dangers Of The United Nations’ “New Security Agenda”: “Human Security” In The Asia-Pacific Region*, at p. 35.

<sup>93</sup> Boyle, Kevin and Sigmund Simonsen, *Human Security, Human Rights And Disarmament*, at p. 8.

But in light of the possible pitfalls inherent to human security in its variety, the human rights community should use its power and influence to actively shape the content of human security. In the short term, the human rights community would be well advised to hold consultations and workshops on the issue. Research institutions, NGOs, treaty bodies and UN charter bodies should integrate human security in their work.<sup>94</sup> The activities of the European Training Center for Human Rights and Democracy could serve as a model. The Center has a broad human security agenda. Its objective is to enhance the concept of human security by *inter alia* undertaking research on the “*relationship between human rights, seen in its entirety of three generations, and human security*” and establishing human rights education as a basis for human security.<sup>95</sup> What now remains is the question which definition suits best the interests of the human rights community.

The findings of the present paper allow for a comparison of different human security approaches from a human rights perspective. Narrow definitions are dangerous for human rights in that they undermine the indivisibility of civil and political rights and economic, social and cultural rights. They also establish a stronger link to intervention and therefore face increased criticism in developing countries. Such definitions are therefore hardly acceptable for the human rights community.

Human rights definitions have the appeal of being easy to adopt. However, they provide no additional analytic value to cope with the current and future challenges human rights face. For this very reason the human rights definition – from all types of definitions presented in this paper – will be the less likely to be accepted by the human security community. If the human security movement wanted to speak human rights only it would have joined the human rights community. In addition it is difficult to convincingly argue for securitization of all human rights.

The same criticism holds true for broad definitions. The strongest criticism against broad definitions is their broadness. They are hardly operational – trying to explain everything explains nothing.

Threshold definitions in turn have distinctive advantages. They justify urgency for human rights, they underline their indivisibility, they provide new insights in the protection of human rights and they allow for effective prioritization. At the same time, threshold definitions present the challenge of defining thresholds. At least the approach immediately allows for determining the ends of the continuum: torture and starvation are human security issues; unemployment in an industrialized country generally is not.

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<sup>94</sup> Boyle, Kevin and Sigmund Simonsen, *Human Security, Human Rights And Disarmament*, at pp. 8 ff.

<sup>95</sup> European Training Center for Human Rights and Democracy, *Human Security – Research Agenda*, ETC Graz, Graz, 2007, Available online at: <http://www.etc-graz.at/typo3/index.php?id=658> .

One can then discuss whether universal thresholds (similar to the human development index)<sup>96</sup> are preferable to a context-based approach.

Alkire calls for “*the appropriate institutions*” to discuss the necessary prioritization.<sup>97</sup> It is obvious that the human rights community has to join such a dialogue in order to ensure the full respect for human rights and to avoid approaches that call for the pursuit of some rights at the expense of others. Only if the human rights community becomes seriously engaged in human security will the relationship between human rights and human security become truly mutually reinforcing.

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<sup>96</sup> See for a concrete proposal: King, Gary and Christopher J. L. Murray, *Rethinking Human Security*.

<sup>97</sup> Alkire, Sabina, *A Conceptual Framework For Human Security*, at p. 3.



# Between 'Messy Aftermath' and 'Frozen Conflicts': Chimeras and Realities of Sustainable Peace

*Francesco Strazzari*<sup>1</sup>

*The transformations that war has undergone in coincidence with the end of bipolarism and the recent crisis of multilateralism challenge the way in which we conceptualize peace. Although 'sustainable peace' is increasingly evoked in policy and academic texts, the concept remains fundamentally under-theorized. This article engages with the public debate on contemporary armed conflicts and their 'messy aftermath.' It interrogates classical and medieval sources and it offers a critical overview of existing literature. The author exposes the tensions and tautologies that the incorporation of notions of 'process' and 'duration' into an unmodified conception of peace entails, and argues that sustainability can be meaningfully employed only if it is acknowledged to be an inherently normative construct. The constellation of 'intractable peaces' that shape European peripheries from the Balkans to the Caucasus provides a background against which pragmatist-constructivist insights are proposed with respect to how empirical research could be conducted.*

*Et utrum chimera bombinans in vacuo  
possit comedere secundas intentiones  
(And if the chimera while buzzing in the  
void could swallow second intentions)*

Voltaire quoting Rabelais in *Athée*,  
*Athéisme*, Dictionnaire Philosophique

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## I. Introduction

There is no peace settlement among scholars concerning how peace is to be defined. Almost 50 years after the first steps of peace research, 'peace' remains perhaps *the* quintessential 'essentially contested concept',<sup>2</sup> namely one entailing endless disputes over its meaning and employment. Exploring it requires delving into value-laden conceptual clusters; alternative definitions and modifications of meaning that do not point to any 'rational settlement' of the original ambiguities. As Jean Elshtain argued, peace remains an ontologically suspicious concept, as troubling in its own way as war.<sup>3</sup>

While the difficulties involved in conceptualizing peace are far from being overcome, the concept of sustainable peace has gained currency among scholars and policy-makers. This article aims to make patent how, instead of narrowing the realm of the existing dispute, coupling peace with sustainability does, if anything, import new inconsistencies, thus signalling the existence of wider and deeper tensions. Once the concept of sustainable peace is critically mapped and its normative nature is illuminated, the analysis will attempt a pragmatic reconstruction, so as to allow the use of sustainable peace that minimizes the risk of ideological pitfalls while orienting empirical research. A number of cases taken from violent conflicts along the South Eastern peripheries of Europe will be proposed for illustration purposes.

Discussing the way we conceptualize sustainable peace in the era in which the global war on terror is fought is no idle exercise. As minimal as they may sound, conceptual revisions that can be made *à mont* to our understanding of peace might make significant differences *en aval* for peace-oriented practices.

## II. A Genealogy of Measuring Pathology

In compiling the entry on 'peace' for the widely circulated *Encyclopedia of Peace, Conflict and Peace*, Anatol Rapoport set out with a *proviso*: the word 'peace' has never been acceptably defined, and it has received much less attention than its counterpart, 'war'.<sup>4</sup> The traditional view in fields such as military history, strategic studies and international relations (IR) theory is that it is not the knowledge that we accumulate on peace, but rather what we learn about the outbreak and conduct of war that will eventually tell us what is needed for (re)establishing a condition of peace. Peace, in this case,

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<sup>2</sup> Gallie, W.B., *Essentially Contested Concepts*, in: Max Black (ed.), *The Importance of Language*, Englewood Cliffs, Prentice-Hall, 1962, pp. 121-147.

<sup>3</sup> Elshtain, Jean B., *Women and War*, The Harvester Press, Brighton, 1987.

<sup>4</sup> Rapoport, Anatol, *Definitions and Concepts of Peace*, in: Lester R. Kurtz (ed.), *Encyclopedia of Peace, Conflict and Violence* (Volume 2), Academic Press, San Diego, 1999, pp. 669-678, at p. 670.

tends to be equated with a state of normalcy requiring relatively little investigation *per se*.<sup>5</sup>

Far from being a blunt expression of warmongering appetites, realist thought in international relations typically construes going to war as necessitated by events, a deliberation that is often taken reluctantly. In the conflict-dominated world of realism, peace tends to be equated with stability, and a stable peace is likely to be the product of a war terminated by victory.<sup>6</sup> A telling reverberation of the way in which the Roman civilization thought of peace shines here: in spite of the Latin root of the verb *paciscor*, which means 'to agree' or 'make a bargain', *pax* became for the Romans the word defining the unconditional surrender imposed on other peoples (i.e., the *Pax Romana*). Such a definition recognizes only one party (i.e., the Romans), which is conceived of as an agent of order by means of political and military victory.<sup>7</sup>

In the same way in which they claim that faith in international cooperation is likely to compromise survival imperatives, realist authors posit that more often than not the structure of strategic interaction is such that a peaceful strategy of conduct (e.g., appeasement) is likely to compromise chances of peace, thus leading to war. Emphasis on war over peace is particularly evident in scholarly literature during the era of bipolar confrontation. In this context, the space within which a reflection on peace was conducted was mainly confined to the investigation of those conditions that allowed the Cold War to be spoken of as *The Long Peace*.<sup>8</sup>

Coinciding with the end of the bipolar divide, attention to how wars end and 'peace breaks out' became more visible also within realist-inspired literature.<sup>9</sup> As the 'new world order' was heralded, the idea of the indivisibility of peace gained ground: theories on the obsolescence of war were debated,<sup>10</sup> and the motto *si vis pacem para bellum* appeared to lose currency. Along with the liberal emphasis on international institutions, democracy and free trade, one could observe the rise of idealist-inspired recipes for ad-

<sup>5</sup> If violent conflict is a discrete phenomenon that tends to be omnipresent, then it comes close to being regarded as a physiological state. At the same time, however, conflict is also seen as pathology, while peace is assumed to be the physiological state.

<sup>6</sup> Aron, Raymond, *Peace and War*, Doubleday, Garden City, 1966.

<sup>7</sup> For a survey of the views on peace expressed by (Western) philosophers, political and social thinkers and statesmen, see: Przetacznik, Frank, *The Basic Principles of Philosophical and Legal Concept of Peace as a Cardinal Human Right*, in: *Revue du Droit International* (Volume 75), 1997, pp. 2-84.

<sup>8</sup> On this debate see: Gaddis, John Louis, *The Long Peace. Inquiries into the History of the Cold War*, Oxford University Press, New York, 1987; Lebow, Richard Ned, *The Long Peace, the End of the Cold War and the Failure of Realism*, in: *International Organization* (Volume 48), 1994, pp. 249-278.

<sup>9</sup> Ikle, Fred Charles, *Every War Must End*, Columbia University Press, New York, 1991; Walter, Barbara, *Committing to Peace: the Successful Settlement of Civil Wars*, Princeton University Press, Princeton, 2001; Fortna, Virginia Page, *Peace Time: Cease-Fire Agreements and the Durability of Peace*, Princeton University Press, Princeton, 2004.

<sup>10</sup> Muller, John, *Retreat from Doomsday: The Obsolescence of Major War*, Basic Books, New York, 1989.

addressing conflict by building peace and enforcing international norms when necessary. The construction of peace as the product of an order that abolishes war - an invention of the Enlightenment according to Michael Howard<sup>11</sup> - was revived: for the third time in a century the proclamation of a new international order rested on the central concern for peace. Those peace-building activities, which in the 1980s were associated with quasi-subversive, bottom-up challenges to the logic of bipolar confrontation, were now incorporated in the liberal-institutionalist global agenda alongside a new generation of multi-functional peacekeeping (e.g., Bosnia, East Timor, Kosovo), military interventions whose legitimacy could be predicated on purely humanitarian grounds. As peace was being re-invented, war had to be redefined, shifting towards humanitarian legitimacy sources. Nevertheless, the liberal machinery envisioned in *An Agenda for Peace*<sup>12</sup> did not take off, and the superpower that presided over the 20th century set a different tone for new century.

Since the 'war on terror' was launched by the US Administration against states accused of collusion with international terrorism, all the key concepts that discipline the unilateral use of force have reconquered center stage. In multilateral or concerted settings, the liberal agenda appears to have slipped into activities that are commonly referred to as post-war nation-building: a set of initiatives in which the fundamental questions 'whose peace?' and 'peace for whom?' find answers that are virtually indistinguishable from those dictated by the way in which neo-conservative thinking reads strategic interests and neo-liberal economics.<sup>13</sup>

The resulting situation is one in which the determination of the threshold of success in keeping, building and restoring peace is increasingly difficult.<sup>14</sup> Assessing whether a working peace is taking shape seems to be less and less related to some form of assessment of the economic, social, political and physical security of a given population, while becoming increasingly a function of compliance "*with externally determined standards for establishing a market economy, good governance and liberal democracy*"<sup>15</sup> if not of mere acquiescence to and alignment with hegemonic dictates.

All this suggests that the primacy of war in the domain of IR remains unshaken. The preponderance of war discourses over peace discourses in the study of conflict stems

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<sup>11</sup> Howard, Michael Eliot, *The invention of peace and the reinvention of war*, Profile Books, London, 2002.

<sup>12</sup> UN Secretary General, *An Agenda for Peace. Preventive Diplomacy, Peace-Making and Peace-Keeping*, A/47/277 - S/24111, 17 June 1992. Available online at: <http://www.un.org/Docs/SG/agpeace.html>

<sup>13</sup> Pearce, Jenny, *The International Community and Peacebuilding*, in: *Development* (Volume 48, Number 3), Palgrave Macmillan, 2005, pp. 41-49.

<sup>14</sup> Consider the dilemma in which the US found itself embroiled in Somalia in the 1990s, eventually leaving the country in chaos while declaring that having saved many lives constituted a success.

<sup>15</sup> Ghuttali, Shalmali quoted in: Harcourt, Wendy, *The Culture and Context of Peace*, in: *Development* (Volume 48, Number 3), Palgrave Macmillan, 2005, pp. 73-81.

from the social construction of peace as a non-event, a *generic* phenomenon that is more difficult to study than war. War, this axiomatic framework implies, is a *discrete* phenomenon, endowed with a clear extension in time and space, which can be understood through the lens of instrumental rationality. The establishment of peace research in the 1960s aimed at challenging this basic assumption. Peace and conflict scholars who took part in developing this field are traditionally divided among those who are inclined to underwrite 'negative' definitions – i.e., peace as absence of war – and those who seek to challenge this conceptualization by introducing 'positive' qualifications (e.g., peace as *opus justitiae*).<sup>16</sup>

Critical approaches tend to question the definition of peace as the antonym of violence, or a situation resulting from the suppression/eradication of conflict behaviour. A contribution to the problematization of the concept of peace which points to the need for plural definitions comes from critical perspectives in social sciences: critical theories and ideological criticism question the rhetoric of peace in the light of an investigation of the nature of war, as well as of the reification of state sovereignty and international borders.<sup>17</sup> In this line, Vivienne Jabri offers a critique of structuralist accounts and behavioralist methodologies by laying emphasis on war discourses as social continuities that permeate social life in non-violent times, upholding "*institutions and identities which allow for the re-emergence of violent conflict.*"<sup>18</sup>

One final element that makes speaking of peace (singular) increasingly awkward has to do with the emergence of studies on 'new wars', which stem from a reflection on the nature of armed conflicts in the era of globalization beginning with Mary Kaldor's seminal work on the dissolution of Yugoslavia, and Mike Duffield's research on "*post-modern conflicts*".<sup>19</sup> Most of the wars that we observe tend to obfuscate the Clausewitzian image of a battle between two sides which aim at final victory.<sup>20</sup> By questioning our understanding of the global maps of political violence, this debate emphasizes the implications of our definition of war for the identification of what one may

<sup>16</sup> Galtung, Johan, *Twenty-Five Years of Peace Research: Ten Challenges and Some Responses*, in: *Journal of Peace Research* (Volume 22, Number 2), Sage, London, 1985, pp. 141-158; Wiberg, Håkan, *What Have We Learned about Peace?*, in: *Journal of Peace Research* (Volume 18, Number 2), Sage, London, 1981, pp. 111-148.

<sup>17</sup> On ideological criticism and public discourse, see Wander, Philip, *The ideological turn in modern criticism*, in: *Central States Speech Journal* (Volume 34, Number 2), 1983, pp. 1-18. On rhetorical effectivity, constitutive and instrumental approaches see: Green, Ronald, *The aesthetic turn and the rhetorical perspective on argumentation*, in: *Argumentation & Advocacy* (Volume 35), 1998, pp. 19-29.

<sup>18</sup> Jabri, Vivienne *Violent Discourses. Conflict Analysis Reconsidered*, Manchester Univ. Press, Manchester, 1996.

<sup>19</sup> Kaldor, Mary, *New and Old Wars: Organized Violence in a Global Era*, Polity Press, Cambridge, 1999; Duffield, Mike, *Post-Modern Conflict: War Lords, Post-Adjustment and Private Protection*, in: *Journal of Civil Wars*, April 1998, pp. 65-102. For a collection of hypotheses on the distinctiveness of the new wars, see: Munkler, Herfried, *The New Wars*, Polity Press, Cambridge, 2002.

<sup>20</sup> Keen, David, *War and Peace: What's the Difference?*, in: *International Peacekeeping* (Volume 7, Number 4), 2000, pp. 1-22.

call peace. In a typical 'new war scenario', the distinction between war and peace becomes blurred, for example, in terms of combatants (civilians and military) as well as in terms of the flaring up, termination and rekindling of violence. Collusive behaviour, indecisive (para)military action and protractedness become the rule. Moreover, continuities between war and peace regard not only the temporal dimension, but also a spatial one: 'peace zones' and 'war zones' overlap along world peripheries. In this light, the most widely used definitions and operationalizations of war encountered in IR literature are questioned: the type of intra-state, low-intensity violent conflicts whose incidence appears to be significantly high on current global maps tend to escape them, thus inducing the main research projects on contemporary armed conflict to conclude that organized violence has been diminishing since the end of the Cold War.<sup>21</sup>

From this brief genealogical account one can infer that, contrary to the assumption that it is self-evident as a physiological state, and therefore deserves less attention than its pathological counterpart (i.e., war), the concept of peace does not lie on firm ground. This perception is made manifest in the widespread practice whereby, to avoid rhetorical inflation and gain cogency and precision, analyses and prescriptions that refer to peace are often formulated through supplementary attributions and qualifications.

A case in point is the reference to *sustainable peace* that one often finds in academic and policy literature. The nexus between peace and sustainability in the context of conflict prevention, peace-keeping and peace-building has been openly formulated in a number of important documents. In 2001 UN Secretary General Kofi Annan wrote that "*investment in long-term structural prevention is ultimately an investment in sustainable development. [...] Effective conflict prevention is a prerequisite for achieving and maintaining sustainable peace, which in turn is a prerequisite for sustainable development.*"<sup>22</sup>

Reflecting the growing awareness of how the time (and space) frames of post-Cold War armed conflicts are difficult to identify, UN documents are useful for understanding how thinking about peace changes. To give one example, the 1995 reviewed version of *An Agenda for Peace* added a preventive function to peace-building, which the 1992 version of the same document did not contain.<sup>23</sup> A consequence of these modifications is that both in academic and in policy literature, peace is increasingly defined as a *proc-*

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<sup>21</sup> Following the parameters coined by the Correlates of War (COW) and the Militarized Interstate Disputes (MID) projects by David Singer and Richard Small, a predominant part of the research in the field of international relations adopts the threshold of 1.000 deaths in year-state units for a war to be recognized as such. War is generally defined as a military conflict waged between national entities, at least one of which is a state, and its severity is defined in the COW project as the total battle-deaths of military personnel in each war. For current trends and incidence of armed conflict, see the data gathered by the Uppsala Conflict Data Program, available online at: [www.pcr.uu.se/research/UCDP/our\\_data.htm](http://www.pcr.uu.se/research/UCDP/our_data.htm)

<sup>22</sup> Security Council – General Assembly, *Report of the Secretary-General on the Work of the Organization. Prevention of Armed Conflict*, New York, 7 June 2001 [emphasis added].

<sup>23</sup> UN Secretary-General, *Supplement to Agenda for Peace*, New York, 3 January 1995.

ess rather than as an *outcome* (i.e., peace treaties, settlements). This shift of focus is supported by dilemmas concerning the elusiveness of peace and the challenge of consolidating it.

The above-mentioned image of peace as non-action is thus challenged. Speaking of peace as a process introduces the concept of its *sustainability*. In spite of widespread reference to sustainable peace in policy and scientific literature, however, the concept remains significantly under-theorized: few if any explicit attempts to conceptually discuss it have been recorded. This state of the affairs is in stark contrast with the very idea of using the attribute 'sustainable' to make more cogent our working definition of peace. The first aim of the following analysis is to raise a number of critical questions on how the concept of sustainability can be used in connection with the concept of peace. To what extent can, for example, sustainability be equated with resilience and duration, and what are the implications of this equation? Referring to the deployment of an international military mission while the Israeli army was conducting its summer 2006 offensive against Hezbollah militias in Lebanon, US State Secretary Condoleezza Rice declared that "*It is very important to establish conditions under which a ceasefire can take place [...and] to have conditions that will make it also sustainable.*"<sup>24</sup> Is the concept of sustainable peace indebted to this idea? What are the consequences of reducing a *process* to an *outcome* that 'sticks over time'? The fact that time is a central concern in most extant literature does not *per se* mark a departure from the mainstream assumption whereby war can be conceptualized as behaviour and *action*, and once measurable hostilities are terminated, peace presents itself as *inaction*, thus guiding our scientific intentions to a moot point.<sup>25</sup>

The central argument here is that, rather than solely stemming from a concern with measuring/explaining peace along the temporal axis, speaking of sustainable peace introduces a value-oriented, normative dimension, which rests upon the recognition that no such thing as one indisputable type of peace exists. Relatively stable situations exist that are often associated with the idea of peace and increasingly relevant for understanding today's armed conflicts, which are unlikely to be deemed desirable despite the fact that the threshold of violence reached does not send alert messages over long spans of time. Among normative images of peace that hardly match any idea of a desirable peace are the aforementioned *Pax Romana* (with its imperial variants of *Pax Britannica* and *Pax Americana*), the *Pax Atomica* (with its rationally calculated balance of terror logic and MAD corollaries), but also the *Pax Mafiosa* (and similar forms of order induced via protective racketeering). A self-evident illustration of a peace model that has little to do with sustainability is one resting merely on a coercive apparatus or foreign

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<sup>24</sup> *BBC World News*, 24 July 2006.

<sup>25</sup> The KOSIMO conflict databank on political conflict is worth noting for its being "*open to non-violent, low-intensity and domestic conflicts*", even if sporadic violence seems to remain equated with *non action*. Pfetsch, Frank, and Cristoph Rohloff, *Kosimo: A Databank on Political Conflict*, in: *Journal of Peace Research* (Volume 37, Number 3), Sage, London, 2000, pp. 379-389, at p. 381.

troops (be they internationally mandated peacekeepers or not) and/or on the artificial, distortionary and 'quasi-narcotic' effects that this has on socio-economic interactions. Concluding this gloomy overview is the peace of the graveyard evoked in the (in)famous and laconic observation "*Order reigns in Warsaw*".<sup>26</sup>

### III. Peace and Sustainability, a Rhetorical Marriage?

Jorge Luis Borges writes in his compendium of imaginary beings that the first trace of the chimera is found in book VI of the Iliad: the monster is part lion, part goat and part snake. Ironically, the beast was not defeated by any Hercules or Perseus, but by its own incoherent form: it was so difficult to imagine that it ended up being synonymous with anything. Eventually it disappeared, leaving us only the word, which in common parlance stands for absurd and impossible products of the imagination.<sup>27</sup>

This premise says something about the risks that the composite nature of the idea of sustainability runs into. The existing literature on sustainability is replete with considerations about the lack of consensus on how to derive, conceptualize and concretely define its subject. The usual way of proceeding consists of a quick review of definitions to which the author almost inevitably adds his/her own, usually stretching the concept even further and leaving the reader with the impression of the existence of loose criteria to be employed to prove anything true. A lot of rumours are circulated about the animal, but very few can say what it looks like and virtually no one can grasp it.

A plethora of examples exists in which the coupling of the attribute 'sustainable' with the term 'peace' appears to be little more than a rhetorical attempt to make peace come out from its image as an immeasurable state of non-action, or as an idealized, *naïve* image of harmony, which evaporates as soon as it is confronted with the lost innocence of war, and with the messy reality of its aftermath. Mentioning peace in the middle of the rubbles that are typical of the aforementioned gloomy 'new wars' scenario echoes the way in which Rome was evoked in the medieval writing of *De Contemptu Mundi*: "*Stat Roma pristina nomine, nomina nuda tenemus*"<sup>28</sup>.

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<sup>26</sup> The infamous sentence was used by the French foreign minister at the Chamber of Deputies in September 1931 to announce the successful repression of the Tzarist army and the end of the Polish independence. The reality of war can reveal itself as quite deceptive to external observers, as shown by the following report by a witness of the Xodjali killings of 1992 in Nagorno Karabakh: "*One reporter [...] arrived in Agdam [...] and found the city 'quiet', apparently having confused the silence that followed the missile-induced flight of 50,000 people with peacefulness.*" (Glutz, Thomas, *Azerbaijan Diary*, M.E. Sharpe, Armonk, 1998, at p. 127).

<sup>27</sup> Borges, Jorge Luis, *Manual de zoología fantástica*, Buenos Aires, 1957.

<sup>28</sup> The line can be translated as "*Rome remains only as a name, all we are left with are the naked names*" Morliacensis, Bernardus, *De contemptu mundi*, line 952.



In other words, the introduction of 'sustainable' brings back to relevance to reality, it adds a semantic nuance that is intended to make the reference to peace more in tune with designing an analytical, normative or policy framework. 'Sustainable' lays emphasis to the need to build something genuine and solid, attributes whose truth will be revealed via endurance over time.

Ever since 'sustainable development' was popularized in the *Brundtland Report* (1987),<sup>29</sup> it has become something close to a slogan among policy-making and advocacy circles. Generally speaking, the concept of sustainability rests on ideas such as system quality, dynamic equilibrium and carrying capacity. Authors who have sought to get a grip on its scientific application have identified problems with normativeness, subjectivity, ambiguity and complexity.<sup>30</sup>

A number of wider philosophical questions stemming from the debate on sustainability in social and political science are relevant to the discussion of peace. First of all, what time frame should be considered? Things may look quite different if, speaking of conflict and post-conflict, we consider a time span of ten years, a generation, or decades-long state formation processes.<sup>31</sup>

Second, how should thresholds be set? In transposing and converting the concept to the specific domain of conflict and peace studies, it may be useful to follow Donald Worster and speak of 'sustainable societies' and 'sustainable institutions' as those societies or institutions able to generate enough support to renew themselves and hold on to power.<sup>32</sup> Underwriting the central tenets of post-positivist social sciences is not necessary for seeing the need for caution in linking the assessment of sustainability to objec-

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<sup>29</sup> The report defined 'sustainable development' as a type of development that "meets the needs of the present without compromising the ability of the future generations to meet their own needs". See World Commission on Environment and Development (Brundtland Commission), *Our Common Future*, Oxford University Press, Oxford, 1987, at p. 43. In reality, the concept first appeared in the *World Conservation Strategy* (1980) of the International Union for the Conservation of Nature and in Lester R. Brown, *Building a Sustainable Society*, A World Watch Institute Book - W.W. Norton, New York, 1981.

<sup>30</sup> For a summary, see: Grosskurth, Jasper and Jan Rotmans, *The SCENE Model: Getting a Grip on Sustainable Development in Policy Making, Environment*, in: *Development and Sustainability* (Volume 7), 2005, pp. 135-251.

<sup>31</sup> While the first case might be useful to have an idea of the degree of functionality (and perhaps of the legitimacy) of new institutions, the second might provide indications of social processes of critical importance to conflict dynamics (e.g., demographic trends, urbanization). Finally, the *longue durée* perspective appears to be crucial when looking at war-making in order to understand, for example, the direction of state making and un-making processes in the globalization era.

<sup>32</sup> Definition proposed by Worster, Donald, *The Shaky Ground of Sustainability*, in: Wolfgang Sachs (ed.), *Global Ecology. A New Arena of Political Conflict*, Zed Books, London, 1993, pp. 132-148, at p. 135.

tive indexes of stress and collapse (which would correspond to the concept of a supposedly fixed “carrying capacity”).<sup>33</sup>

A third point has to do with domains and their priority: fundamental questions remain as to how to weigh elements of the socio-political, economic and ecological domains against each other.

Finally, a fourth point regards spatial scale levels, which are critical in moving from environmental/development studies to the domain of peace/security. Sustainability is not a ‘mystical whole’ – i.e., the idealization of non-depleting and harmonious communities. Any idyllic image of the essential orderliness of nature (i.e., the eco-system – but also, *lato sensu*, a ‘natural state’ and disposition of society-communities within it) is highly suspicious: after all, aggressive nationalism and all exclusionary ideologies are anchored to some idea of natural order or to a naturalizing metaphor. Sustainability can be analyzed instead on different levels. Three interrelated levels of analysis can be identified, from global to local: human species, region, community.

In its essence, sustainability refers to a (new) quality of social interaction which can be defined in terms of high durability, renewability and acceptance by those who are parties to a given situation (or conflict). This being said, a certain element of circularity shines through, and we may wonder to what degree this is inevitable. Circularity is due both to the fact that the approach for measuring sustainability rests to some extent on the researcher’s vision of it,<sup>34</sup> and to the fact that sustainability here becomes the attribute of another essentially contested concept – that is, peace.<sup>35</sup>

An example may help to illustrate the conceptual pitfalls that could obstruct the use of sustainability. Consider how a distinct political process – democratization and democratic consolidation – has been studied through the lens of sustainability. A wide-ranging study on ‘sustainable democracy’ conducted by a group of prominent political scientists dealing with democratization – Andrew Moravcsik and Philippe Schmitter among others – reads as follows:

What we want to know is what makes democracy last and work [...]. By work we mean that it generates normatively desirable and politically desired effects [...]. By “last” we mean that they absorb and effectively regulate all major conflicts, that rules are changed only according to rules.<sup>36</sup>

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<sup>33</sup> Not only has peace and conflict research proven that such thresholds do not exist, but in the field of natural sciences itself the use of such indexes has become the object of acrimonious dispute.

<sup>34</sup> In this sense, operationalizing can be described as taking a side in the debate.

<sup>35</sup> An effort to make a rigorous yet cautious approach to measuring sustainability is found in: Bell, Simon and Stephen Morse, *Sustainability Indicators. Measuring the Immeasurable*, Earthscan Publications, London, 1999.

<sup>36</sup> Przeworski, Adam, *Sustainable Democracy*, Cambridge University Press, Cambridge, 1995.

In the conclusions it is claimed that

Democracy is sustainable when its institutional framework promotes normatively desirable and politically desired objectives, such as freedom from arbitrary violence, material security, equality, or justice and when, in turn, these institutions are adapt at handling crises that arise when such objectives are not being fulfilled.<sup>37</sup>

Some circular interpretation lurks in these statements. To make it visible, they could be paraphrased as a somewhat tautological “*democracy is sustainable when it promotes those conditions that are associated with the historical unfolding of democracy within the context of Western modernization. Should this not occur, a sustainable democracy is one that does not shatter down, but is able to perform successfully some crisis-management function.*” One could go on, substitute the various sentences and, finally, make everything boil down to a rather truistic “*sustainable democracy is about the solidity of its institutions.*” The problem then is that democracy is conceptualized as an institution in the first place. Hence: “*sustainable means solid.*” In this light, the definition of ‘sustainable peace’ would be susceptible to renditions such as “*the peace that can sustain itself is sustainable*”, which does not add much to our knowledge.

Speaking of conflict prevention and (de)escalation, another *caveat* is in order. If sustainability is a concept that mainly taps into the durability dimension, then the relatively limited time span available for observation in a given conflict scenario when dealing with the prevention of a (re)lapse into violence makes assessment quite difficult. For example, the very conceptualization of ‘intractable conflicts’ proposed by Edward Azar<sup>38</sup> constitutes a challenge for sustainable peace because in this situation purposefully conceived and engineered external intervention can only account for minimal variance in the outcome, let alone in terms of such a wide aim as achieving a *sustainable* peace. This is essentially due to three reasons: the width and the depth of the concept of sustainable peace, which can be stretched to embrace most aspects of public and private life; the self-propelling rootedness, pervasiveness and resilience of conflict dynamics defining most contemporary conflicts, especially once violence sets in; the relatively limited time span available for observation in most cases.

Achieving sustainable peace may, therefore, look like capturing a chimerical animal, a goal postulated by theory and never attained in practice. The fact that absolute statements are out of reach does not, on the other hand, entail that comparative assessment cannot provide us with useful indications. Before looking into the feasibility of empiri-

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<sup>37</sup> Przeworski, Adam, *Sustainable Democracy*, at p. 107.

<sup>38</sup> Edward Azar defines intractability in terms of stakes that tend to embrace the whole scope of social solidarity networks. Intractable conflicts “*linger over in time (...) and have no distinct point of terminations (...) they are processes.*”. Azar, Edward, Paul Jureidini and Ronald McLaurin, *Protracted Social Conflict Theory and Practice in the Middle East*, in: *Journal of Palestine Studies* (Volume 8, Number 1), 1978, pp. 41-60, at p. 53.

cal research, it is worth addressing all definition-related issues, and this can be done by turning to some practical exemplifications.

#### IV. Durable and Peaceful, yet not so Sustainable

In the I century B.C., the Roman biographer Cornelius Nepos provocatively puts in Epaminonda's mouth the dismissive statement that peace is the product of war, and those who want to enjoy a *durable peace* "have to be trained to the practice of arms, not to rhetorics"<sup>39</sup>. A durable peace as a program became almost a *cliché* in Rome at the time of the empire: Hadrian forced peace, aware as he was that over time external constraints would be interiorized, that the temporary would become stable, and the mask would become the face.<sup>40</sup> If Hadrian had Ara Pacis built, Virgil narrated Rome's mission as *pacique imponere morem* ("to impose custom to peace") and imperial iconography celebrated peace not only as pacification, but also as harmonious prosperity.

The insightful reading of classic authors recommends that the question of durability be scrutinized before proposing any model of sustainability. The central issue here is the problems that emerge when thinking of sustainable peace *only* in terms of the lasting absence of major military clashes. Most peace processes are quite lengthy, laborious and precarious, accompanied by relapses into destructive behavioral patterns and by the emergence of forms of violence perpetrated, for example, by organized crime. How should theory account for violent patterns that seem to be distinct from the somewhat reassuring image of traditional warfare?

Episodes of political intimidation or assassination essentially related to the domestic situation may have a relatively small impact on an interstate war, but they may have a drastically different effect for inter-communal conflict dynamics. In the Colombian conflict, by far the oldest and widest armed conflict still sweeping Latin America, the observation of hostility patterns reveals that military confrontation since the mid-1980s has become the exception. Still, nobody can deny the intractability and the huge human costs of this conflict. Moreover, how should we read the events that quite visibly affect the vulnerable peripheries of the global era such as social unrest, violent turmoil caused by waves of financial panic,<sup>41</sup> rebellions over the exploitation of resources, the yearly drowning of thousands of nameless migrants who are rejected by immigration officials along the borders of the US, the EU, and Australia? Can we regard these phenomena as unrelated to a basic idea of the sustainability of peace?

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<sup>39</sup> "Nam paritur pax bello. Itaque qui ea diutina volunt frui, bello exercitati esse debent: quare si principes Graeciae vultis esse, castris est vobis utendum, non palaestra". Cornelius Nepos, *Vitae, Epaminonda*, pp. 1–4.

<sup>40</sup> See Yourcenar, Marguerite, *Memoires d'Hadrien*, Librairie Plon, Paris, 1951.

<sup>41</sup> The Albanian state imploded in the spring of 1997 due to the collapse of financial speculative funds. Tens of people were killed over three months of fighting in the sole city of Vlorë.

If the equation *durability=sustainability* is assumed *a priori*, then a theoretical problem arises. Beginning with a classical author such as Livy,<sup>42</sup> throughout modern and contemporary literature there is a long list of reflections on the fact that only a genuine and just peace will last. Writing on Livy, Machiavelli surprises the reader searching for “Machiavellism” by claiming that the greatness of the Roman republic had been the result of good laws, and that those laws in turn had been the result of social turmoil and conflicts that many had mistakenly considered ominous.<sup>43</sup> Even a conservative late-republican Roman source such as Cicero, who typically insists on the theme of peace being the product of war, warns that one should not call peace a situation in which no acts of hostility on the part of external enemies or inside the state are registered.<sup>44</sup>

Writing in 2001 on the relationship between sound institutions and peace sustainability, the UN Secretary General articulated a somewhat more peaceful view, offering a mix of realist concerns for stability and liberal values. In his words, “*the nurturing of societal stability, tolerance and sound institutions can be the foundations of sustainable peace.*”<sup>45</sup>

This overview is meant to suggest that the relationship between conflict and peace is more complex than the one described by the formula

$$\begin{array}{c} \text{conflict} = \text{violence} = \text{instability} = \text{war} \\ \textit{versus} \\ \text{harmony} = \text{negotiation} = \text{stability} = \text{peace} \end{array}$$

If ‘sustainable’ is to indicate the need for a more demanding definition, then one has to start from contesting that war is just the outbreak of violence, the product of instrumental rationality or ancient hatreds, an action performing regulative functions. Conversely, one may, for example, investigate war as an ongoing discourse performing constitutive functions.<sup>46</sup>

In as much as this can be considered true, one can safely assume that while the presence of violence does not mean war, even a *protracted* absence of open violence cannot *per se* be considered evidence of the sustainability of a model of social interaction. Claiming this would amount to assuming that a necessary and sufficient condition for a violent outcome is the existence of an unsustainable mode of conflict regulation (and, ulti-

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<sup>42</sup> Quoted in: Belli, Pierino *A Treaty on Military Matters and Warfare*, Clarendon Press, Oxford, 1936, at p. 279.

<sup>43</sup> Machiavelli, Niccolò, *Discourses of the First Ten Books of Titus Livy*, Random House, New York, 1950.

<sup>44</sup> Cicero, *De Republica*, book III, and *Philippicae*, books II and XII.

<sup>45</sup> UN Security Council – General Assembly. *Report of the Secretary-General on the Work of the Organization. Prevention of Armed Conflict*, New York, 7 June 2001, at p. 36.

<sup>46</sup> In this sense, Wilmer, Franke, has exposed the limits of mainstream IR theory in coming to terms with the violent destruction of Yugoslavia.

mately, of social organization). This causal link, however, proves to be quite elusive and difficult to demonstrate because it is mediated by a number of intervening factors, some of which have to do with the social construction of identities and threats.

The bad news here is that unsustainable peaces can last for long time. Virtually no one would dispute the fact that the state of externally monitored non-war/non-peace between Armenians and Azeris over Nagorno Karabakh can be defined unsustainable since the end of hostilities in 1994. Continued geopolitical tensions, a number of reversals and attempted state coups are on the record, while refugees are all over the region and the nationalist card has been played to block any resolution that would allow for the reconstruction of regional, political and economic sustainability. Still, for at least a dozen of years virtually no violent episodes of military significance are reported. And while in Vienna an OSCE high level planning group has been meeting for years, updating plans for a peacekeeping deployment that never took place, a resumption of armed hostilities does seem to be likely.

Although students of ethnopolitical rebellion have developed basic frustration-reaction hypotheses and theories revolving around the concept of relative deprivation,<sup>47</sup> it is not difficult to find groups that do not rebel, and others that do rebel even in absence of conditions that one may call unsustainable. Despite arguments based on clashes, there exist examples of civilizational friendships: next to Nagorno-Karabakh, Christian Armenia and the Shi'a regime in Iran are a case in point.

Absence of overt violence in tense situations that would induce one to define as 'highly unstable' could be, for example, proof of the fact that powerful restraints on violence are functioning. It may well be that the registered peace falls into one of those types described above, which have little to do with a genuine sense of sustainability. As acknowledged in the discussion among International Relations scholars about how the relatively consolidated 'democratic peace theory' may find application to the intra-state level,<sup>48</sup> such a peace may rest on some form of deterrence, intimidation, contingent interests, elite collusive behaviours, previous physical elimination of leaders and erasure of a political space. The pervasive taking root of mafias, for example, is a phenomenon that certainly has something to do with stability and sustainability. If one takes a look at the absence of violence that is typically observable in areas of consolidated mafia dominance, mafia may be mentioned a stabilizer, but it would be difficult to rank it as part of a process of increased sustainability, if speaking of sustainability is intended to inject a dimension of desirability. Although bolstering a kleptocracy may seem to some far preferable to the onset or continuance of hostilities, this does not mean that a more de-

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<sup>47</sup> Gurr, Tedd, *Minorities, Nationalists and Ethnopolitical Conflict*, in: Chester A. Crocker, Fen O. Hampson, with Pamela All (eds.), *Managing Global Chaos*, US Institute of Peace, 1996, pp. 53-78.

<sup>48</sup> Hegre, Havard, Tania Ellingsen, Scott Gates and Nils Petter Gleditsch, *Toward a Democratic Civil Peace? Democracy, Political Change and Civil War - 1916-1992*, in: *American Political Science Review* (Volume 95), 2001, pp. 33-48.

manding, less opaque type of peace cannot be made the subject of scientific scrutiny nor that hitherto unexplored, relatively more far-sighted options cannot be pursued for a sustainable outcome.

All in all, when speaking of interventions to make, keep or build peace, the problem with not having a clear conceptualization of sustainability is not so much the fact sub-optimal, quick-fix solutions may end up being accepted, thus paying homage to some form of realist-inspired appreciation of given conflict circumstances. Rather, the problem is often that the lack of awareness of how similar 'solutions' instrumentally pursued today may prejudice – if not militate against – tomorrow's developments in the direction of a sustainable peace.

Intractable conflicts often presage intractable peaces. Intervening parties are confronted with the task of checking violent escalation, which entails a short-term perspective, containment, management and, at best, conflict resolution approaches. A large part of these efforts can be seen as derived from asking 'why' questions. At the same time, it is along long-term perspectives that the contours of sustainability become visible. This involves transformative approaches, operations based on 'how' questions that seek to decode the continuities that exist between causal imputations and remedial therapies, including a critical appraisal of the consequences of the intervention itself.

Problematizing the nexus of 'peaceful stability - peace' does not imply that registering armed violence is not important; rather, it aims at exposing the costs of postulating that the existence of sustained absence of violence amounts to sustainable peace. These costs derive from underwriting both realist assumptions and the neo-liberal claim that a durable peace is supported by democratic institutions and a free-market economy.<sup>49</sup> Research findings on the 'democratic peace' are extremely important for theorizing peace: nonetheless, there exist reasons for subscribing to an agnostic position *vis-à-vis* the peace-democracy-free-market debate especially in the context of contemporary violent/armed conflicts. Democracy is not necessarily the safest path to peace, and we need research designs that differentiate between democracies and between types of armed conflict.<sup>50</sup>

Generally speaking, empirical studies on civil wars and minor armed conflicts have indicated that domestic violence is likely to be low in both strictly authoritarian and in highly democratic regimes.<sup>51</sup> This leaves us with an extremely wide gray area in-

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<sup>49</sup> Immanuel Kant did not write about 'democracy' but about a 'republic'. The literature on democratic peace is enormous. For reference, see: Gleditsch, Petter Nils, *Peace and Democracy*, in: *Encyclopedia of Violence, Peace and Conflict*, 1999, pp. 643-667.

<sup>50</sup> Mendeloff, David, *Truth Seeking, Truth Telling and Postconflict Peacebuilding: Curb the Enthusiasm?*, in: *International Studies Review* (Volume 6, Number 3), 2004, pp. 355-380, at p. 372.

<sup>51</sup> Muller, Edward N., and Erich Weede, *Cross-National Variation in Political Violence. A Rational Action Approach*, in: *Journal of Conflict Resolution* (Volume 34, Number 4), Sage, London, 1990, pp. 624-651.

between, where patterns of violence are much less amenable to corresponding with democracy standards. This is precisely the peripheral area where 90% of the wars since 1945 have been fought;<sup>52</sup> as Buzan and Little put it, this is the 'war zone', which is separated from the emerged 'peace zone'.<sup>53</sup> Much of the problems have to do with how the two zones interact with one another. Kristian Gleditsch has explored the spatial link between democracy and democratization and violent conflict, showing how states are more likely to democratize in zones of stable, relative peace.<sup>54</sup>

The enthusiasm that Oneal and Russett show for a 'liberal peace' resting on the triad democracy, international organizations and trade seems to be overstated once one looks deeper into the nature of contemporary wars.<sup>55</sup> To a significant extent, predicting the eventual success of democratization and free-market therapies in peripheral and semi-peripheral regions, and foreseeing the expansion of the 'zone of peace' – therefore of 'sustainable peace' – has more to do with faith than with science.

Caution is thus highly recommendable. The costs of implicitly accepting causal assumptions can be high, given the existence of geopolitical contexts that remain quite problematic. Nobody would contest that the Crimean peninsula is part of the Ukraine; however, its fate in terms of peace sustainability is not only strongly connected with politics in Kiev, but also deeply intertwined with war and peace dynamics in the Caucasus, Turkey and the Balkans – not to mention Russia and NATO, whose military exercises in the region are often contested. In spite of the intervention efforts in the Balkans, ten years after the Dayton Agreement the geopolitical configuration of this region appears far from being a closed issue: the intractable peace of Kosovo is only an example. Along European peripheries, the specter of deep-seated, intractable conflicts such as Cyprus, Abkhazia, South Ossetia, Chechnya and Kurdistan should induce a sober reflection on the consequences of unwarranted prophecies.

The idea that a market economy represents the fastest route to a self-sustaining condition of prosperity and sustainable peace, by implicitly postulating an evolutionary theory of politico-economic development, has proved all too often forgetful of the fact that the establishment of a stable market democracy is an inevitably tumultuous, conflict-

<sup>52</sup> AKUF Hamburg, quoted in: Burkhard, Conrad and Klaus Schlichte, *The 'Hamburg Experience' or Quantitative Research: Four Limits and One Alternative* (paper presented at the Uppsala Conflict Data Conference, Uppsala, 8-9 June 2000).

<sup>53</sup> Buzan, Barry, and Richard Little, *One World or Two?*, in: Yale H. Ferguson et al., *What Is the Polity? A Roundtable*, in: *International Studies Review* (Volume 2), 2000, pp. 3-31.

<sup>54</sup> Gleditsch, Kristian Skrede, *All International Politics Is Local: The Diffusion of Conflict, Integration, and Democratization*, University of Michigan Press, Ann Arbor, 2002.

<sup>55</sup> Oneal and Russett's empirical findings are based on the aforementioned dataset of the Correlates of War project. The 'pacifying effect' of the liberal peace is expressed in terms of reduction of dyadic militarized disputes. See for example: Oneal, John R., Bruce Russett, and Michael L. Berbaum, *Causes of Peace: Democracy, Interdependence, and International Organizations, 1885-1992*, in: *International Studies Quarterly* (Volume 47), 2003, pp. 371-93.



ridden and lengthy process, particularly in the fragile environment of a war-shattered state.<sup>56</sup>

There exists no lack of studies on the maintenance of extensive periods of regional peace among non-democratic regimes in South America (and West Africa until the 1990s).<sup>57</sup> At least in their popularized version, *Realpolitik*-oriented explanations of the 'zones of peace', rather than focusing on any particular vision of domestic governance through national and international institutions, have tended to conceive of domestic conflicts and the following peace processes mostly in terms of balance of power, hegemonic transitions, diversionary wars and other typical realist-derived theoretical constructs. In doing so, they have either ended up reifying ethnic minorities and territories – conceding a lot to nationalist elites – or, when a situation would get out of control, seeking either to create external constraints or to strike selectively as a remedial measure to avoid the explosion of omnipresent “powder kegs”.

In this context, interest in *resolving* protracted conflicts has been quite low. Areas that have been subject to this type of attention are ones in which violence can be expected to embed itself more deeply, thus assuming the traits of sporadic outbursts, constant political tension, opportunist strikes, paramilitary gangs and terrorism. In fact, these are the most distinctive features of intractable conflicts, whose *mala planta* is likely to grow almost undisturbed.

In short, the dichotomous representation “*perpetual peace versus coming anarchy*”, in which both liberal and realist mainstream intellectual traditions are reverberated,<sup>58</sup> obscures more than it reveals about the way in which conflict may bring about the establishment of sound political institutions, which move a given situation closer to sustainable peace. Looking at the building of Europe and the construction of its *limes*, the liberal and realist traditions can be seen coexisting in the parallel processes of continental integration and peripheral disintegration, an image that can be summed up in the formula of a polity with a liberal core and realist peripheries.<sup>59</sup> All this is far from empirically capturing indications of what may or may not result in a sustainable peace.

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<sup>56</sup> Paris, Ronald, *Peacebuilding and the Limits of Liberal Internationalism*, in: *International Security* (Volume 22, Number 2), 1997, pp. 54-89, at p. 56.

<sup>57</sup> Kacowicz, Arie M., *Zones of Peace in the Third World: South America and West Africa in Comparative Perspective*, State University Press, New York, 1998.

<sup>58</sup> Speaking of IR theory, the same can be said to a lesser extent of the critical variants of realism, or of idealist versions of liberal thought which prove receptive towards reflectivist, interpretivist and social constructivist approaches.

<sup>59</sup> Goldgeier, James, and Michel McFaul, *The Liberal Core and the Realist Periphery in Europe*, in: *Perspectives on European Politics and Society* (Volume 2, Number 1), 2001.

## V. Finding the Path in a Trodden Field

What do the difficulties mapped out so far mean in terms of empirical research? Is there a way in which sustainable peace can tell us something about the direction of a peace process as opposed to just being elusive, if not chimerical? Are there significant variations that allow the researcher to formulate contingent generalizations and relative judgments, and therefore propose useful indications for keeping, making and building a peace that is likely to be sustainable?

This article has so far investigated the tensions that emerge once sustainable peace is adopted in the context of an explanatory research design, drawing illustrations from the elusive nature of contemporary conflicts. It has made use of critical and constitutivist approaches to IR theory to illuminate the value-oriented nature of the concept of peace sustainability. The risk is not only one of rhetorical use, masking conceptual confusion. The resulting concept of peace that, while carrying the flag of a scientific 'view from nowhere', in reality deals with the problem of the ubiquitous 'messy aftermaths' in ideological terms, equating peace with success in bringing about a certain type of order. The classical sources reviewed above reveal how, quite interestingly, such a definition of peace was resisted by commentators writing in republican times, while it tended to become dominant in imperial times. Resting upon both the Greek-Hellenistic conception of *eirene* (serenity, concord) and the Latin *pax* (agreement out of subjugation) a father of the church such as Origenes in early Christian Rome used peace simply to designate the Christian community.<sup>60</sup> By the Fifth Century Solonius, bishop of Geneva, went as far as to postulate that peace among non-Christians should be considered as an evil-oriented congregation, thus distinguishing between good and bad peace.

Thinking of sustainability is, in ultimate terms, speaking of implications, and this resonates with the questioning of the consequences of claims of self-evidence and common-sense thinking, in line with the tradition of critical and post-positivist theory. As Wesley Widmaier would put it, laying emphasis on the intersubjective construction of sustainable peace in current international affairs is intended to enhance critical reflexivity, to make possible a philosophical engagement with public debates, and ultimately to explore unappreciated policy possibilities.<sup>61</sup>

A workable definition of sustainable peace could thus be the following: a situation of absence of organized violence (and systematic violation of basic rights) in which conflict patterns are regulated in such a way that the self-propelling dynamics of intractability are decreased to a level from which a new escalation becomes unlikely. The 'positive side' of this minimal definition lies in the idea of a self-sustaining, virtuous (peace)

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<sup>60</sup> Origenes, *Contra Celsum*, Volume 33; Tertullian, *De Corona*, 11, 2.

<sup>61</sup> Widmaier, Wesley W., *Theory as a Factor and the Theorist as an Actor. The 'Pragmatist Constructivist'*, Lessons of John Dewey and John Kenneth Galbraith, in: *International Studies Review* (Volume 6), 2004, pp. 427-445.

process, in which the gradual disappearance of external constraints and enabling factors (i.e. international intervention and assistance) do not raise war specters. Nonetheless, this conceptualization hinges upon a 'negative definition' of peace. It does so while making room for qualitative indicators of sustainability, and without magnifying them in the way in which, as seen above, peace ends up being equated to a (more or less) market-oriented form of liberal-democracy.<sup>62</sup>

Used as a tool for fine-tuning the concept of peace and for making it more receptive *vis-à-vis* the nature of most contemporary conflicts, the concept of sustainability can be said to involve a pattern of interaction that does not raise deep existential fears on the part of the communities that are part of the conflict, and - at the same time - does not sacrifice the construction of open political dialectics on the altar of sheer survival imperatives.

## VI. A Pragmatic Approach

A way of pragmatically proceeding from these premises is to use building blocks. Former UN Secretary General Kofi Annan indicated the dimensions integrated in the international agenda under the concept of sustainable peace:

With the end of the Cold War, a new understanding of the concept of peace and security has emerged. A broader focus on the nature of sustainable peace and its building-blocks, such as social and economic development, good governance and democratization, the rule of law and respect for human rights, is supplementing the traditional concept of collective security.<sup>63</sup>

Resting on these grounds, the assessment of the sustainability of peace in the context of comparative conflict studies touches several dimensions. The present article claims that while one of these dimensions – the absence of major violent relapses over time, measured across vertical and horizontal escalation matrixes – is critical, there is a need for supplementary indicators, whose function is to provide us with an idea of the direction that a given conflict formation/peace process is heading.

In practice, therefore, *magnitude and patterns of behavioral violence* have to be considered in connection with the degree to which *fundamental freedoms* (human rights, non-discriminatory principles, rule of law) are part of a given peace process. The renewability of a sustainable process is assured, for example, when the political space appears to be free from intimidation and open to access. Along this line, the *openness of the political system to change* can be assessed by considering whether during the observation period there have been significant changes in power. The observation of the *degree of*

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<sup>62</sup> On this point see also Mendeloff, David, *Truth Seeking, Truth Telling and Postconflict Peacebuilding: Curb the Enthusiasm*, in: *International Studies Review* (Volume 6), 2004, at p. 363.

<sup>63</sup> Security Council – General Assembly, *Report of the Secretary-General*, p. 9.

*acceptance by the parties* may be included, at a level of official statements and vernacular discourses, both of which can be assessed through a wide gamut of positivist and post-positivist methods. To be sustainable, the peace process should gradually become self-sustaining. This can be assessed and even measured by reflecting on the evolution of attitudes and declarations of all active parties to the conflict in question, with special attention to those regarding contestation dynamics of 'the rules of the game' (i.e., Constitution, where available).

This attempt at identifying building blocks is far from exhaustive. This article has sought to offer an overview and a problematization of the way in which sustainable peace is used in current research and policy agendas. It has done so by making use of the lenses of social sciences, without deeply delving into the political economy of contemporary armed conflicts - an operation that, to the extent to which it may encompass phenomena that typically are not statistically accounted for (e.g., criminal and gray economies), would certainly unearth a more realistic appreciation of the sustainability of peace processes.

From a politological perspective, one way of addressing these issues could be to compare cases of ostensible success by using the proposed set of conceptual tools so as to reach a critical account. Within the broad, turbulent peripheral region that this article has put under scrutiny to generate insights, two cases stand out: the Republic of Macedonia and the Autonomous Republic of Crimea. In the early 1990s a certain consensus could be registered in conflict literature in defining both situations as "unstable peaces". By the end of the decade, conflict analysts were proclaiming both of them successes in conflict prevention.<sup>64</sup> The first case saw all kinds of military and civilian foreign deployments, including the unprecedented experiment of a UN-mandated preventive peacekeeping operation. Nevertheless, ten years after the beginning of its transition to democracy and free market, the Republic of Macedonia was swept by an armed escalation which – albeit contained – contributed to further ethno-national polarization and cast a shadow on the future of the region. By contrast, in the case of Crimea, the profile of international intervention was by far lower, and the country did not witness a full violent escalation, although one may not say that episodes of contestation turning violent have not been infrequent. Both Crimea and Macedonia are names heavily loaded in military history. Both are part of region whose geopolitics has recently been, and to some extent remains, contested. Unlike Macedonia, which became independent but had no armaments at all on its soil, the secession of Crimea was not achieved, although its territory was literally full of all sorts of armaments.

Future research consisting in a comparative, multi-level investigation of the nature of similar cases of peace could represent a valuable test for the pragmatic conceptual

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<sup>64</sup> For example, Jentleson, Bruce (ed.), *Preventive Diplomacy in Post-Cold War: Opportunities Missed, Opportunities Seized, and Lessons to be Learned*, Carnegie Commission on Preventing Deadly Conflict, Washington, 1999.

model that is proposed. Such research would illuminate the different degrees of sustainability that both “successes” contained, and possibly nurture a reflection on sustainability that is more open to the words by an indigenous speaker at the public hearing of the Brundtland Commission, held in São Paulo in 1985: *“You talk very little about life, you talk too much about survival.”*

# **World Society on the Couch: Anti-Terror Consultancy as an Object and Test-Bed of Professional Sociology**

*Steffen Roth and Jens Aderhold<sup>1</sup>*

*This paper is about the re-establishment of a professional, that is, a neutral perspective on terror; most research on terrorism is partisan in terms of biased culturalist studies on the ‘index patients’ of an international conflict. At the same time, there is very little research on the forms and functions of so called anti-terror measures which are commonly treated as acts of self-defence. In contrast to this, from a sociological point of view we find that it takes two to make the terror: an act of violence, and an act of labelling this violence as terror, too. Thus, we argue that Western societies should take full responsibility for their own perceptions, attributions, and actions within an international conflict system, instead of continuing to externalize these. Finally, we state that sociology has a demand for research on the applicability of the concepts of systemic therapy on the field of the intervention into stable inter-cultural conflict systems.*

## **I. Introduction**

These days, not a day goes by without alarming news of violence in Iraq, in Afghanistan, in Pakistan, in the Middle East, in East Asia, and in Northern and Middle Africa; the same goes with the nightmare scenarios about weapons of mass destruction in the hands of terrorists, or just about rather ‘normal’ terrorist attacks against basic infrastructure systems of the G8 member states and their allies. After a short armistice, the Spanish terrorist organization Euskadi Ta Askatasuna (ETA) declared war against Spain, again. The borderland between Afghanistan and Pakistan is still a refuge for global ter-

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rorist networks. Despite, or because of, the never-ending peace negotiations there is constant escalation in the Gaza Strip. At the same time, when the US-American Supreme Command declares the return to normal in Iraq, Turkish troops chased terrorists in the Northern part of the country. Who knows whether the last attack took place in Algiers, Beirut, Islamabad, Colombo, or Nairobi?

After the Age of the Cold War, *trans-national terrorism has become the elevator music of the ascending 21st century*, but it took some time before we recognized the low scope of the musical scale. Today, every terrorist strike turns to a hit in the fever charts of terror: the assassination of van Gogh in Amsterdam, the assault in Janbu 2004, the 500 victims of Sindschar, an attack on a bus full of children in Sri Lanka, the missiles launched from the Gaza Strip, and the two Palestinians who attacked three pupils in the West Bank – all this is terror.

But there are cases that get us thinking, too: what about the Berlin Sociologist Andrej H. who was treated as a terrorist by the German Federal Bureau of Criminal Investigation? What about the cyber-terrorism against both the institutions and the president of Estonia? What about the globalization critics who were collectively suspected of being terrorists, which legitimized the matchless restrictiveness of the security measures undertaken at the G8-meeting in Heiligendamm 2007? What if you were told that the German Federal Court of Justice ex post rehabilitated these critics of globalization, this is, after the show was over?

So, the question is whether or not we tend to suffer from a mass hysteria these days, which is both comprehensible concerning its causes and dangerous concerning its consequences. Is it both justified and reasonable to take any act of violence as an indicator of a massive threat to *homeland security* and the world order? Is it possible that we experience a strange alliance between the mass media and the home secretaries that is the foundation upon which an inappropriate labelling of most different forms of violence is based?

As is generally known, it is not easy to define terror properly. One approach could be to first focus on specific activities then typologize them according to a terrorist/non-terrorist distinction in a second step. But there are two major problems with this strategy: on the one hand, we find that terrorists tend to copy strategies of criminals<sup>2</sup>, so in cases of murder, kidnapping, and hijacking we do not know whether it is either terror or crime we got to deal with. On the other hand, concepts of terror defined from a macro-perspective most often collide with common definitions of war<sup>3</sup>.

<sup>2</sup> Townshend, Charles, *Terrorismus. Eine kurze Einführung*, Stuttgart, Reclam, 2005, at p. 13.

<sup>3</sup> Creveld, Martin van, *Die Zukunft des Krieges*, Hamburg, Murmann, 1991; Simon, Fritz B., *Was ist Terrorismus? Versuch einer Definition...*, in: Baecker, Dirk and Fritz B. Simon (ed.), *Terror im System. Der 11. September und die Folgen*, Carl-Auer, Heidelberg, 2002, pp. 12-31.

Thus, it could be more appropriate to focus on the intended political effects of terrorist violence in concrete terms: unsettled structures of expectation<sup>4</sup>, scarred populations, delegitimized political orders, and challenged cultural systems, in general, an atmosphere of omnipresent danger and constant vulnerability on both the individual and the collective level. Well, according to this, we would have to define the set-up of urban *no go areas* as an act of terrorism, as well.

At least these effect-based approaches to the phenomenon are etymologically well embedded: the notion of terror has its roots in the Latin word for shock, which qualified an individual sentiment of fear. Its social connotation was added during the final stage of the French Revolution, when it referred to what we call state terrorism today. That is, terror used to qualify what the powerful did with the powerless. It was not until the Congress of Vienna the term began to indicate the very opposite of its early meaning.

What we can learn from this very brief semantic history of terror that the specific quality of terror is not about the means and effects of the violence, but rather about the terms and conditions of the de-/legitimizing of this very violence. Thus, the problem with “terrorists” is that we have to ask why we do not treat them as homicidal maniacs. Why is it that we cannot treat terrorist attacks as rampage due to individual mental confusion? What is the specific social dimension of the phenomenon? What part of our memory does this violence stimulate? What problems does the violence remind *us* of that *we* feel the need to call it terror? The severity of these questions corresponds to the fact that cases of self-attribution as a terrorist are hard to find.

The bottom line is that the problem of terrorism is not the violence itself, but rather the labelling of it. Thus, yet by using the very label, *sociology of terrorism* is to deal with the fact that it produces the very phenomenon that it observes<sup>5</sup>; just like any other kind of discipline.

In this paper, we will show that scientists and scientific consultants from G8 member states (and their allies) tend to forget about the fact that *terror* is a label that they themselves introduced to a global discourse on violence. Thus, they are not completely aware that terror is a homemade problem of their own societies.

So, we suggest to reframe the stiffen terror discourse. One of the most important steps in this context is to sketch the specific structure of the problem in terms of a global conflict system. Concerning interventions into this very conflict system, we are able to demonstrate that most scientist and advisors do not fulfil the most basic standard requirements of their own profession, which are curiosity, objectivity, and neutrality.

<sup>4</sup> Simon, Fritz B., *Was ist Terrorismus? Versuch einer Definition...*, in: Baecker, Dirk and Fritz B. Simon (ed.), *Terror im System. Der 11. September und die Folgen*, Heidelberg, Carl-Auer, 2002, at p. 14.

<sup>5</sup> Baecker, Dirk, *Therapie für Erwachsene: Zur Dramaturgie der Strukturaufstellung*, in: Groth, Torsten and Gerhard Stey (eds.), *Potenziale der Organisationsaufstellung: Innovative Ideen und Anwendungsbeispiele*, Carl-Auer, Heidelberg, 2007b, pp. 14-31.



Thus, above all, this paper is about re-establishing this very professional perspective on terror, which means to ask for both for the function of and the responsibilities for this very label. As one consequence of this systemic reframing of the terror-problem we state that the *Jihad* violators shall be held responsible for their violence, but not for the consequences of *terror* which is to be seen as a specific (labelling) re-action<sup>6</sup> of the “Western” world.

We end by claiming that there is demand for systematic research on the applicability of therapeutic concepts on the field of the intervention into stable inter-cultural conflict systems.

## II. Perspectives and Biases in the Anti-Terror-Discourse

As we already indicated, labelling Jihadist violence as terror radically limits the scope of reactions to this form of violence, that is, both the paths and the lock-ins<sup>7</sup> of the related discussions are very much dependent on this single decision. According to the most common of these paths, it seems like all further steps of escalation have their origin in the specific nature of the terrorist violence against people and symbolic spaces, since terrorists are said to both anticipate and strategically stimulate the “counter”-violence of the target system, e.g. in order to unmask it. By means of this popular argumentation, the terrorists are held responsible for all consequences, which both they and the citizens of the free world have to face.

It seems like both public and political discourse cannot be eluded from this logic of the inevitable escalation. What connects them both is the dimension of inconceivability with which they are confronted: how can these terrifying things happen? How do these people become terrorists or even suicide bombers at all? What are their motives? And included within most of this case study: what are adequate re-action strategies?

Scientifically re-coded most of these questions focus the incubation conditions of terrorism in general, and of the contemporary religion based global terrorism in particular.<sup>8</sup> Within the field of the respective research, three complexes of causes are discussed: a) individual factors, b) network-action of embedded individuals and c) aspects of globalization and re-regionalization.

<sup>6</sup> E.g. the introduction of bio-metric passports for babies, the presence of armies in enemy territories as well as in the homelands, the cave-in of human rights for “terrorists” and of civil rights for citizens, etc.

<sup>7</sup> Beyer, Jürgen, *Pfadabhängigkeit. Über institutionelle Kontinuität, anfällige Stabilität und fundamentalen Wandel*, Campus, Frankfurt, 2006; Liebowitz, Stanley J. and Stephen E. Margolis, *Path Dependence, Lock-In, and History*, in: *Journal of Law and Economics* (Volume 11), 1995, pp. 205-226; Schreyögg, Georg, Jochen Koch and Jörg Sydow, *Routinen und Pfadabhängigkeit*, in: Schreyögg, Georg and Axel v. Werder (eds.), *Handwörterbuch Unternehmensführung und Organisation*, 2004, pp. 1296-1304.

<sup>8</sup> Schluchter, Wolfgang, *Einleitung: Fundamentalismus – Terrorismus – Krieg*, in: Schluchter, Wolfgang. (eds.), *Fundamentalismus – Terrorismus – Krieg*, Velbrück, Weilerswist, 2003, pp. 9-24.

a) *Individual factors*: The focus of the first level of the analysis of terror is on more or less individual biography research in the lives of unstable, fanaticized, fatuous, ideologized, and morbid characters. Nonetheless, they are said to have (had) rational motives, which has been widely discussed in the context of the 9/11 incident or the attacks in Madrid.<sup>9</sup> Concerning this, most different motives have been identified, so far: suicidal attackers compensate their biased perception of powerlessness by combining both the greatest possible crime with the greatest sacrifice in order to turn the table on both the world they leave and in paradise.<sup>10</sup> By this argument, terrorist violence is connoted with specific forms of deprivation experiences, which are said to have fatal consequences on young male middle-class Muslims and their conflict with the antinomies of Western Modernity.<sup>11</sup> Hence, Islamism is said to be an outlet for sexually, mentally or socially deprived men.<sup>12</sup>

b) *Network-action of embedded actors*: Further analysis of the structure of attacks soon showed that lone operators were in the minority, and thus raised the question for the existence of terror-specific socialization regimes and shifted the focus to training camps in Afghanistan. Concerning these, we are informed about rigorous initialization rites, de-personalization, and religion based elitist brainwashing. At the same, the network structure of the trans-national terrorism and its impact on its indestructibility caught the interest of researchers<sup>13</sup>, as with the recruitment practices<sup>14</sup> and the internationality of both the network and its strategic orientation<sup>15</sup>, while data concerning the concrete member structure of al-Qaida were deduced from the little information that had been

<sup>9</sup> Witte, Daniel, *Zur Rational-Choice-Analyse des transnationalen Terrorismus: Potenziale und Grenzen ökonomischer Erklärungsansätze*, in: Kron, Thomas and Melanie Reddig (eds.), *Analysen des transnationalen Terrors. Soziologische Perspektiven*, VS, Wiesbaden, 2007, pp. 17-44, at p. 21.

<sup>10</sup> Elwert, Georg, *Charismatische Mobilisierung und Gewaltmärkte. Die Basis der Attentäter des 11. September*, in: Wolfgang Schluchter (ed.), *Fundamentalismus – Terrorismus – Krieg*, Velbrück, Weilerswist, 2003, pp. 111-134, at p. 121.

<sup>11</sup> Eisenstadt, Shmuel N., *Antinomien der Moderne*, Suhrkamp, Frankfurt am Main, 1998; Rubenstein, Richard E., *The Psycho-Political Sources of Terrorism*, in: Kegley, Charles W. (ed.): *The New Global Terrorism. Characteristics, Causes, Controls*, Prentice Hall, New York, 2003, pp. 139-149.

<sup>12</sup> Hess, Henner, *Terrorismus: Quo vadis? Kurzfristige Prognosen und mittelfristige Orientierungen*, in: Kemmesies, Uws (ed.): *Terrorismus und Extremismus – Der Zukunft auf der Spur. Polizei und Forschung*, München, 2006, at p. 129; Kepel, Gilles, *Die Rache Gottes. Radikale Moslems, Christen und Juden auf dem Vormarsch*, Piper, München, 1994; Riesenbrodt, Martin, *Die fundamentalistische Erneuerungen der Religionen*, in: Kindeberger, Kilian (ed.), *Fundamentalismus. Politisierte Religion*, Brandenburgische Landeszentrale für politische Bildung, 2004, pp. 10-27.

<sup>13</sup> Schneckener, Ulrich, *Netzwerke des Terrors. Charakter und Strukturen des transnationalen Terrorismus*, SWP-Studie Stiftung Wissenschaft und Politik, Deutsches Institut für Internationale Politik und Sicherheit, Berlin, 2002, at p. 6; Aderhold, Jens and Steffen Roth, *Trittbrettfahrer der Globalisierung: Antiglobale Netzwerke und das Problem ihrer Unzerstörbarkeit*, in: Aderhold, Jens and René John (ed.), *Innovation – Sozialwissenschaftliche Perspektiven*, UVK, Konstanz, 2005, pp. 149-172.

<sup>14</sup> Sageman, Marc, *Understanding Terror Networks*, University of Pennsylvania Press, Philadelphia, 2004.

<sup>15</sup> Steinberg, Guido, *Der nahe und der ferne Feind. Die Netzwerke des islamischen Terrorismus*, Beck, München, 2005, at p. 25.

provided by the mass media and governmental authorities<sup>16</sup>, treated in terms of social network analysis<sup>17</sup>, and visualized<sup>18</sup>. At the same time Mayntz<sup>19</sup>, Priddat<sup>20</sup>, and Raab/Milward<sup>21</sup> introduced networks of the type al-Qaida in terms of hybrid or paradoxical organizations that integrate both fluid network structures and elements of formal organization; if airplanes shall be turned into missiles, then there is to be both a hierarchical communicative structure and a rigid division of roles and 'labor'<sup>22</sup>.

c) *Aspects of globalization and regionalization*: most dominant in the context of globalization-focused approaches are the concepts of the international prosperity or power gap<sup>23</sup>, that is, an asymmetry that is often perceived as a (post-) colonial regime. As it is the both ideologically and geopolitically most exposed representative of this world order, the USA is said to be the most endangered target unit worldwide.<sup>24</sup> According to most contingent parameters, the world of nations is not only ranked with regard to their risk of being attacked by terrorists, but is also divided into either target units or incubators of the terror. The latter, i.e. states with a governmental system that is said to be un-

<sup>16</sup> Hirschmann, Kai, *Terrorismus in neuen Dimensionen. Hintergründe und Schlussfolgerungen*, in: *Aus Politik und Zeitgeschichte* (Volume 51), 2001, pp. 7-15; Halem, Irm, *Micro Target, Macr Impact: The Resolution of the Kashmir Conflict as a Key to Shrinking Al-Qaeda's International Terrorist Network*, in: *Terrorism and Political Violence* (Volume 16, Number 1), 2004, pp. 18-47; Schneckener, Ulrich, *Netzwerke des Terrors Charakter und Strukturen des transnationalen Terrorismus*, SWP-Studie Stiftung Wissenschaft und Politik, Deutsches Institut für Internationale Politik und Sicherheit, Berlin, 2002, pp. 28-29.

<sup>17</sup> Fellman, Philip V. and Roxana Wright, *Modeling Terrorist Networks – Complex Systems at the Mid-Range*, paper presented at the Joint Complexity Conference, London School of Economics, 16-18 September 2003; Fellman, Philip V., *The complexity of terrorist networks*, International Conference on Complex Systems – NECSI Summer School, 12-23 June 2006, Boston; Krebs, Valdis, *Uncloaking Terrorist Networks*, 2001. Available online at: <http://www.orgnet.com/hijackers.html>; Krebs, Valdis, *Mapping Networks of Terrorist Cells*, in: *Connections* (Volume 24, Number 3), 2002, pp. 43-52.

<sup>18</sup> Sageman, Marc, *Understanding Terror Networks*, University of Pennsylvania Press, Philadelphia, 2004.

<sup>19</sup> Mayntz, Renate, *Hierarchie oder Netzwerk? Zu den Organisationsformen des Terrorismus*, in: *Berliner Journal für Soziologie* (Volume 14), 2004, pp. 251-262.

<sup>20</sup> Priddat, Birger P., *Djihad als Netzwerkunternehmens eines Global Tribe: Al-Qauida*, in: Baecker, Dirk, Peter Krieg and Fritz B. Simon (eds.), *Terror im System. Der 11. September und die Folgen*, Carl-Auer, Heidelberg, 2002, pp. 110-129.

<sup>21</sup> Raab, Jörg and H. Brinton Milward, *Dark Networks as Problems*, in: *Journal of Public Administration Research and Theory* (Volume 13, Number 4), 2003, pp. 413-439.

<sup>22</sup> Mayntz, Renate, *Hierarchie oder Netzwerk? Zu den Organisationsformen des Terrorismus*, in: *Berliner Journal für Soziologie* (Volume 14), 2004, pp. 251-262.

<sup>23</sup> LaFeber, Walter, *The Post September 11 Debate Over Empire, Globalization, and Fragmentation*, in: *Political Science Quarterly* (Volume 117), 2002, pp 1-17.

<sup>24</sup> Galtung, Johan, *Der Preis der Modernisierung. Struktur und Kultur im Weltsystem*, Graf, Wilfried and Dieter Kinkelbur (eds.), Promedia, Wien, 1997, at p. 104.

derdeveloped according to the parameters of Western modernization have the best chances of acquiring that label.<sup>25</sup>

Against this background, it is most interesting to find that it is not the absolute, but rather the relative, poverty at both the regional and the global level which is said to have the greater impact on the escalation of violence;<sup>26</sup> concerning the latter, religious and cultural differences are said to have a more catalytic than an activating effect.<sup>27</sup> Basically, the most serious conflicts come from problems concerning the acquisition and the distribution of the most different resources in countries with the weakest state power.<sup>28</sup>

That is, within an overall analysis, we can state that individual factors, structural conditions, results from network analyses, and a global perspective are taken into account. Consequently, we are well provided with information on the motive structure of the assassins, their background, the corresponding recruitment practices, fundamentalist milieu structures, the impact of regional hot spots on terrorism, financial infrastructures, and the global dimension of terror, etc.<sup>29</sup> What we find here are one-directional causal patterns of explanation and attribution: the impact on Islamist propaganda on terrorism<sup>30</sup>, the collaboration between terrorists and criminals<sup>31</sup>, and sometimes the dimension of global inequalities.<sup>32</sup>

Overall, these articles paradoxically produce a both one-dimensional and contradictory picture of terrorism. It seems that science is mostly content with reproducing the most different yet existing interpretations, instead of keeping its professional distance to the global event "terror". So, at the moment almost everybody seems to agree with the idea that rigorous interventions by the police, by the intelligence agencies, and by military units are the only appropriate anti-terror measures. Thus, the discussion just varies concerning the tactics, while strategy is rather seldom questioned: identification and extinc-

<sup>25</sup> Elwert, Georg, *Charismatische Mobilisierung und Gewaltmärkte. Die Basis der Attentäter des 11. September*, in: Schluchter, Wolfgang (ed.), *Fundamentalismus – Terrorismus – Krieg*, Velbrück, Weilerswist, 2003, pp. 111-134, at p. 127.

<sup>26</sup> Münkler, Herfried, *Die neuen Kriege*, Rowohlt Taschenbuch, Hamburg, 2004, at p. 17.

<sup>27</sup> Link, Werner, *Die Neuordnung der Weltpolitik. Grundprobleme globaler Politik an der Schwelle zum 21. Jahrhundert*, Beck, München, 1998.

<sup>28</sup> Münkler, Herfried, *Die neuen Kriege*, Rowohlt Taschenbuch, Hamburg, 2004, at p. 18 and p. 44.

<sup>29</sup> Burke, Jason, *Al Qaeda. The True Story of Radical Islam*, Penguin, London, 2004; Elwert, Georg, *Charismatische Mobilisierung und Gewaltmärkte. Die Basis der Attentäter des 11. September*, in: Schluchter, Wolfgang (ed.), *Fundamentalismus – Terrorismus – Krieg*, Velbrück, Weilerswist, 2003, pp. 111-134; Laqueur, Walter, *Krieg dem Westen. Terrorismus im 21. Jahrhundert*, Ullstein, Berlin, 2004; Napoleoni, Loretta, *Modern Jihad. Tracing the Dollars behind the Terror Networks*, Pluto Press, London, 2003.

<sup>30</sup> Eisenstadt, Shmuel N., *Vielfalt der Moderne*, Velbrück, Weilerswist, 2000; Omand, David, *Countering International Terrorism: The Use of Strategy*, in: *Survival* (Volume 47, Number 4), 2005, pp. 107-116.

<sup>31</sup> Münkler, Herfried, *Die neuen Kriege*, Rowohlt Taschenbuch, Hamburg, 2004.

<sup>32</sup> Halem, Irm, *Micro Target, Macro Impact: The Resolution of the Kashmir Conflict as a Key to Shrinking Al-Qaeda's International Terrorist Network*, in: *Terrorism and Political Violence* (Volume 16, Number 1), 2004, pp. 18-47.

tion of hundreds and thousands terrorist actors, groups, networks and states in order to make the network loose its' organizing and acting skills.<sup>33</sup>

But sooner or later, even science will have to face the fact that nobody seems to really know either how these selective interventions are to be performed or whether these ever will be successful. Basically, there are two problems with the extinction strategy: first, the relevant knots of the terror-networks are to be identified, but this is looking for a needle in an international haystack, which has so far meant more collateral *damage* than lucky strikes. Certainly, the most regrettable of these collateral damages is self-cannibalization of the Free World, which indicates that it lacks learning aptitude: the 9/11-incident was not the first terrorist attack in history. Nonetheless, Western societies always seem to revert to the early childhood of democracy when confronted with terror. Regardless of what kind of terrorist violence has ever occurred during the last 200 years, the Occident and its Allies just know but one way to deal with terror: sacrificing the very values that they claim to defend. Thus, we argue that terror is not about historically varying forms of violent attitudes or actions, but rather a certain form of self-destructive collective neurosis, that is, communication that is neither appropriate to the needs of the regarded system nor to the demands of its environment.

### III. The Terror System as a Communicative Conflict System

The attack on the World Trade Center induced a wave of explanatory models. Most of the questions focused on the causes and motives of terrorist violence, on their structures of action and organization, on certain social structures that could embed terror, and finally on ways of containing as well as destroying both terrorist organizations and their promoting structures.

What is remarkable in this context is that the notion of terror quickly caused research and communication that focused almost exclusively on both the rationales of and containment of the actions of just one of the parties involved; the terrorists who are accused of unjustified acts of violence. Analyses of both the specific nature of the re-action patterns of the *Alliance of the Willing* and of its enabling structures were far less in demand.

Meanwhile, first voices can be heard that are no longer interested in whatsoever detailed interior views from just one side of the medal. Rather, they plead for a more systemic view on the international conflict system called terror. One example for that is Navid Kermani<sup>34</sup>, who published a plethora of articles on the Middle East and the Middle East

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<sup>33</sup> Castells, M., *Bausteine einer Theorie der Netzwerkgesellschaft*, in: Berliner Journal für Soziologie (Volume 11, Numer 4), 2001, pp. 423-439.

<sup>34</sup> Kermani, Navid, *Strategie der Eskalation. Der Nahe Osten und die Politik des Westens*, Wallstein, Göttingen, 2005

policy of the Occident: during the lecture of his own articles he found that these followed a peculiar pattern based on an “*automatism of action, reaction and counter-reaction*” and which “*world policy as well as our own perception complied with, these days*”.

Thus, instead of continuing with following these automatisms of the days of the immediate 9/11 shock, we should now start to reflect on the functions and enabling structures of this automatism itself. That is, in concrete terms: we shall take our distance in order to be able to have a close look at the form and function of the conflict system called terror, at what is covered by the very label, at what is overemphasized, and at what is left aside. By this means, we re-enhance the pre-terror scope of freedom of communication.

As they are even more invisible than motives of conflicting actors, conflicts themselves are usually not treated as a discrete third party, and thus, are most often ignored as a discrete level of analysis.

Simply said, the function of conflicts is to re-establish a stable relationship to the system’s own instability.<sup>35</sup> If a system is alienated, e.g. due to a shock, then the system can overcome its own alienation by externalizing it — a procedure which is well known as physical, psychological, and social defence mechanisms which legitimate violence, projection of own deviances, and the exclusion of scapegoats. By these means, conflicts replace insecurity with problems. Once established, problem-focused social conflicts are very stable and prevent all involved persons – including scientists - from unpleasant dissonances, then the conflict partner first turns into an opponent and finally into an enemy; this is a former subject turned into an object.

As demonstrated by the history of the Middle East, conflicts tend to establish social systems with highly compulsive constraints.<sup>36</sup> In this context, the integrating elements are most simple binary schemes like friend and foe, in which even neutrality can be interpreted as an act of aggression<sup>37</sup>.

That is to say the escalation of violence is not only due to the chaining of acts of counter-violence, but also due to the fact that even distance to the conflict seems to be impeded; in a friend-foe scheme there is no place for the neutral reflections of a third party. So, both the opponents and the scientists who subtly assign to one of the latter base on truncated and simplifying semantics, which shows that most scientists are also part of the conflict structure themselves, too.

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<sup>35</sup> Luhmann, Niklas, *Ausdifferenzierung des Rechts*, Suhrkamp, Frankfurt/Main, 1981, at p. 97.

<sup>36</sup> Luhmann, Niklas, *Ausdifferenzierung des Rechts*, Suhrkamp, Frankfurt/Main, 1981, at p. 101.

<sup>37</sup> Schluchter, Wolfgang, *Einleitung: Fundamentalismus – Terrorismus – Krieg*, in: Schluchter, Wolfgang (ed.), *Fundamentalismus – Terrorismus – Krieg*, Velbrück, Weilerswist, 2003, pp. 9-24, at p. 13.

Due to the unpredictable and, thus, omnipresent nature of the international terrorism, the perceived threat is universalizing.<sup>38</sup> Soon, a global conflict system is established.<sup>39</sup> Now almost every form of violence in almost every corner of the world is very likely to be labelled as terror. So, perhaps we would not need much more than to combine the ideas of an increased interest in violence, of global mass media, and of the law of large numbers to explain the perceived increase or omnipresence of terrorist violence.

If we now continue to focus on the global conflict system called terror we find that escalation is not only a problem *between* the two conflicting sub-systems, but also *within* them. On the one hand, the nature of terror functions as the legitimation of counteractive measures against terrorism, which ironically bear its' signature. But what is more interesting, on the other hand, is that the Free World acts as a servant of the terrorists as they react on violence that is explicitly interpreted as an attack on their liberal foundations by both nationally and internationally extinguishing the achievements of Modernity themselves.

That is, we can follow Dirk Baecker<sup>40</sup> in saying that every act of terrorism is an attempt to gain control. But, as stated in the next chapter, from a systemic point of view, this attempt can be observed on both sides of the clash of civilizations.

#### IV. The Neutrality Ban as an Impact of Culturalist Analysis of the Terror

As already demonstrated, the discourse on the causes and consequences of terror is very much biased. Particularly peculiar, however, is the more or less manifest partisanship of scientists, a group that usually aims at maximal neutrality as well as at the objectivity of its findings. Perhaps this lack of neutrality is due to that fact that the terror is said to be violence that targets not only materials and bodies, but also the intangible foundations of the cultural spheres; and these spheres are the preferred objects of the research and development in the social sciences and humanities.

Basically, two types of attitudes towards terrorism can be distinguished. For one group, the threat is most existential, concrete, and immediate. Thus, there is no use in reasoning about potential causes of violence; nothing on earth could ever justify attacks that aim at ones own (way of) life. As surviving is the order of the day, even the smartest cause study would not reduce the finality of countermeasures. So, the bottom line is

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<sup>38</sup> Beck, Ulrich, *Weltrisikogesellschaft revisited: Die terroristische Bedrohung*, in: Hitzler, Ronald and Jo Reicherts (eds.), *Irritierte Ordnung. Die gesellschaftliche Verarbeitung von Terror*, UVK, Konstanz, 2002, pp. 275-298, at p. 54.

<sup>39</sup> Japp, Klaus P., *Terrorismus als Konfliktsystem*, in: Kron, Thomas and Melanie Reddig (eds.): *Analysen des Transnationalen Terrors. Soziologische Perspektiven*, VS, Wiesbaden, 2007, pp. 166-193, at p.168.

<sup>40</sup> Baecker, Dirk, *Die Gewalt des Terrorismus*, in: Aderhold, Jens and Olaf Kranz (eds.), *Intention und Funktion. Probleme der Vermittlung psychischer und sozialer Systeme*, VS, Wiesbaden, 2007, pp 219-229, at p. 223.

problem-solving strategies between police state and anti-crime measures in the Wild West<sup>41</sup>.

Of course, scientists usually tend to join the other party that focuses first on the causes and conditions of terror in order to learn how to destroy terrorist structures even more efficiently. Even the most empathic study on the social structure of the *failed states* acting as *incubators of terrorism*<sup>42</sup> comes to the conclusion that supporting structures of terrorism have to be forcefully destroyed.

Both groups have their function; on the one hand, the perception of an immediate, constant, and omnipresent life-threatening situation justifies the most rigid measures against groups and individuals even within the homelands of the Free World. And on the other hand, the second approach justifies measures against the rest of the world:

- First, external state failure is defined according to internal rules.
- Second, state failure is defined as one of the most basic causes of terrorism.
- Third, terrorism is defined as an existential threat.
- Fourth, you feel legitimated to attack declaredly weak states that never have attacked you.

In this very sense, both approaches to terror harmoniously complement each other within the semantic amalgam “war against terror”, not least because both of them strictly externalize the causes of terrorism.

But as already indicated before, *it takes more than one to cause terror*; it takes an act of violence, and it takes the label to turn this violence into terror, too.<sup>43</sup> Unlike its semantic alternative, war, the concept of terror does not primarily commit to external hostility but rather to patriotism in the war against oneself. War is about the extinction of external forces, while in the context of terror we have to face the problem that contemporary terrorist networks are probably indestructible<sup>44</sup>; most tactics within the war against terror are about adapting the own system to a surrounding that the system maybe cannot change, at any time. Thus, we are confronted almost daily with our own technical, psychological, and social security shortcomings. The bottom line is that war aims at vic-

<sup>41</sup> Ignacio Ramonet, in: *Le Monde Diplomatique*, 12 March 2004

<sup>42</sup> Rotberg, Robert I., *Failed States, Collapsed States, Weak States: Causes and Indicators*, in: Robert I. Rotberg (ed.), *State Failure and State Weakness in a Time of Terror*, Brookings Institution Press, Washington DC, 2003, pp. 1-25; Rotberg, Robert I., *The Failure and Collapse of Nation-States*, in: Robert I. Rotberg (ed.), *When States Fail: Causes and Consequences*, Princeton University Press, Princeton, 2004, pp. 1-45.

<sup>43</sup> Baecker, Dirk, *Die Gewalt des Terrorismus*, in: Aderhold, Jens and Olaf Kranz (ed.): *Intention und Funktion. Probleme der Vermittlung psychischer und sozialer Systeme*, VS Verlag, Wiesbaden, 2007, pp. 219-229.

<sup>44</sup> Aderhold, Jens and Steffen Roth, *Trittbrettfahrer der Globalisierung: Antiglobale Netzwerke und das Problem ihrer Unzerstörbarkeit*, in: Aderhold, Jens and René John (ed.), *Innovation – Sozialwissenschaftliche Perspektiven*, UVK, Konstanz, 2005, pp. 149-172.



tory, that is, an end with terror; while terror is about terror without an end. Within the context of the war against terror, both dimensions of violence are condensed to a never-ending story of attack and revenge; maybe the *war against terror* is the most compact and paradoxical tale of violence, which makes neutrality twice as hard as in any other case.

But, neutrality is a basic scientific virtue. In particular when science wants to give advice, neutrality is both basis and quality feature of consultancy, never mind whether the demands for advice are in health care, in economy, or in politics. Nonetheless, most analysts of terror stand out due to their striking partisanship. *They act like a couple's therapist who constantly supports the female*, that is: unprofessional. Therapy research showed that partisanship only works either as a temporal tactic within a neutral overall-strategy, or against the background of an aspired exit-option. As it will be hard to find an exit-option at the global level, and as Western societies still lack of an overall-strategy of the war against terror, the bottom line is what is well-known in couple's and family therapy for ages: partisanship is a problem of consultancy, and not a solution.<sup>45</sup>

This excursion to therapy is coherent not only in terms of an analogy, but also in terms of a glance on the roots of the trans-individual, systemic tradition of consultancy.<sup>46</sup> What is true for couple or family therapy applies at the global level all the more; advisory interventions into conflict systems are definitely the matter of a specifically sociological form of consultancy. At both levels of the analysis, an inter-systemic sociological focus can be distinguished selectively from the intra-systemic perspectives of its cognate disciplines. While both the reconstruction of the inner life and the coping with an individual biography are the core-competencies of classical psychological approaches, inter-systemic coaches and consultants would rather focus on the history of the communication between these very actors as well as on further *trans-individual structures*, which can be both physically reconstructed and psychologically experienced, e.g. by techniques of the *structural constellations school*.

Thus, it is never the focus on the internal structure of a given state or cultural system which provides us with sociological findings at the level of world society. In the context of terror, an intra-systemic perspective neglects the inter-active form of the conflict system called terror, that is, the violence of alter which ego labels as terror. And this is exactly the point: the most interesting sociological finding concerning terror is that terror is a problem that is created by the Western World itself, e.g. by calling Jihad 'terror',

<sup>45</sup> Stabb, Deborah L. Cox and Jerry L. Harber, *Gender-related Therapist Attributions in Couples Therapy*, in: *Journal of Marital and Family Therapy* (Volume 23, Number 3), 1997, pp. 335-346; Quinn, William; Damond Dotson and Karin Jordan, *Dimensions of Therapeutic Alliances and the Association with Outcome in Family Therapy*, in: *Psychotherapy Research* (Number 74), 1997, pp. 429-438.

<sup>46</sup> Nestmann, Frank, Frank Engel and Ursel Sickendiek (ed.), *Das Handbuch der Beratung*, Dgvt, Tübingen, 2007; Kriz, Jürgen, *Grundkonzepte der Psychotherapie*, Beltz, Weinheim, 2001; Schlippe, Arist von and Jochen Schweitzer, *Lehrbuch der systemischen Therapie und Beratung*, Göttingen, 2000; Schiepek, Günter, *Die Grundlagen der Systemischen Therapie*, Göttingen, 1999.

and not just Jihad. Accordingly, we are not only to ask for the functions which Jihad has with regard to its incubator cultures but also for the function which the notion of terror has on the systems of the Western World.

Additionally, not until we contrast the two battle calls of Jihad and terror we find that they do not differ much in one most basic dimension, as *both enact a neutrality ban*. That is, that these two most different codes have the same impact on two most different cultures: a drive towards ideological mobilization, loss of rights, escalation, exclusion, totalitarianism, and fundamentalism.

The most peculiar difference is that, on the one side of the clash of civilizations, *a majority of the one system fears a minority of the other* (terror scenario), while on the other side, a minority of the one system feels challenged by the majority of another (Jihad scenario). Culturalist approaches will not help much to cope with this amalgam of inferiority complex, megalomania, humiliation, and arrogance; possibly they even take counterproductive effects. Is it right to attach the terrorists to a certain culture, as was done just a few lines above? Do we not rather tend to exclude terrorists from (our own) societies in order to be able to give them a special treatment? Hence, it blends well into these questions that it is not the intention of this paper to discuss cultural specifics in the context of terrorism.

Nonetheless, from an inter-cultural point of view we find that in the Western World, much more effort is made on the analysis of both the causes of Jihad than on *the analysis of the reasons for the Western atmosphere of terror*, but regarding this sociologists can have a clear conscience when they refer this kind of questions to their colleagues from the cultural sciences, that is, the psychologists of cultures, in a matter of speaking.

In the following final section of this paper we will sketch a basic structure of a decidedly neutral program for the research and consultancy in the context of the transnational conflict system called terror.

## **V. Before Getting up from the Couch: Perspectives and Advice**

Consequent inter-systemic analysis generates new perspectives and, by this means, surprising gains of knowledge which are either convincing or serve to clear the way for new questions, at least. As a matter of fact, we do not need many words to elaborate the fact that contemporary research and advice on terror has problems with properly defining its field of research or its client system.<sup>47</sup> Usually it is the *own* governments, states, societies or cultures which are identified as the clients, that is, as victims of terrorist violence with a demand for coping strategies. Of course, there is demand for advice on

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<sup>47</sup> Königswieser, Roswita and Alexander Exner, *Systemische Intervention*, Klett-Cotta, Stuttgart, 1999, pp. 22-23.

those delinquent and failure systems that act as index patients with either Terrorism or Incubator of Terrorism syndromes also. The history of the interaction between the two combatants is told in a highly selective way, if at all. Consequently, the fundamental law of taking the responsibility for ones own perceptions, attributions, and actions is hurt, too, as it is exclusively applied to the index patients, and not to the own clients.

By this means, most of the researchers and consultants are gambling away the chance for a multi-perceptive problem approach, and are reducing both their own mental scope and their skills. In peculiar contrast to the state of arts that has been achieved on all advisory levels between person and organization, yet, the cultural and societal advisors act like a surgeon with a butcher's knife:

- Instead of challenging the two clients with multi-perspective feedback (e.g. by means of crossover mirroring) the respective rationales follow biased and most trivial actor-victim-schemes.
- The given structure of the conflict is never questioned or reframed.
- The focus is primarily on attributes of (one of) the actors, and not on the characteristics of their inter-action.
- Instead of establishing a neutral sphere of trust, we find an atmosphere of partisanship and accusation.
- All responsibility for the consequences of the conflict is handed over to the index patients.
- There is no advice for the index patients; merely, there is advice on them.

In view of the state of the art section of this paper, we claim that most of all researchers and consultants practice both partisanship and cultural self-importance instead of cultivating a professional attitude of “*neutrality and curiosity*”<sup>48</sup>. Why does this group prefer the distance to its own ethical standards to the distance to its own cultural sphere? We guess that this question justified a separate paper.

But it is most important for us to state that the stunning compliance to the neutrality ban is not a result of a culturally formed perception which even scientists cannot escape, as they are part of one of the party of the conflict system, as well. Contemporary psychotherapy and organizational consultancy provide us with quite a scope of tools for which applies what Dirk Baecker said with regard to management constellations: “*The therapeutic success of this method consists in the fact that observers as well as participants can look at a situation which they are in, at the same time*”.<sup>49</sup>

<sup>48</sup> Ellebracht, Heiner, et al., *Systemische Organisations- und Unternehmensberatung*, Gabler, Wiesbaden, 2003, at p. 47.

<sup>49</sup> Baecker, Dirk, *Therapie fuer Erwachsene: Zur Dramaturgie der Strukturaufstellung*, in: Torsten Groth and Gerhard Stey (ed.), *Potenziale der Organisationsaufstellung: Innovative Ideen und Anwendungsbereiche*, Carl-Auer, Heidelberg, 2007, pp. 14-31, at p. 14 (translated).

We claim that the application of just this single method would produce surprising insights in the nature of the transnational conflict system, and thus would enable sociologist consultants to act as professional *reflecting teams*.<sup>50</sup> Thus, we are convinced that there is an immediate need for systematic research on the terms and conditions of the application of concepts of therapeutic consultancy in the field of stable inter-cultural conflict systems. This transfer will not only help to reframe these conflicts but also will contribute to the professionalization of a specifically sociological consultancy, which is said to have a lack of both internal and external legitimation, so far.<sup>51</sup> Hence, our final statement in this paper is advice, of course, and this advice takes two directions.

The first is directed to the researchers and advisors of all cultural backgrounds. The only case in which we cannot afford a neutral position is when neutrality itself is banned. *Thus, re-establishing spaces of neutrality means playing the terror game our way.*

The second is addressed to the Western Societies. Instead of behaving as if in the childhood of democracy, take full responsibility for your perceptions, attributions, and actions. This includes the label terrorism because 'Terrorists' do not perform terror. They engage in Jihad, Civil War, Rampage, or Homicide, etc. That is, terror is nothing but a word for your reaction to this very violence. So, *if terror is the problem, then YOU are (part of?) the problem.*

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<sup>50</sup> Ellebracht, Heiner, et al., *Systemische Organisations- und Unternehmensberatung*, Gabler, Wiesbaden, 2003, at p. 64.

<sup>51</sup> Dewe, Bernd, *Soziologie und Beratung*, in: Nestmann, Frank et al. (eds.), *Das Handbuch der Beratung* (Volume 2), Dgvt, Tübingen, 2007, pp. 125-140.

# Macedonia 2001 and Beyond: New or Old War?

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*The article investigates the security challenges in today's Macedonia starting with the 2001 events, as well as the level of influence of the transnational organized crime over Macedonian society and state. The analysis identifies three issues underlying the 2001 conflict in Macedonia: poverty and unemployment, institutional weakness (lack of rule of law, legitimacy) and corruption and organized crime, characterizing it as a 'new war'. The socio-economic difficulties as well as institutional weakness in Macedonia helped organized criminal groups to take control over society and state. The absence of a human security approach to the problems of Macedonia poses the country at risk of stepping back into a conflict.*

## **I. Introduction**

The social changes that took place during the last decades in Macedonia spread across all spheres of life. Society had been paying for the difficult and lengthy transition process from the socialist system: as a consequence poverty and criminality increased and the fabric of Macedonian society degenerated. The transition produced a system full of weaknesses which escalated in the 2001 conflict. Three issues fuelled the conflict: poverty and unemployment, institutional weakness (lack of rule of law, legitimacy) and corruption and organized crime.

The concept of human security, which is used in this article as theoretical framework of analysis, has radically expanded the understanding of security.<sup>2</sup> The human security discourse shifted the security focus on the basic human needs. Macedonia's strategic goal is

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<sup>2</sup> Møller, Bjorn, *National, Societal and Human Security: General Discussion with a Case Study from the Balkans*, in: UNESCO (eds.), *What Agenda for Human Security in the Twenty-first Century?*, Proceedings of the First International Meeting of Directors of Peace Research and Training Institutions, 27-28 November, Paris, 2000, pp. 41-62.

EU and NATO integration: the main accent is on reforms in the military security sector. All public opinion polls however, suggest that the citizens are far less concerned with the safety of their state or with the global war on terrorism than they are with their mere survival (poverty, unemployment, corruption, etc.).<sup>3</sup>

Regional criminal groups exploited social problems and institutional weakness and contributed to the creation of the conflict that can be therefore characterized as a ‘new war’.<sup>4</sup> ‘New wars’ are intra-state and characterized by criminal activities, privatizing militia or guerrilla/paramilitary groups aiming for material gain and using violence as a way of consolidating power.<sup>5</sup> The role of diaspora<sup>6</sup> in the ‘new wars’ is very important as well, as the use of propaganda (through media), the usage of symbolism, and new, revitalized nationalism for mobilization. There is also the presence of degenerate ruling elite and new class of mafia types. ‘New wars’ occur in areas of economic stagnation; they are supported by a small number of the population, however as demonstrated the final outcome is criminalization and even disintegration of society.

Seven years after the end of the conflict Macedonia still cannot answer to its domestic challenges. One can argue that the mainstream analysis fails to address and identify the real reasons for the occurrence of the violence in 2001. The period of 2002-2006 included post-conflict reconstruction and reconciliation: the National Liberation Army (NLA) fighters were demobilized, a wide amnesty to everyone that participated in the conflict was granted, former combatants and the civilian population were disarmed. Furthermore a consociational democracy was established and the NLA leadership transformed in a political actor. The 2001 conflict is still labelled by international as well as domestic experts as ‘ethno-political’ conflict: neither language nor religious difference, however, proved sufficient to understand the omnipresent insecurity in Macedonia today. In a society where everything is securitized (i.e. the problems which are not necessarily threats are treated as such), the real security issues are not discussed publicly.<sup>7</sup> According to Wæver, securitization is a procedure which attaches a label of urgency upon certain issues.<sup>8</sup> This article aims to investigate the security challenges in today’s Macedonia as well as the level of influence of transnational organized crime over Macedonian society. II. The Weaknesses of Society – Poverty and Unemployment

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<sup>3</sup> Vankovska, Biljana, *National and/or Human Security: The Dilemmas of Post-conflict Societies in SEE*, in: Bakreski, Oliver et al. (eds.) *The Perspectives of the Republic of Macedonia on the Road to NATO and EU*, Ministry of Defense of RM, Kosta Abrash, Ohrid, 2006, pp. 55-64.

<sup>4</sup> Kaldor, Mary, *New and Old Wars: Organized Violence in a Global Era*, Polity Press, Cambridge, 2001.

<sup>5</sup> Kaldor, Mary, *New and Old Wars*, at p. 3.

<sup>6</sup> The role of diaspora is mostly through financing the paramilitary and as well as military groups and sometimes also direct participation in those groups, as it was the case in the Yugoslav wars throughout the 90’s. The diaspora also aided the trafficking and smuggling of weapons.

<sup>7</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia. Efforts for Peace, Democratization and Security*, Open Society Institute, Skopje, 2003, at p. 55.

<sup>8</sup> Wæver, O., *Securitization and Desecuritization*, in: Lipschutz, Ronnie (ed.), *On Security*, Columbia University Press, New York, 1995, pp. 46-86.

How stable is the security situation in Macedonia? [I]t is stable till midnight, afterwards I do not know<sup>9</sup>

The two most important socio-economic concerns in Macedonia are poverty and unemployment. The transition process produced a “system full of weaknesses, however, the weaknesses of the system have, inevitably, become weaknesses of the individual; frequently frustrated by the lack of clear norms in behaviour, disoriented in terms of value structures and having weakened moral principles and feelings of aimlessness, etc”<sup>10</sup>

Macedonia, one of the poorest of the former Yugoslav republics, “*was born economically ‘challenged’*”<sup>11</sup> It has been calculated that the economic embargo imposed by Greece in the ‘90s costed Macedonia \$80 million per month, while the UN blockade imposed on Serbia a total of \$8 billion, due to the fact that most of the export and import of goods in Macedonia at that time had been conducted with and through Serbia<sup>12</sup>: it was a very bad head-start for Macedonia on the road of transition. The UNDP Early Warning Report from 2003 includes a survey on citizens concerns. Both ethnic Macedonians and Albanians, ranked their concerns in the following order:<sup>13</sup>

- Unemployment (78,8%)
- Poverty (66%)
- Corruption (54,8%)
- Crime (43,1%)
- Ethnic problems (29,5%)

One year after the conflict, which was characterized as ethno-political, the top four concerns of the citizens were not ethnic. Interesting is also that the different ethnic communities in Macedonia ranked the concerns very similarly. Even before the conflict there were more than 300.000 unemployed (in a country of two million) and half of the employed were not paid on a regular basis.<sup>14</sup> The nature of unemployment is mainly structural with the existing tax wage being very high, thus increasing the cost of labour in an environ-

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<sup>9</sup> Interview conducted with Mr. Deralla, Xhabir journalist and leader of NGO ‘Civil’, 10 April 2007, Skopje, Macedonia.

<sup>10</sup> Caceva, Violeta, *Criminal Activity During the Period of Transition in Macedonia*, in: South-East Europe Review (Volume 3), 2002, pp 27-38, at p. 36. Available online at: <http://www.ceeol.com/asp/getdocument.aspx?logid=5&id=7BD3F820-12FF-4BD2-9184-E59990E21998>

<sup>11</sup> Liotta, Peter H. and Cindy R. Jebb, *Mapping Macedonia: Idea and Identity*, Praeger, Westport, 2004, at p. 76.

<sup>12</sup> Liotta, Peter. H. and Cindy R. Jebb, *Mapping Macedonia: Idea and Identity*, at p. 76.

<sup>13</sup> Kostovicova, Denisa, *Old and New Insecurity in the Balkans. Lessons From EU’s Involvement in Macedonia*, in: Glasius, Marlies and Mary Kaldor (eds.), *A Human Security Doctrine for Europe: Project, Principles, Practicalities*, Routledge, Abingdo, 2006, pp. 43-70, at p. 52.

<sup>14</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia*, at p. 19.

ment of a very high unemployment rate.<sup>15</sup> After the conflict the country is still in the list of countries with the highest unemployment rates (around 40%), one third of the population lives on the brink of poverty (i.e. it can not supply regular meals) and there have never been so many protests and hunger-strikes<sup>16</sup> led by desperate citizens.<sup>17</sup> Some analysts have warned that “*the implementation of the Framework Agreement could deflect the government from addressing unemployment, but a long-term strategy to overhaul the economy has been drawn up in order to effect a real reduction in poverty and unemployment*”.<sup>18</sup> When asked about the main causes of poverty, one of the respondents answered:

I think that it is exactly the poverty caused by the clan-political structure and milieu in Macedonia, the one which does not allow an economic development; and that keeps them at the top of the economic food chain and us the ordinary citizens, it keeps us at the bottom. It keeps us in a situation in which we can start pointing fingers ‘yes, he is responsible for my impoverishment, he is responsible for the situation that my daughter cannot get good education or for the situation that my son is taking drugs at age 12’.<sup>19</sup>

The UNDP National Report from 2001<sup>20</sup> concluded that:

The lines of exclusion in the Macedonian society are complex and they are not primarily following ethnic lines (with the exception of the Roma), but party lines and lines of education of the population. In Macedonia awareness of this situation is not missing, but the political will for changing things is missing.<sup>21</sup>

### **III. Regional Conflicts and Wars – Reasons for Increased Corruption and Organised Crime**

Corruption and organised crime are so powerful in Macedonia that the causes of the conflict can be attributed to this phenomenon. The conflict officially started when a journalist

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<sup>15</sup> Pejkovski, Jovan, *Social Policy Reforms in the Republic of Macedonia: Strengthening the Capacity for Reaching the EU Acquis in the Social Sphere*, Balkans to Baltics Research symposium ‘Social Policy in the Western Balkans’, Institute for Advanced Studies, University of Bristol, 18 May, 2007, at p. 4.

<sup>16</sup> There is a ‘camping-ground’ across the Assembly building in Skopje where the workers that have lost their jobs have been protesting since early Spring 2007; the author predicts that the camp will stay there for another year and a half at least.

<sup>17</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia*, at p. 71.

<sup>18</sup> Dauti, Daut and Borjan, Jovanovski, *The Challenge of Macedonia’s ‘New Beginning*, in: Brown, Keith S. et al (eds.), *Ohrid and Beyond: A Cross-ethnic Investigation into the Macedonian Crisis*, Institute for War & Peace Reporting, London, 2002, pp. 9-18, at p. 18.

<sup>19</sup> Interview conducted with Mr. Xhabir Deralla journalist and leader of NGO ‘Civil’, 10 April 2007, Skopje, Macedonia.

<sup>20</sup> National Human Development Report 2001 – Social Exclusion and Human Insecurity in FRY Macedonia, at p. 29. Available online at:

<http://hdr.undp.org/en/reports/nationalreports/europthecis/macedonia/name,2888,en.html>

<sup>21</sup> National Human Development Report 2001 – Social Exclusion and Human Insecurity in FRY Macedonia, at p. 29.



discovered trafficking routes near the village of Tanishevci at the Northern border of Macedonia. This development fits into the ‘new war’ argument presented by Mary Kaldor:

These are wars which exacerbate the disintegration of the state – declines in GDP, loss of tax revenue, loss of legitimacy, etc. [...]. Above all, they construct new sectarian identities (religious, ethnic or tribal) that undermine the sense of a shared political community. Indeed, this could be considered the purpose of these wars.<sup>22</sup>

In the Macedonian conflict, it seems that criminals sparked ethnic tensions to safeguard their interests. There exists a wide network of non-state criminal activities mainly focused on the illegal trafficking of weapons, drugs and humans<sup>23</sup>. It seems that in the Macedonian society in the area of corruption and organized crime, ethnic Macedonians and Albanians work together without any ethnic prejudices.<sup>24</sup> This ‘regional business’ is more focused on military equipment and weapons since “*the numerous ‘fronts’ could easily absorb the weapons*”<sup>25</sup>; however, trafficking of drugs and human trafficking also take substantial part of the overall activities. The circulation of small arms and light weapons (SALW) remain a grave problem in the region. During the conflict around 10.000 pieces of weapons were distributed among the civilian population. In September 2002, it was estimated that the number of SALW in circulation was 150.000- 200.000 pieces.<sup>26</sup> At the moment, there are at least 1 million arms in the region and 100.000 to 450.000 in Macedonia alone; their destruction costs five dollars a piece, making it a very expensive endeavour.<sup>27</sup> Trafficking of human beings has been a persistent problem in Southeast Europe ever since the beginning of the transition period in the countries of Southeast Europe, including Macedonia.

Poverty and wars in Southeast Europe are believed to be the reasons for increased organized criminal activities and criminalization of society. Few factors led to the impoverishment of the population in Southeast Europe: the collapse of communism, the liberalization accompanied by political and economic vacuum of the institutions and the number of conflicts and wars in the region. These factors also created a fertile ground for criminal networks. The growth of the vulnerability of individuals, especially women, to become victims of human trafficking is a result of the collapse of the social and economic systems, serious crumbling of certain traditional values, inadequate legal punishments for such crimes and especially the enormous increase of poverty in the countries of transition, composes one specific occurrence in the former socialist countries, including Macedonia. The growth of the unemployment level, the ‘*feminization of poverty*’ as a result of the

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<sup>22</sup> Kaldor, Mary, *New and Old Wars*, at p. 3.

<sup>23</sup> Interview conducted with General- Brigadier Tim Cross, 8 May 2007, London.

<sup>24</sup> Latifi, Veton, *Macedonian Unfinished crises: Challenges in the Process of Democratization and Stabilization*, Foundation Konrad Adenauer, Skopje, 2001, at p. 51.

<sup>25</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia*, at p. 16.

<sup>26</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia*, at p. 44.

<sup>27</sup> Petrovic, Predrad, *Double Price of Military Security*, Western Balkan Security Observer Center for Civil-Military Relations, Gorograph, Belgrade, 2006, pp. 36-40, at pp. 38-39.

process of transition has marginalized the women and made them become victims of the networks of human trafficking.<sup>28</sup> The institutional factors such as dispersion of decision-making power, gender prejudices, etc. also have a great role in gender inequality. In these societies, there are greater prejudices against female victims of human trafficking, than towards the members of the criminal networks who are trafficking in humans and in many instances go unpunished.<sup>29</sup> Namely, there has been a great discrepancy between the charges that were made and the actual sentences performed, “*difference between registered and sentenced crimes during the past two decades – indicator of the current existing weakness of the judicial system and inefficiencies of the courts*”.<sup>30</sup> Very often there has been a direct link between the criminal groups which perform trafficking and the local authorities (either in a form of peace enforcing missions or local policemen). In this respect one can understand the meaning of Lupsha’s argument that “*what is new is the fact that organized crime now possesses tools once reserved for nation-states*”.<sup>31</sup> Furthermore in Lupsha’s article one can observe the evolving patterns and trends in different forms of organized crime and its evolution toward penetrations of legitimate businesses.

In the late period of transition, corruption has dramatically increased in Macedonia and elsewhere in the region. Vankovska divides the mafia’s spheres of influence into two spheres of influence: Albanian organized criminal groups control the Northwest and West part of the country, while the Macedonian groups (ab)use the state apparatus.<sup>32</sup> According to Transparency International, in 2006 Macedonia had a corruption index of 2,7 (on a scale 0-10, 0 being highest).<sup>33</sup> Between 1997 and 2000 alone, there were 134 cases of corruption filed against government employees and 567 cases of “*abuse of official authority*”.<sup>34</sup> Apart from abuses of power there are also the cases of taking bribes, which are most frequent in the health service, municipality administration offices, education, and customs.<sup>35</sup> If one refers to the ‘new war’ argument, the propositions for re-establishing law and order are the following: “*reconstruction of political legitimacy. [...] So, political legitimacy can only be reconstructed on the basis of popular consent and within a frame-*

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<sup>28</sup> Shelley, Louise I., *The Changing Position of Women: Trafficking, Crime and Corruption*, in: Lane, David (eds.), *The Legacy of State Socialism and the Future of Transformation*, Rowman and Littlefield Publishers Inc., Lanham, 2002, pp. 207-225, at p. 219.

<sup>29</sup> Long, Lynellyn D., *Trafficking in Women and Children as a Security Challenge in Southeast Europe*, in: Kyle, David and Ray Koslowski (eds.), *Global Human Smuggling: Comparative Perspectives*, MD, Baltimore, 2002, pp. 53-68 at p. 58.

<sup>30</sup> Caceva, Violeta, *Criminal Activity During the Period of Transition in Macedonia*, at p. 33.

<sup>31</sup> Lupsha, Peter A., *Transnational Organized Crime versus the Nation-State*, in: *Transnational Organized Crime* (Volume 2, Number 1), 1996, pp. 21-48, at p. 23.

<sup>32</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia*, at p. 16

<sup>33</sup> Transparency International, *The Global Coalition Against Corruption. Corruption Perceptions Index*, 2006. Available online at: [http://www.transparency.org/policy\\_research/surveys\\_indices/cpi/2006](http://www.transparency.org/policy_research/surveys_indices/cpi/2006)

<sup>34</sup> Hislope, Robert, *Organized Crime in a Disorganized State: How Corruption Contributed to Macedonia’s Mini-War*, in: *Problems of Post-Communism* (Volume 49, Number 3), M.E.Sharpe, New York, 2002, pp. 33-41, at p. 35. The latest case is against the former Prime Minister, Vlado Buckovski, from the time when he was Minister of Defense. At a plenary session on 2 August 2007 he was stripped from his diplomatic immunity and now he is eligible for a trial.

<sup>35</sup> Caceva, Violeta, *Criminal Activity During the Period of Transition in Macedonia*, at p. 34.

*work of international law*".<sup>36</sup> The lack of legitimacy is very closely connected to the condition in which the institutions in Macedonia currently find themselves. Furthermore, the question which one needs to analyse is whether securitization of criminal occurrences has taken place in Macedonia, supported by the analysis of who benefits from the 'securitization' and who benefits from the status quo. Regarding the question, who benefits from it being 'securitized' one can certainly answer that the potential victims, the ordinary citizens are the beneficiaries of terminating criminal occurrences. On the other hand, the current beneficiaries of the status quo of organized crime are not only the members of criminal networks, but also the corrupted officials. The fight against crime goes hand in hand with how society functions. A recent example of combating organized crime in Macedonia by the police forces reveals much about the overall attitude toward criminal groups.

#### A. *Police Action 'Mountain Storm'*<sup>37</sup>

The police action 'Mountain Storm' was conducted on 7 November 2007 with the aim to incarcerate the members of an armed criminal group which, according to the operative knowledge of the Ministry of Internal Affairs (MIA), was operating in the area of Shar Mountain. This group was collecting arms over a long period of time, planning an armed action and assaulting the local population. The criminal group was composed of persons wanted by international and local organizations that suspected them of having committed serious criminal offences and of partly being fugitives from Macedonian and Kosovan prisons. The action was conducted by an ethnically mixed police unit from MIA starting at 5 am the morning of 7<sup>th</sup> November.

Prior to the police action, the public was informed through the media about the existence of such groups, especially the escapees from the Kosovan prison 'Dubrava' and the group acting in the area of the village of Brodec. In the action, six persons were killed and 13 were incarcerated. The latter are still in prison and they are charged for "*helping terrorist organization*" (article 394-a, par. 2 from the Criminal Law of the Republic of Macedonia)<sup>38</sup> as well as for "*unlawful manufacture, possession and sale with weapons or explosive materials*" (article 396 of the Criminal Law of RM).<sup>39</sup>

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<sup>36</sup> Kaldor, Mary, *Old Wars, Cold Wars, New Wars, and the War on Terror*, Lecture given by Professor Mary Kaldor at the Cold War Studies Centre, London School of Economics, 2 February 2005, at p. 9. Available online at:

[http://www.lse.ac.uk/Depts/global/Publications/PublicLectures/PL\\_Old%20Wars%20Cold%20War%20New%20Wars%20and%20War%20on%20Terror1.pdf](http://www.lse.ac.uk/Depts/global/Publications/PublicLectures/PL_Old%20Wars%20Cold%20War%20New%20Wars%20and%20War%20on%20Terror1.pdf)

<sup>37</sup> Helsinki Committee for Human Rights of the Republic of Macedonia, *Results From the Mission of Establishing the Facts Regarding the Police Action in the Village of Brodec*, 7 November 2007. Available online at: [www.mhc.org.mk](http://www.mhc.org.mk).

<sup>38</sup> Article 394-a. of the Criminal Code of the Former Yugoslav Republic of Macedonia (English version). Available online at: <http://www.legislationline.org/legislation.php?tid=1&lid=6272>

<sup>39</sup> Article 396 of the Criminal Code of the former Yugoslav Republic of Macedonia (English version). Available online at: <http://www.legislationline.org/legislation.php?tid=1&lid=6272>

The action 'Mountain Storm' was proclaimed successful by the Macedonian politicians as well as by the representatives of the international community.<sup>40</sup> The media described the action as skirmish between the police forces and "a criminal-extremist gang of Lirim Jakupi – The Nazi and Ramadan Shiti" numbering from 15 to 50 members.<sup>41</sup> The intentions of the gang were mainly trafficking of weapons, however also planning an armed action. The Jakupi gang can be characterized as both criminal gang and extremist group. According to the Helsinki Committee for Human Rights in Macedonia, "If a criminal gang composed of escapee Kosovan prisoners and their local 'colleagues' (i.a. from Macedonia) were goal of the action, than the action can be hardly proclaimed as successful, at least according to the number of persons that were killed during the action".<sup>42</sup> However, the biggest errors were made in the so-called 'crises management' part. First of all, the Minister of Internal Affairs and its Deputy gave just some sporadic statements on the action, but they informed in detail the foreign diplomatic missions in Skopje. It is unlikely to think that the Ministry will publicly state the results of the investigation regarding usage of fire-arms and force that caused the death of six persons. An even bigger error was the fact that the local population in Brodec was not informed about what had been happening in their village until the afternoon on November 7. Informing the local population is an essential practice of 'crises management'.

#### IV. Institutional Weakness

The scholar Grzymala-Busse traces the causes of institutional weakness back to the early days of transition.<sup>43</sup> She argues that nomenklatura<sup>44</sup> hampered transition to democracy so that they could absorb state resources abusing the state. Both international and domestic pressures do not have much effect on nomenklatura since there is weak opposition and no external regulation. Furthermore, institutions have formal and informal elements and they are path dependent, so what the Macedonian institutions are experiencing now is a conse-

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<sup>40</sup> In the aftermath of the police action, the beginning of 'Peace Unlimited Festival' was marked in Skopje. For the past eight years, the festival has been annually organized by NGO 'Civil' which is dedicated to the protection of human rights and freedoms and control of arms. 'Civil' conducted the disarmament of civilians during 2002 and 2003 in the areas affected by the 2001 conflict in Macedonia.

<sup>41</sup> Dnevnik Daily Newspaper, *MIA Action in Tetovo Region. 'Mountain Storm' Destroyed a Criminal Gang*, 8 November 2007. Available online at:

<http://www.dnevnik.com.mk/?itemID=8D5E67F4064F974BADE0BF6C78D6F6AB&arc=1>

<sup>42</sup> Helsinki Committee for Human Rights of the Republic of Macedonia, *Results From the Mission of Establishing the Facts Regarding the Police Action in the Village of Brodec*, 7 November 2007. Available online at: [www.mhc.org.mk](http://www.mhc.org.mk)

<sup>43</sup> Grzymala-Busse, Anna, *The Discreet Charm of the Formal Institutions: Postcommunist Party Competition and State Oversight*, in: *Comparative Political Studies* (Volume 39, Number 3), Sage, London, 2006, pp. 271- 300.

<sup>44</sup> The nomenklatura formed an informal elite group within the communist countries, from which all important political positions were appointed.

quence of the decisions taken in the early transition period. In October 2000, according to Brimma-Gallup poll, the respondents in Macedonia did not trust:<sup>45</sup>

- Parliament 62,2 %
- Government 58,1 %
- Attorney General 61 %
- Courts 59,6 %
- Banks 62,3 %
- Police 51,3 %

The lack of trust and loyalty towards state institutions and public administration is a direct result of the politization of the state administration. The research showed that there is consensus among political and intellectual elite upon this question; however nothing has been done to prevent it. Frckovski argues that “*For multicultural state in which you have different narrations of the groups, neutral and efficient administration is all that you have in common*”.<sup>46</sup> To prove and earn its loyalty, the state has still to provide this neutral and efficient administration. Nowadays, Macedonia is in a state of ‘*elementary insecurity*’ as Frckovski argues – lack of rule of law, lack of elementary regulations, economy, etc.<sup>47</sup> This basic insecurity has been manipulatively used by the organized criminal groups in order to advance their interests.

According to a public opinion survey of the Institute for Socio-Political and Juridical Studies in Skopje conducted in July 2001, in the middle of the crisis, the major factor for the emergence of the conflict in Macedonia was the incompetence and the corruption of the government and Parliament with 76 %.<sup>48</sup> More importantly, 55 % of the respondents believe that “*politicians have no concept of how to run the state*”.<sup>49</sup> All of the above-stated circumstances hinder the process of democratization and produce a vicious circle where none of the ethnic communities can provide legitimacy to a system which is inefficient, corrupt and insecure.

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<sup>45</sup> Hislope, Robert, *Organized Crime in a Disorganized State: How Corruption Contributed to Macedonia's Mini-War*, in: Problems of Post-Communism (Volume 49, Number 3), M.E.Sharpe, New York, 2002, pp. 33-41, at p. 36.

<sup>46</sup> Interview conducted with Ljubomir Frckovski, former Minister of Internal Affairs, 11 April 2007, Skopje.

<sup>47</sup> Interview with Ljubomir Frckovski.

<sup>48</sup> Dauti, Daut and Borjan Jovanovski, *The Challenge of Macedonia's 'New Beginning*, in: Brown, Keith S. et al (eds.), *Ohrid and Beyond: A Cross-ethnic Investigation into the Macedonian Crisis*, Institute for War & Peace Reporting, London, 2002, pp. 9-18, at p. 11.

<sup>49</sup> Dauti, Daut and Borjan Jovanovski, *The Challenge of Macedonia's 'New Beginning*, at p. 11.

## V. Toward the New Paradigm - Human Security Perspective<sup>50</sup>

In the last decades, the concept of security has been expanding to accommodate the new challenges created by the impact of globalization and changes in the international political sphere. The expansion of the concept of security has been paralleled by process of norm transition i.e. changing of norms, imposing consequences for the security agendas of the actors in the international political arena. The theory of securitization is a theory of search for referent object, "*Securitization can thus be seen as a more extreme version of politicization*".<sup>51</sup> Apart from "*security of whom*" (or referent object), securitization is also concerned with two other questions: "*security of what*" (what are the values at risk) and "*security from whom or what*" (what are the sources of threat).<sup>52</sup> The post-Cold War environment can be considered as a renaissance of security studies by taking a new, more humanistic approach. Human security treats the following parameters: referent object is the individual and humanity in general; values at risk vary from mere survival of the individual to quality of life and human rights; possible source of threat can be the state but also the impact of globalization.<sup>53</sup> If the source of threat used to be solely external (conflict between states), now the source of threat can be also internal.

The best way to understand human security is to take the following approach: "*In terms of survival of the individual, death could come equally from hunger, AIDS, human trafficking, etc. as it could come from a soldier's weapon. In terms of human development, low quality of life, extreme poverty and human misery can be even worse than incarceration of an individual*".<sup>54</sup> In this respect, human security issues are more likely to be present in developing countries suffering economic underdevelopment as well as institutional weaknesses. Furthermore, one can argue that human security/insecurity is a much more important issue to be addressed in post-war and post-conflict societies. Human security issues are changing the agenda of state and non-state actors in respect that they are creating a link between security and sustainability.

The socio-economic difficulties as well as institutional weakness in Macedonia starting from the early period of transition helped organized criminal groups to take control over society and state. Moreover, one can argue that the influence of organized criminal groups in Macedonia aggravated the situation to a degree that in 2001 it escalated with the 2001 conflict in Macedonia. Criminal-extremist groups were the reason behind the conflict in Macedonia, they profited and are still profiting from it. In this case how successful is the current solution created according to the ethno-political presumptions. For illustration, one should look at the following example "*multiethnic police patrols in the*

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<sup>50</sup> Tomovska, Ivana, *A Threat to Security Anywhere is a Threat to Security Everywhere?*, coursework, Security Identity, Polarity, School of Slavonic and Eastern European Studies, January 2007.

<sup>51</sup> Buzan, Barry et al., *Security: A New Framework for Analysis*, Lynne Rienner, London, 1998, at p. 23.

<sup>52</sup> Møller, Bjorn. *National, Societal and Human Security: General Discussion with a Case Study from the Balkans*, at p. 43.

<sup>53</sup> Møller, Bjorn. *National, Societal and Human Security: General Discussion with a Case Study from the Balkans*, at p. 43.

<sup>54</sup> Tomovska, Ivana, *A Threat to Security Anywhere is a Threat to Security Everywhere?*, at p. 2.

*vulnerable areas of Macedonia were welcomed by the local population. However, they did not improve their economic welfare, nor did they necessarily change the quality of their relationships with their ethnic neighbours. Similarly, construction of roads or electricity grids improved the quality of life of the local population but did not their interaction*".<sup>55</sup> In practice, it will need at least ten years for the society to absorb the conflict, i.e. the devastating consequences, primarily the non-material ones, such as lack of trust and cooperation among communities. Vankovska argues that the crisis was a consequence of the failure and immaturity of the Macedonian political parties which placed into danger the entire society and the citizens: "*In the time of the crises 2001, Macedonia was already facing 10 years of legitimacy-crises of the governing power*".<sup>56</sup> The legitimacy-crises of the state political structures together with the increased impoverishment of the population provided a fertile soil for the organized criminal groups to establish their status in Macedonia.

## VI. Conclusion

The analysis identifies three issues underlining the 2001 conflict: poverty and unemployment, institutional weakness (lack of rule of law and legitimacy), corruption and organized crime. This way, the regional criminal groups used the social issues and the institutional weakness to influence the state and the society in Macedonia. These problems should be addressed more appropriately with the concept of human security.

The high level of poverty and unemployment in Macedonia which dramatically increased in the early period of transition contributed to alternative methods of generating income in the households: citizens get involved in grey-economy as well as in certain criminal activities. The regional conflicts and wars, including the 2001 conflict in Macedonia also strengthened the position of organized criminal groups in the region. According to Kaldor's argument regarding new and old wars, the violent events in the region were, in fact, initiated by organized terrorist and criminal groups. The new wars and/or conflict on the Balkans were characterized by criminal activities, privatized militia or guerrilla/paramilitary groups using violence as a way of consolidating power and increase their profit.

The article presents an example of the recent police action 'Mountain Storm' against a criminal-extremist gang and how it was managed by the police forces. Lack of information and transparency from the authorities to the public and especially to the inhabitants of the village of Brodec where the action took place reveals a weakness of the state apparatus in crises management and addressing human security needs. The following analysis puts emphasis on the institutional weaknesses and how its act in favour of the criminal

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<sup>55</sup> Kostovicova, Denisa, *Old and New Insecurity in the Balkans. Lessons From EU's Involvement in Macedonia*, at p. 62.

<sup>56</sup> Vankovska, Biljana, *Current Trends of the Circumstances in Macedonia. Efforts for Peace, Democratization and Security*, Open Society Institute, Skopje, 2003, at p. 31.

groups in Macedonia; if the problem is addressed from a human security perspective, the real insecurities of the citizens could be taken into consideration.

The current political and social environment in Macedonia can be described as an accumulation of ethnic, social, economic and security grievances of the citizens; “*state cannot impose itself as a arbitrator because it itself is a focus and cause of the citizen’s grievances*”.<sup>57</sup> The latest UNDP Early Warning Report for Macedonia, describes the period since 2006 as “*consolidation period*” (the 2002-2006 is “*post-conflict period*”).<sup>58</sup> However, the report does not specify whether it is consolidation of democracy or some other type of regime and/or condition.

Moreover, the Report says the citizens are fed up with questions from the sphere of inter-ethnic relations and in their opinion it is the politicians and the media which create the impression of ethnic tension and not the citizens.<sup>59</sup> The real security issues which the ordinary citizens in Macedonia face and fear are firstly human security issues (poverty, unemployment, social exclusion, etc) and secondly insecurity coming from organized crime groups which at instances prove to have greater power than the state institutions. One of the respondents answered “*That is why Macedonia can be hardly defended today, because it cannot offer to its citizens the feeling that they live in a system which offers them protection*”.<sup>60</sup> The concluding excerpt has a rather grim note; however the reality is such, instead of going full speed ahead, the organized criminal groups and the influence they have over state and society hamper development in Macedonia and hamper the state’s integration into the Euro-Atlantic structures. Inter-ethnic relations are steadily improving; however, the overall development of the country still needs to be addressed from various aspects in order to improve human security.

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<sup>57</sup> Kostovicova, Denisa, *Old and New Insecurity in the Balkans. Lessons From EU’s Involvement in Macedonia*, at p. 61.

<sup>58</sup> UNDP, *Early Warning Report: Consolidation Period*, in: Forum Magazine (Volume 3, Number 92), Forum Plus, Skopje, 2007, pp. 12- 14, at p. 12.

<sup>59</sup> UNDP *Early Warning Report: Consolidation Period*, at p. 14.

<sup>60</sup> Interview conducted with Emil Kirjas, former Secretary of State, 7 June 2007, London.



# Foreign Terrorist Groups and Rise of Home-grown Radicalism in Azerbaijan

*Anar M. Valiyev*<sup>1</sup>

*After the events of 11 September 2001, many countries in the Moslem world, including Azerbaijan, found themselves at the forefront of the struggle with al Qaeda and its affiliated groups. However, in the fever of the 'War on Terror', many governments in the Middle East and Central Asia ignored the role of other terrorist organizations and that of home-grown radicalism. This paper examines the activities of foreign terrorist groups in Azerbaijan. The essay also tries to look at local radicalism in the area and explain its appearance and impact on the country's development.*

## **I. Introduction**

The fall of the Soviet Union and collapse of communist ideology has played a significant role in the transformation of Azerbaijani society. The country was slowly recovering from a seventy year old totalitarian regime, and began to enjoy the benefits of free society. Transformation, however, did also bring many problems. Thanks to its favorable geographical location – between Iran and Turkey and sharing a border with volatile Dagestan republic-, weak law-enforcement agencies, gaps in legislation as well as fast spreading of globalization, Azerbaijan became target of religious and radical movements vying for influence. Missionaries and charities from Turkey, Iran, Arabic world and Northern Caucasus came to the country to spread their ideologies. Some allegedly were linked to militant organizations. Several radical groups started to gain a ground in many regions of Azerbaijan and thus threatening the secular statehood of republic. The *War on Terror* announced in 2001 had a significant impact on Azerbaijan's fight against its own radicals. If in the early 1990s the state was relatively weak, and could not efficiently struggle with activities of some extremist groups, so after 9/11 attacks and joining anti-terror coalition, the state has become more efficient in arresting, sentencing and

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deporting extremists. Arrests and crackdown of Islamist networks showed, however, the fragility of the political system in Azerbaijan. It has raised the fears that radical Islamists is growing in the country. The close economic and political cooperation of the country with the U.S. and Europe as well as multi-billion projects increased its vulnerability to external extremists.

In analyzing the terrorist's activities in the region, researchers often overlook the Karabakh problem and the threat coming from this part of Azerbaijani territory currently ungoverned by the central government. This ungoverned territory - or area where the government of Azerbaijan is unable to perform its functions – pose no less danger to the region's security and to the U.S. interests in the Caspian Basin. The close proximity of this territory to the multi-billion U.S. sponsored oil and gas pipelines endanger international energy projects and undermine energy security of the European, American and Israeli consumers. Lack of an effective state presence in Karabakh also have additional factors that can make it an actual or potential terrorist sanctuary, including a remote geography, opportunities for illegal activities to fund terrorism, and even support from the native population through cultural ties.

In this paper the author will analyze three different types of radical organization. The first category includes foreign religious groups such as pro-Iranian organizations and al Qaeda. The second type of radical organization is foreign nationalist/ethnic such as Partiya Karkerên Kurdistan (PKK) and Armenian Terror Groups. The last and most important group includes home-grown radical organizations and movements.<sup>2</sup>

## **II. Foreign Religious Organizations**

### **A. Pro-Iranian Groups**

At the dawn of independence, Azerbaijan was the most appropriate target for exporting Iranian Islamic revolution. In order to achieve these goals Tehran propagated Islamic values and ideas of Islamic statehood in the republic. Iranian authorities spent millions of dollars for this purpose. Nonetheless, Tehran's attempts have not been very successful because of the long and intense anti-religious policy instituted in the Soviet Union. The inability of Iran to establish effective mass political party for influencing Azerbaijani public life forced its governmental agencies to rely mostly on radical clandestine organizations.<sup>3</sup> As early as 1993, many Iranian humanitarian agencies and organizations

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<sup>2</sup> In this paper under the category "foreign religious group" the author considers those organizations that use radical religious ideas for promoting their cause and resort (or attempt) to violence.

<sup>3</sup> In the early '90s Iran was able to create its party in Azerbaijan. The Islamist Party of Azerbaijan (IPA) was one of the first pro-Iranian organizations in the country. It was established in November, 1991 in the village of Nardaran, near Baku. The party's basic ideology is the belief that only Islam can structure an independent Azerbaijan. The IPA preaches an anti-Turkic, anti-Israeli, and anti-American doctrine threaded with conspiracy theories. In 1995, the party's top leadership was accused of a coup attempt. Currently

launched their activities in Azerbaijan, especially in poverty-ridden refugee camps. Along with providing humanitarian aid and religious literature, Iranian agencies recruited Azerbaijani youth to study in religious schools in Iran. Allegedly, Iranian Hezbollah were behind this recruitment and were attempting to establish bases in Azerbaijan. By early 1997, newspapers reported that hundreds of young Azerbaijanis had been trained in Iranian Hezbollah camps. After their graduation, they were either sent back home to proliferate Hezbollah's ideas or given the choice to fight in Lebanon against Israeli Defense Forces. Meanwhile, a council of fifteen influential Azerbaijani religious figures is said to have organized the activities of the cells, whose responsibilities include forming 'an army of God' to operate in Azerbaijan.<sup>4</sup> In February 1997, a famous Azerbaijani scholar, the academician Ziya Bunyatov, was assassinated in Baku allegedly by Hezbollah that accused him of being an agent of the Israeli Mossad and of disseminating Zionism in Azerbaijan. Five people were arrested and sentenced to long prison terms. The death of the scholar became a signal for a full-scale attack against all Iranian-affiliated organizations. In the fall of 2001, the Ministry of National Security (MNS) arrested six citizens in possession of documents proving their connection with Hezbollah. Additionally, a network consisting of thirty people was revealed. During the interrogations, members of Hezbollah openly rejected the secular regime of Azerbaijan. Within couple of months MNS crushed most of the cells of Hezbollah in the country.

The failure of Hezbollah did not stop other pro-Iranian groups from emerging. In the late 1990s, another pro-Iranian radical group, Jeyshullah, was active in Azerbaijan. The organization was founded in 1995 by Mubariz Aliev, 31, a renegade Internal Affairs Ministry officer, to 'cleanse' Azerbaijan of foreign influences and restore the 'true Islam'. Ensnared in a mountain north of Baku, the group initially collected information on its targets, mainly foreign organizations. It then disseminated leaflets threatening to attack those foreigners if they refused to leave Azerbaijan. Between 1996 and 1999, Jeyshullah staged an armed raid on the Baku office of the European Bank for Reconstruction and Development, planned and threatened an attack on the United States embassy, planted a bomb at the headquarters of the International Krishna Society in Baku, assassinated the chairman of the Azerbaijani Psychics' Society and his two sons, and finally botched an attempt to hijack a military helicopter.<sup>5</sup> In 2000, Jeyshullah leader and his militants were sentenced to various terms in prison ranging from four to thirteen

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the party does not have large influence; their activities are mostly localized around Baku villages. For more information see: Valiyev, Anar, *Azerbaijan: Islam in Post-Soviet Republic*, in: Middle East Review of International Affairs (Volume 9, Number 4), Global Research in International Affairs (GLORIA) Center, Israel, December 2005, pp. 1-13. Available online at:

<http://meria.idc.ac.il/journal/2005/issue4/valiyev%20pdf.pdf>

<sup>4</sup> Mammadov, Farhad, *Hezbollah Has Cells in Azerbaijan*, in: Azadliq Newspaper, Baku, Azerbaijan, 14 March 2002, p. 8. Quoted in Euroasianet, *Azerbaijan Daily Digest*, 15 March, 2002. Available online at <http://www.eurasianet.org/resource/azerbaijan/hypermail/200203/0046.shtml>

<sup>5</sup> *Two Criminal Trials in Azerbaijan*, in: Terrorism Monitor, (Volume 6, Issue 184), Jamestown Foundation, Washington DC, 4 October 2000. Available online at: [http://www.jamestown.org/print\\_friendly.php?volume\\_id=23&issue\\_id=1873&article\\_id=17654](http://www.jamestown.org/print_friendly.php?volume_id=23&issue_id=1873&article_id=17654)

years. Neutralization of this organization liquidated the ground for other pro-Iranian radical groups to emerge and expand their activities for at least six or seven years.<sup>6</sup>

The last attempt of pro-Iranian forces to gain ground in Azerbaijan was done in 2006. This time the radical organization, called the Northern Army of the Mahdi, was formed with the purpose to fight against the United States and Israel, and to create a separate Sharia-ruled country. Group of 17 people headed by Said Dadashbeyli, allegedly kept secret contacts with the Iranian Revolutionary Guards Corp. One of the leaders of the organization met with a member of the Corp in Iran's Qom city where he was allegedly offered financial support. Meanwhile, the members of the Northern Army received military training in Iran.<sup>7</sup> The members of group have been sentenced to various terms in jail.

Repeated attempts of the Iranian special services to establish a network of radical groups in the country show the importance of Azerbaijan in the plans of its Southern neighbor. Alarmed by an active penetration of the Western capital and influence to this small South Caucasian republic, Iranian authority tries to secure its northern borders. The decision to establish radical groups or cells are not necessarily done with the aim to conduct terrorist attacks now. In fact, Iranian special services do not want to bring attention of Azerbaijani law-enforcement agencies to the activities of its cells. In reality, the local radical groups or sleeping cells are established in order to get activated in case of hostile actions of Azerbaijan or country's decision to join U.S. attack on Iran. Meanwhile, the United States was also worried about the activities of pro-Iranian groups in the strategic region. Starting from 2004, the U.S. government was concerned that the Iranian special services were expanding their influence in Azerbaijan, possibly in order to gain leverage over the United States should Washington decide to attack Iran. Some newspapers pointed out that U.S. intelligence agencies actively participated in neutralizing pro-Iranian groups in the country.<sup>8</sup> Others drew attention to the fact that C.I.A. Director General Michael Hayden visited Baku shortly before the scheduled start of a trial against the Northern Mahdi Army. That does not come as a surprise taking into consideration an active struggle between these two powers in the areas ranging from Lebanon

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<sup>6</sup> It is very difficult to say about affiliation of this organization. Some of the news reports called Jeysnulla a 'Wahabbi' organization. Meanwhile, the law-enforcement agencies were stating that organization clearly has close relations with Iran. That seems contradictory, since Iran can hardly support any organization that has Salafi ideology.

<sup>7</sup> Murphy, Kim, *Azerbaijan Stuck Between U.S. and Iran*, in: Los Angeles Times, Los Angeles, 10 February, 2008. Available online at:

<http://www.latimes.com/news/print/edition/front/la-fg-azerbaijan10feb10,1,1967549.story?page=1>

<sup>8</sup> Orxan, *Shocking News on Neutralized Group* (in Azerbaijani), in: Yeni Musavat Newspaper, Baku, Azerbaijan, 27 January 2007. Available online at:

<http://www.musavat.com/site/?name=search&do=search&search=S%C9%99id%20&list=120&p=7#>

to Azerbaijan. But nevertheless Iran still has many tools for pressing Azerbaijani public and that can be used at any favourable moment.<sup>9</sup>

### **B. Al-Qaeda**

After the September 11 events, it became fashionable to look for al Qaeda in various parts of the world. This trend was fuelled by numerous articles, books and news written about al Qaeda and its activities. Azerbaijan did not become exception. Many researchers were pointing at the presence of al Qaeda's network in Azerbaijan. Very often, however, they misinterpreted local radicalism and attributed it to the mysterious al Qaeda. Rohan Gunaratna, Sri Lankan intelligence expert on counter-terrorism, writes in his book entitled *Inside Al Qaeda: Global Network of Terror* that after the collapse of the former Soviet Union, al-Qaeda "established an office in Baku and supported the Azeri mujahidin in their war against Christian Armenia for control of the disputed Nagorno-Karabakh enclave, from 1988 till 1994"<sup>10</sup>. Gunaratna goes on to state that cooperation also existed between the Azeris and the Chechens, which resulted in the recapture of a town called Goradiz in Nagorno-Karabakh. The 'Azeri Afghan brigade' was dissolved in 1994, but "a few disgruntled and disbanded members of the brigade resorted to terrorism in Baku, mostly bombings of public places and transport infrastructure". In fact, the presence of al Qaeda in Azerbaijan since 1993 is not true. During that period of time, al Qaeda was not so active on global arena or in Caucasus especially. Gunaratna, as many Western anti-terror experts, fell into the same trap. Writing about the Moslem Caucasus, he wrongly interpreted cooperation between Moslem mercenaries as al Qaeda's global terror network. Meanwhile, most of his information concerning this issue is taken from heavily biased Russian or Armenian sources. In reality, the minor presence of al Qaeda's emissaries could be tracked to 1997-1998. During an investiga-

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<sup>9</sup> Examples of the Iranian influence in Azerbaijan can be seen in case of the Danish cartoons and in the case of Rafiq Tagi. On 9 February 2006, when about 1.000 young people took to the center of Baku to chant religious slogans and then marched toward the French embassy to submit a note expressing their grievances about the re-publication of the cartoon by French media. The next day, residents of Nardaran, a Baku suburb known as a hotbed of conservative religious values, set fire to the Danish flag and demanded a boycott of Danish products in response to the cartoons, which have been re-published in various European media. That same day, a crowd of some 100 young demonstrators with banners, shouting slogans in Arabic, had taken to Fuzuli Square in downtown Baku before being dispersed by the police. A further sign of Iranian influence occurred in mid-2006. On the wave of criticism of Islam worldwide, the journalist Rafiq Tagi published an article in the *Senet* newspaper titled "Europe and Us." The article claimed that Islam did not bring any positive developments to "progress," and his argument divided Azerbaijani society. Immediately after publication, rallies and protests were organized in some Shiite-dominated villages of Azerbaijan. During the rallies, protesters called for the murder of Tagi. Meanwhile, Grand Ayatollah Fazel Lankarani of Iran issued a fatwa calling for the deaths of Rafiq Tagi and Samir Sadaqatoglu, the editor of the newspaper. Authorities jailed the journalists, fearing possible assassinations and a spark of terrorism by Iranian-supported organizations.

<sup>10</sup> Gunaratna, Rohan, *Inside Al Qaeda: Global Network of Terror*, Columbia University Press, New York, 2002, at p. 134.

tion of the Embassy bombings in Kenya and Tanzania in 1998, it was discovered that the leader of al Qaeda Osama bin Laden called Baku from Afghanistan 60 times. An hour before the terrible terror attack in Nairobi, a fax in Arabic was sent from Baku to London claiming al Qaeda's responsibility for that attack.<sup>11</sup> But these facts do not really show the existence of an al Qaeda network in Azerbaijan. In fact Baku was used as favorable geographical point for communication taking into consideration the weakness of law-enforcement agencies.

After the events of September 11 and the subsequent war on terrorism, Azerbaijan became an active member of the anti-terrorism coalition. Besides providing a small contingent of troops for peace operations in Afghanistan and Iraq, the Azerbaijani government actively cooperates with the United States and other members of the coalition to fight against al-Qaeda. For a short period of time following the September 11 attacks, Azerbaijani special services arrested 23 international terrorists and extradited them to Middle Eastern countries.<sup>12</sup> Late President Heydar Aliyev claimed that state security agents had arrested 'big figures' from the al-Qaeda network. Supposedly, Aliyev was speaking about two members of Egyptian Islamic Jihad who were apprehended in Azerbaijan in 2002 with the assistance of the CIA. They were handed over to Egypt. According to 9/11 reports, al Qaeda affiliated organization such as Benevolence International was operating in Baku before it was shut down by Azerbaijani authorities. The same report mentioned that Azerbaijani authorities arrested some al Qaeda operatives right after the 1998 Kenya and Tanzania embassy bombings and handed it over to one of the Arabic governments.<sup>13</sup> After the capture of Al Qaeda leader Abu Zubaydah following September 11, details of a poison attack on European cities was uncovered with links to the Caucasus – most prominently the Pankisi valley of Georgia, bordering the North Caucasus. An al Qaeda operative named Abu Atiya, who was thought to be a veteran of deceased terrorist leader Al-Zarqawi's training camp in Herat, was apprehended in Baku and turned over to the Central Intelligence Agency (CIA)<sup>14</sup>. Simultaneous proximity to the North Caucasus, the Middle East, Afghanistan and Europe hence contributed to making the Caucasus attractive to trans-national terrorists. Being the only Muslim country in the South Caucasus and also having its largest metropolis with wide-ranging air connections to Europe and the Middle East, Azerbaijan is particularly vulnerable.<sup>15</sup>

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<sup>11</sup> Yunusov, Arif, *Islam in Azerbaijan*, Institute for Peace and Democracy, Baku, Azerbaijan, 2004, at pp. 245-247.

<sup>12</sup> Yunusov, Arif, *Islam in Azerbaijan*, at pp. 245-247.

<sup>13</sup> The National Commission on Terrorist Attacks upon the United States, *The 9/11 Commission Report*, New York, 2004, at pp. 58 and 127. Available online at: <http://www.9-11commission.gov/report/911Report.pdf>.

<sup>14</sup> Cloud, David, *Elusive Enemy: Long in U.S. Sights, a Young Terrorist Builds Grim Resume on Journey to Iraq*, in: *The Wall Street Journal*, New York, 10 February 2004.

<sup>15</sup> Cornell, Svante, *The Politicization of Islam in Azerbaijan*, John Hopkins University, Washington, DC, 2006, at pp. 49-50. Available online at:

Later in 2004, both local and foreign newspapers reported that al-Qaeda might implement large-scale attacks against some countries, including Azerbaijan, that have handed al-Qaeda members to the Egyptian government. In most of the cases, the majority of arrested terrorists and radicals were foreign citizens, usually from Arab countries, but also sometimes citizens of Turkey, Pakistan and Afghanistan. For the last couple of years, however, ethnic Azerbaijanis have become involved in the activities of radical terrorist organizations. In March 2005, for example, an Azerbaijani court imprisoned a group of six people. The gang, headed by Amiraslan Iskenderov, who allegedly fought in Afghanistan from 1999-2003, was planning terrorist attacks against public and governmental buildings, strategic facilities and residences of foreign citizens. The terrorist group also planned to implement mass-scale chemical attacks in some regions of Azerbaijan. The group prepared a statement on behalf of al-Qaeda in the Caucasus, threatening the Azerbaijani government to carry out bombings in Baku. According to the Ministry of National Security, the terrorists' main aim was to force the Azerbaijani Government to change its secular and democratic regime, as well as to quit the anti-terrorism coalition<sup>16</sup>. Later in March 2006, Eldar Mahmudov, the Azerbaijani Minister of National Security, claimed that if before September 11, Azerbaijan was only a transit country for terrorists; after becoming a member of the anti-terrorism coalition, however, terrorists began to target Azerbaijan as well. The Minister also shocked the public with the information that an al-Qaeda Caucasus terrorist cell was planning to recruit Azerbaijani women for suicide missions. The Minister said that although the country had extensive experience with fighting extremism, the information “*was the worst discovery for us over the past years*”.<sup>17</sup>

Independent analysis, however, would doubt the existence of extended network of al-Qaeda in Azerbaijan. After September 11, it became fashionable among some governments in Central Asia to ‘neutralize’ al-Qaeda cells in their respective countries and to show their importance to the anti-terrorism coalition. Azerbaijan was no exception. Officials, special services and the media actively circulate a variety of myths, stressing the importance of Azerbaijan as well as the potential danger from al-Qaeda. One of the most circulated myths that can be found in the local Azerbaijani media implies al-Qaeda’s plans to launch attacks in Azerbaijan as a punishment for participating in the anti-terrorism coalition and to force the Azerbaijani government to withdraw its troops from Afghanistan and Iraq. Despite the fact that Azerbaijan was one of the first countries that answered the call of U.S. President George W. Bush to wage a war against terrorism, it is unlikely that al-Qaeda would target Azerbaijan. As previous actions of

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<http://www.silkroadstudies.org/new/docs/Silkroadpapers/0610Azer.pdf>.

<sup>16</sup> Today.az, *Al-Gaeda Supporters Attempting to Commit Terror Acts in the Territory of the Azerbaijan Arrested*, Baku, Azerbaijan, 19 March, 2005. Available online at:

<http://www.today.az/news/politics/18820.html>

<sup>17</sup> Valiyev, Anar, *Al Qaeda in Azerbaijan: Myths and Realities*, in: Terrorism Monitor, (Volume 4, Issue 10), The Jamestown Foundation, Washington, 18 May 2006, pp.9-11. Available online at:

[http://jamestown.org/terrorism/news/uploads/TM\\_005\\_024.pdf](http://jamestown.org/terrorism/news/uploads/TM_005_024.pdf).

al-Qaeda and its affiliated organizations have shown, the leaders of these groups are rational actors who do not generally attack merely for the sake of terrorism. Al-Qaeda prefers to attack cities where a terrorism strike would lead to both high casualties as well as a huge resonance. Baku, the capital of Azerbaijan, is not of great global importance. Attacking Baku would offer little benefit to al-Qaeda. Secondly, Azerbaijan does not offer many attractive targets. The only possible targets might be the U.S., British or the Israeli embassies, or the Baku-Ceyhan pipeline. In 2004, the Azerbaijani government stated that the country's special services had obtained information that members of al-Qaeda were planning acts of sabotage designed to derail the construction of the Baku-Ceyhan pipeline—a \$3 billion project intended to transport oil from the Caspian Sea region to the world markets. The news caught the eye of many security experts and government officials. In the wake of the Limburg bombing—the French-flagged oil tanker—and al-Qaeda's adoption of the new tactic to disrupt oil supplies from the Middle East to the West, government officials called for tighter security measures for the pipeline. Thorough analysis, however, can explain that al-Qaeda is not very interested in the destruction of the Baku-Ceyhan pipeline. First of all, the pipeline transports approximately one million barrels per day, supplying only 1,2 % of all world oil consumption.<sup>18</sup> A disruption of the pipeline can hardly hit global oil supplies. Second, the pipeline and its infrastructure can be easily reconstructed within weeks or even days. Third, an attack on oil installations in the Middle East region, especially in the Gulf countries, which give al-Qaeda more attention than the Baku-Ceyhan pipeline, which has more regional and less global significance. It is worth mentioning, however, that disruption of the pipeline would lead to anxiety or even panic in the world market and affect prices. The attack on the pipeline would show that al-Qaeda is targeting, and capable of attacking, oil facilities outside the Middle East. Meanwhile, a terrorist attack on a pipeline could become a mini-catastrophe for the country. Azerbaijan could lose its attractiveness to investors due to elevated financial risks.

Despite the fact that Azerbaijan is a Muslim country, a majority of the population consider themselves to be secular. It should be mentioned that while most Azerbaijanis consider Islam part of their national identity, any mixing of religion with the political sphere is discouraged by a vast majority. Critical to understanding this issue is the fact that the Azerbaijani view of Islam is one of a common national characteristic, inseparable from its Azerbaijani ethnic identity, which no single group can monopolize. Compared to other Muslim countries such as Jordan, Saudi Arabia, Turkey and Pakistan, al-Qaeda will have a hard time influencing and recruiting local Azerbaijanis for suicide terrorist missions. Furthermore, up to 75-80 % of the population is Shiite, to which the ideology of al-Qaeda is hostile. Finally, a majority of the mosques, where al-Qaeda usually recruits its followers, are under tight surveillance by the Azerbaijani government.

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<sup>18</sup> Dilbazi, Eltay, *Neplatit Zapad Za Energetickou Zavislost na rusku Prilis Vysokou Cenu (Does Europe Pays Much for Russian Gas, in Czech*, in: *Mezinarodni Politika* (Volume 7), 2007, pp.37-39.



### III. Foreign Secular Terrorist Groups

#### A. *PKK and Armenian Terrorist Groups in Karabakh*

The decades-running war between the terrorist Kurdish Labor Party (PKK) and the Turkish army had its impact on Azerbaijani politics. Being one of the staunch allies of Turkey and suffering from separatism and terrorism itself, Azerbaijan had always expressed its full support to the anti-terrorist actions of its neighbor, and even offered assistance. Escalation of conflict in South-East Turkey and Northern Iraq in November-December of 2007 has not left Azerbaijani establishment passive. That time, however, the conflict has directly touched the interests of Azerbaijan. The reason was the alleged decision of PKK's leadership to move its bases from Qandil (mountain range in Iraqi Kurdistan) to the Armenian occupied regions of Mountainous Karabakh. Meanwhile, Azerbaijani press reported about possible creation of Kurdish autonomy in Armenian occupied Lachin and Kelbajar regions.<sup>19</sup> While some analysts consider establishing of new Kurdish state in Caucasus as fiction, other experts do not deny development of such scenario.<sup>20</sup>

Azerbaijan was not directly involved into the conflict with PKK. Azerbaijani assistance to Turkey was limited only to information sharing. After launching Baku-Tbilisi-Ceyhan pipeline, PKK activities in Turkey endangered this beneficial regional project. In October of 2007, Murat Kariyalan, one of the PKK's members, told Reuters that "*pipelines that passing through Kurdistan (Eastern Turkey) provide economic support to the Turkish army and can be possible targets for guerilla attacks*".<sup>21</sup> Taking into con-

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<sup>19</sup> Valiyev, Anar, *Reviving a Forgotten Threat: The PKK in Nagorno-Karabakh*, in: Terrorism Monitor, (Volume 5, Issue 24), The Jamestown Foundation, Washington, 20 December 2007, pp.1-4. Available online at: [http://jamestown.org/terrorism/news/uploads/TM\\_005\\_024.pdf](http://jamestown.org/terrorism/news/uploads/TM_005_024.pdf).

<sup>20</sup> In 1923, the Soviet government establish Kurdistanskiy district (referred as Red Kurdistan), encompassing Kalbajar, Lachin and partly Gubatli regions. The Soviets later abandoned this idea, abolished the Kurdish autonomy within the administrative reforms, and deported most of the Kurds to Kazakhstan and Central Asia. Daniel Muller, *The Kurds of Soviet Azerbaijan 1920-1991*, in: Central Asian Survey (Volume 19, Number 1), Rutledge, Oxon, 2000, pp. 41-77. The independent Kurdistan scenario was reanimated again in the early '90s. After the end of the occupation of Mountainous Karabakh, Armenian forces captured Lachin and six other districts of Lower Karabakh including areas constituting former 'Red Kurdistan'. In 1992, an Armenian puppet government in Karabakh announced of establishment of Kurdish republic with its capital in Lachin. Using the Kurdish card, Armenian authorities was trying to show that not only Armenian minority was 'fighting' for independence from Azerbaijan, but also the Kurdish minority as well; however, this last attempt to revive Kurdish question failed one more time due to several reasons. First, due to the ethnic cleansing on occupied territories, all Moslem Kurdish population had fled to other regions of Azerbaijan. Second, by creating the Kurdish state in the areas, Armenian authorities would had lost the major argument of the Karabakh war – "*historical belonging of Karabakh to Armenia*". Valiyev, Anar, *Reviving a Forgotten Threat: The PKK in Nagorno-Karabakh*, in: Terrorism Monitor, (Volume 5, Issue 24), The Jamestown Foundation, Washington DC, 20 December 2007, pp. 1-4. Available online at:

[http://jamestown.org/terrorism/news/uploads/TM\\_005\\_024.pdf](http://jamestown.org/terrorism/news/uploads/TM_005_024.pdf)

<sup>21</sup> *Turkey: Iraq Should Tackle Kurdish Rebels*, in: USA Today, 19 October 2007. Available online at:

sideration that BTC is going through PKK operating provinces, it is not excluded that this terror organization would attack the pipeline. Such terror attack would send a shock wave all over the Caucasian region leading to the situation when Azerbaijan could lose attractiveness for investors.

In early December 2007, both Turkish and Azerbaijani sources started to express their concerns about possible relocation of PKK bases from Northern Iraq to Armenia-occupied Mountainous Karabakh. The Turkish "Zaman" newspaper informed that many intelligence reports had revealed that the PKK planned to move ten of its camps, previously established in the Qandil mountain range in the border areas of the Kurdistan region, to the Armenian occupied areas of Karabakh. The reports also say that a number of PKK gunmen had visited twelve Kurdish villages in the Karabakh region and asked the villagers to help them. The newspaper also revealed that a PKK gunman who had escaped from the camp and surrendered to the Turkish forces had given important information on the PKK and their plan to move their camps to Karabakh. Allegedly, the PKK bases would be located in cities Shusha, Fizuli and definitely Lachin.<sup>22</sup>

The news about PKK bases did not surprised Azerbaijani establishment. Already in April of 1998, the Turkish press was reporting that Armenia had seven PKK camps on its territory. Meanwhile, Azerbaijan's minister of defense stated in 1999 that up to 200 Kurdish terrorists were getting trained in Lachin region of occupied Azerbaijan.<sup>23</sup> During the Turkish military operations in 1999, Stratfor reported that PKK members were retreating to Armenia for replenishing and re-training. Meanwhile, for a last couple of years Azerbaijan was collecting information and reporting to the international organizations about settlement of Armenians and Kurd from Middle East in Karabakh region. During the recent visit of the Turkish President to Azerbaijan, both sides discussed possible PKK relocation to Azerbaijan and the establishment of new Kurdish settlements in Karabakh. Araz Azimov, deputy Foreign Minister stressed that in case of necessity Baku could consider to apply anti-terrorist measures against PKK bases.<sup>24</sup> The Karabakh authority wins from relocating PKK bases on its territory. First, hundreds of Kurdish families will move to Karabakh along with PKK terrorists. By this move Armenian authorities try to increase Karabakh's diminishing population. Second, Karabakh get hundreds if not thousands experienced guerilla fighters. If Azerbaijan decides to wage war to get back its territories, its army would need first to fight through PKK controlled areas before reaching Karabakh's heartland. Third, the establishment of PKK's base in

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[http://www.usatoday.com/news/world/2007-10-19-turkey-iraq\\_N.htm](http://www.usatoday.com/news/world/2007-10-19-turkey-iraq_N.htm)

<sup>22</sup> Yavuz, Ercan, *PKK looks into relocating to Karabakh*, in: Today's Zaman, Istanbul, 30 November 2007, Available online at: <http://www.todayszaman.com/tz-web/detaylar.do?load=detay&link=128340>

<sup>23</sup> Nuriyev, Elkhan, *The Ongoing Geopolitical Game in the Caucasus and the Caspian Basin: Toward War or Peace*, Working Paper, The Center For Russian and Eurasian Studies, February, 1999. Available online at: <http://cns.miis.edu/cres/nuriyev.htm>

<sup>24</sup> Araz, Azimov: *Azerbaijan is Ready to Launch Operations Against the Kurdish Guerrillas in Nagorno-Karabakh*, (in Russian), REGNUM News Agency, 11 December 2007. Available online at: <http://www.regnum.ru/news/930342.html>

Lachin and Kalbajar would be the first step for creation of Kurdish state. It is important to mention also that Kurdish minority of Armenia numbering sixty thousand people, hopes that Armenia would help them to get their autonomy<sup>25</sup>. The PKK, as a professional terrorist organization, has all features of government and can take such responsibility. Some experts draw a parallel stating that Kurdistan in Karabakh is a miniature of Iraqi Kurdistan. It is interesting that idea of Kurdistan in Caucasus was met with great sympathy in Iraqi Kurdistan calling for direct relations with this region. They also believe that both Kurdistans can be a counter-balance for Pan-Turkism.<sup>26</sup>

For a long time experts in international relations warned that non-recognized territories could become rogue states - sources of terrorism and criminal activities. These territories are *de facto* independent, but not bound by any international treaties. Thus, no sanctions can be applied there to comply with international law. They have their own armies, law-enforcement, and political institutions. But lack of financial viability and absence of economy force them to earn money through weapon sales, drug-trafficking and places for training of terrorists and guerillas. Karabakh, for example, remains one of the most militarized patches of earth in the world. The PKK's decision to move to Karabakh is rational, well-thought out and of benefit to both sides. Karabakh is the only territory in the Middle East and the Caucasus that can be immune from any military actions of Turkey. Most of the countries of the region would hardly host PKK, risking the wrath of the Turkish army. Even for Armenia it would be suicidal to establish PKK camps on its territory. Armenian government would need to give explanations to the world community and can get sanctions. But Karabakh is a different story. The Turkish army would hardly chase PKK terrorists in Karabakh. Any Turkish military actions in that area would definitely involve Armenian troops deployed in that region. Armenian participation would automatically bring Russia into the conflict as a guarantor of security of its southern ally. Russian involvement into the conflict with member of North Atlantic Treaty Organization (NATO) is a nightmare scenario for many politicians in the world. PKK also will not be considered as an alien element in Karabakh. Many Armenian terrorist organizations including notorious Armenian Secret Army for the Liberation of Armenia (ASALA) had successfully cooperated for a long time with PKK. For example, in April of 1980, both organizations held a press conference in Sidon, Lebanon, where they issued a joint declaration on fighting against Turkey. Later, ASALA members, including famous Monte Melkonyan, took part in a war against Azerbaijan. Together with them, many PKK militants fought in Karabakh against Azerbaijani army in summer of 1992. It is believed that several other Armenian terrorist organizations found shelter in Karabakh. One of them is Justice Commandos for the Armenian Genocide (JCAG). Founded in 1975, the group was dedicated to establishing an

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<sup>25</sup> Goble, Paul, *Windows on Eurasia: Armenia's Kurds Get in the Way of any Karabakh Solution*, Web Blog, 12 December 2007. Available online at: <http://windowoneurasia.blogspot.com/2007/12/window-on-eurasia-armenias-kurds-get-in.html>.

<sup>26</sup> Baliyev, Alexei, *The Kurdish Karabakh*, in: RP Monitor Analytical Online Journal, 11 December 2007. Available online at: <http://www.rpmonitor.ru/en/en/detail.php?ID=7375>

independent Armenian state. They also focused on their belief that Turkey (then, the Ottoman Empire) was responsible for genocide against the Armenian people in 1915. Recent developments suggest that the JCAG has reconstituted itself with a new focus, Azerbaijan, which is now involved in a conflict with Armenia over Nagorno-Karabakh. JCAG reportedly has formed cells in order to attack Azerbaijani diplomatic corps in America and the states of the former Soviet Union.<sup>27</sup>

#### IV. Home-grown Radicalism

Radical Islamic organizations do exist in Azerbaijan, but their scale and scope need more careful examination than they usually receive. Very often, authors are content to take existence of Islamic rhetoric as proof of Islamic militancy. The researchers very often do not distinguish the nature, goals, inspirations and the base of support of the various organizations and movements. Very often the governments in Central Asia and Caucasus find the existence of an Islamic threat quite useful in justifying their policies and behaviors. Consequently, they tend to portray all Islamic political activism as tied intimately to transnational network of Islamist militancy and to exaggerate the threat posed by them. The case of social unrests in Nardaran village can serve as a perfect example of above-mentioned tendencies. In the summer of 2002, the inhabitants of the village of Nardaran, located 35 km north of Baku, took to the streets chanting religious calls and protesting difficult socio-economic conditions. They expelled local government bodies and prepared for confrontation with government. On June 3, after a stalemate, police and law enforcement agencies stormed the village killing one and wounding over thirty people. Because the settlement is known in the country for its strong religious beliefs, it was easy for government to present the events as a fight against 'international Islamic extremism'. In the official statement issued by the Ministry of Internal Affairs, it was stated that the "*settlement is the model of semi-closed society under a strong influence of Islamic fundamentalist circles*".<sup>28</sup> Governmental propaganda was partly successful. The Western reaction to the use of force in Nardaran was limited, not least because of fear and the stereotype of 'growth of Islamic fundamentalism'.

After these events many researchers within the country and abroad stated that since state apparatus tightly controls all political and religious activities in the country and ensures that Islamic movements are either closely monitored or supervised by governmental agencies, the threat of Islamic fundamentalism is minimal.<sup>29</sup> However, further events showed that they underestimated the threat of homegrown religious radicalism. Starting

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<sup>27</sup> Memorial Institute for Prevention of Terrorism (MIPT), *Group Profile – Justice Commandos for Armenian Genocide*. Available online at: <http://www.tkb.org/Group.jsp?groupID=265>

<sup>28</sup> Yunusov, Arif, *Islam in Azerbaijan*, at pp. 260-261.

<sup>29</sup> Kotchikian, Asbed, *Secular Nationalism Versus Political Islam in Azerbaijan*, in: *Terrorism Monitor*, (Volume 3, Issue 3), pp. 6-7, 10 February 2005, Jamestown Foundation, Washington D.C. Available online at: [http://www.jamestown.org/terrorism/news/uploads/ter\\_003\\_003.pdf](http://www.jamestown.org/terrorism/news/uploads/ter_003_003.pdf)

in 2001-2002, experts warned about the threat of radical Islamists very often associated with Salafis. Much has been said about the activities of Salafis and their organizations in Azerbaijan; however, many reports, news clips and articles tend to portray them as terrorists or members of global terrorist organizations such as al Qaeda or al Jihad. Many articles and news reports have been published about the activities of the Salafis in Azerbaijan, but most of them tend to be biased and superficial.<sup>30</sup> This carefully planned smearing campaign notwithstanding, the numbers and influence of Salafis is in fact steadily growing in Azerbaijan. Salafi ideas are becoming increasingly popular among the younger generations of Azerbaijan in particular. In Baku alone, which is the ultra-secular capital of Azerbaijan, the number of Salafis has reportedly reached 15.000.<sup>31</sup>

The first Salafi missionaries arrived in Azerbaijan from the northern Caucasus in the mid-1990s. The majority of them came from Chechnya and Dagestan where the Salafis had some influence, in large measure due to the Russian-Chechen wars. For a short while, Salafis made some inroads in Chechnya and were even able to create their own self-ruled area in the Dagestani villages of Karamakhi and Chobanmakhi. However, Salafis did not stop in Chechnya and Dagestan but extended their activities into Azerbaijan. Initially, they did not gain wide support among Azerbaijanis, as nationalism and pan-Turkism were much more popular than Islam. Moreover, in the immediate aftermath of the collapse of the USSR, Azerbaijani society was not as deeply impoverished and divided as today. In addition, the majority of Azerbaijanis adheres to Shi'a Islam, and hence has little regard for Salafi ideas. The Shi'a Muslims of Azerbaijan – for both historical and cultural reasons – are heavily influenced by Iran, a country whose government is widely regarded as the archrival of Salafis. Given Azerbaijan's Shi'a complexion, the religious Sunnis of rural Northern Azerbaijan form the primary constituency of Salafism in the country.

The second wave of Salafi expansion started in 1999 with the beginning of the Second Russo-Chechen war. The Russian military command tried to push Chechen rebels – particularly those of a Salafi orientation – out of the northern Caucasus into neighboring Georgia and Azerbaijan. Thus, some of the 8.000 Chechen refugees that arrived in Azerbaijan in 1999-2000 were persecuted Chechen Salafis. Meanwhile, missionaries from the Persian Gulf countries dramatically increased their activities in Azerbaijan. By 2003, 65 new Salafi-controlled mosques had been established in Azerbaijan. One of the largest Salafi mosques in the country is the Abu Bakr mosque.<sup>32</sup> The Imam of the Abu

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<sup>30</sup>Journalists, the government, and the official Shi'a clergy have all helped to create a negative public opinion on Salafis and tend to present them as either terrorists, heretics or both. Many Azerbaijanis often refer to Salafis in a derogatory way, dismissing them as 'Wahhabis', 'sakkalilar' (bearded people) or 'garasakkalilar' (black-bearded people).

<sup>31</sup>Valiyev, Anar, *The Rise of Salafi Islam in Azerbaijan*, in: *Terrorism Monitor*, (Volume 3, Issue 13), The Jamestown Foundation, Washington DC, 1 July 2005, pp. 6-7. Available online at: [http://www.jamestown.org/terrorism/news/uploads/ter\\_003\\_013.pdf](http://www.jamestown.org/terrorism/news/uploads/ter_003_013.pdf)

<sup>32</sup>Built in 1997 in Baku by the Azerbaijani branch of the Kuwaiti society Revival of Islamic Heritage, Abu Bakr became one of the most successful mosques in Azerbaijan. While on average the Shi'a or Sunni

Bakr mosque is Gammet Suleymanov, a graduate of the World Islamic University of Medina that is a leading center for the study and export of Salafism. There are essentially three factors that are driving the expansion of Salafism in Azerbaijan. Firstly, the overwhelming majority of indigenous Salafis are Sunnis and from the ethnic minorities. This constituency sees Salafism as a counter-balance to growing Iranian influence in Azerbaijan. Secondly, the rapid polarization and impoverishment of Azerbaijani society has led to a pervasive disillusionment with traditional institutions and modern Western democratic ideas. Salafis have cleverly tapped into this pool of profound discontent, frequently criticizing the corruption of the government, the decline of morality and traditions, as well as the rise of criminality in the country.<sup>33</sup> Thirdly, Salafis tout the universalistic qualities of their ideology, and the fact that it supposedly transcends all Islamic sects and traditions. This is particularly appealing in Azerbaijan, where sectarian rivalry between Shi'as and Sunnis has been on the rise. Experts believe that Salafism in Azerbaijan poses several serious challenges to the Azerbaijani establishment. Azerbaijan is a Muslim country where roughly 75% of the population is Shiite, with the remainder Sunnis.

The decades of co-existence between the two branches of Islam in Azerbaijan created a fragile balance that neither mainstream Shiites nor Sunnis wish to break. Moreover, Soviet repression against all branches of Islam put the Shiites and Sunnis of Azerbaijan in similar predicaments, providing them with shared experiences. Meanwhile, after centuries of development, Islam in Azerbaijan became a culture and tradition rather than strictly religion. Although most Azerbaijanis zealously call themselves Muslims, they hardly observe any pillars of Islam. Local people visit sacred places called pirs, along with graveyards of 'saints', rather than mosques, where they give money and offer sacrifices. The official, and corrupted, clergy do not discourage such behaviour since it benefits them in various ways, including financially. The appearance of Salafis in the country, however, broke this delicate balance. Salafis first started to preach against the pirs and saint worship, calling such practices acts counter to Islam. They do not recognize the official Shiite clergy and accuse them of conducting an Iranian policy. Moreover, they consider Shiites as heretics and call for purifying Islam in Azerbaijan. In many instances, some Salafis employ violence in order to bring attention or to show their adherents the 'right' path. Thus, for the last couple of years, Salafis have attacked pirs and destroyed them in several instances, angering the local population. Meanwhile, the proliferation of Salafi ideas among religious and ethnic minorities could create powerful centrifugal forces that will in due course threaten the national unity of Azerbaijan.

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mosques are able to attract approximately 300 people for Friday prayers, the number of people visiting the Abu Bakr mosque typically reaches 5.000 to 7.000 people. International Crisis Group, *Azerbaijan: Independent Islam and the State*, Crisis Group Europe Report Nr. 191, Brussels, 25 March 2008. Available online at:

[http://www.crisisgroup.org/library/documents/europe/caucasus/191\\_azerbaijan\\_independent\\_islam\\_and\\_the\\_state.pdf](http://www.crisisgroup.org/library/documents/europe/caucasus/191_azerbaijan_independent_islam_and_the_state.pdf)

<sup>33</sup> Yunusov, Arif, *Islam in Azerbaijan*, at pp. 260-261.

Contrary to their own propaganda, the Salafis exacerbate sectarian tensions in the country. In the very worst case scenario, serious violence directed toward the majority Shia community may provoke some form of Iranian intervention, not least because the Iranians are anxious to curtail Salafi influence in Azerbaijan. But more alarmingly perhaps, the Salafis' skilful exposure and manipulation of the establishment's incompetence, coupled with the increasing impoverishment of the country, may make them a powerful political force in the meantime. This will inevitably lead to a harsh security crackdown, which might in turn provoke serious acts of terrorism in the country.

Currently, only a small share of Salafis tends to resort to violence and militancy. Although Salafi teaching very often contradicts the Shi'a interpretation of Islam that is followed by up to 80% of Azerbaijan's population, majority of Salafis in Azerbaijan do not support violence and do not get involved in criminal activities. In Azerbaijan, the Salafis can conditionally be divided into two groups: non-militant Salafis that comprise majority of Salafi community, and radicals. The activities of non-militant Salafis are usually limited to preaching, discussions and centered on the Salafi mosques or charismatic leaders. Militant Salafis, however, organize themselves into the radical groups and very often get support from abroad. In contrast to the classical terror groups, militant Salafis do not have typical pyramidal structure in their organizations. They are weak, loosely connected and gravitate around the leader. The majority of Salafi mosques where radicals can be recruited are under tight surveillance of law enforcement agencies. Thus, any creation of strong Salafi radical organization is prevented already at its embryonic stage. Meanwhile, absence of funds, training, and equipment limit the activities of Salafi organizations. The militant Salafi organizations have higher chances to survive and successfully operate if it has significant assistance from abroad.

Until now militant Salafis did not bother Azerbaijani law-enforcement. Accused mostly in aspirations to fight in Chechnya<sup>34</sup>, militant Salafis did not see Azerbaijani secular government as a target. For the last year, however, the situation dramatically changed. On 25 October 2007 one of the army officers deserted his regiment, taking four Kalashnikov assault rifles along with a machine gun from a military base. Establishing a group

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<sup>34</sup> In early spring of 2001, the Court on Heavy Crimes sentenced 12 Azerbaijanis who aspired to fight in Chechnya. During the trial, the emir of the Abu Bakr mosque, Suleymanov, was summoned to the court to give testimony on the case. All the would-be mujahideen had been frequent visitors of the Abu Bakr mosque and were recruited there by Chechen rebels. In May 2002, the Deputy Minister of National Security, Tofiq Babayev, stated that a number of Arab countries were interested in spreading radical Wahhabism in Azerbaijan. According to Babayev, over 300 Azerbaijanis had been trained in Wahhabi centers in Dagestan. The deputy minister identified three stages in the effort to make Wahhabism a grassroots movement in Azerbaijan. First, there is the spread of Wahhabi literature and the provision of financial assistance to potential activists. The second stage involves the efficient training of the activists, and the final stage deals with the mobilization of active members for acts of terrorism designed to destabilize the state. Valiyev, Anar, *Azerbaijan: Islam in Post-Soviet Republic*, in: Middle East Review of International Affairs (Volume 9, Number 4), Global Research in International Affairs (GLORIA) Center, Israel, December 2005, pp. 1-13. Available online at: <http://meria.idc.ac.il/journal/2005/issue4/valiyev%20pdf.pdf>

of followers, the organization allegedly has planned to attack a number of state buildings and representatives of private companies<sup>35</sup> before they were detained by police. The resulting security issues prompted the closure of the U.S. and British embassies. Americans and Britons residing in Azerbaijan received text messages to be careful, particularly in the areas near the embassies and living compounds. Many Western companies located in Azerbaijan also limited their operations due to security measures, including the Norwegian Statoil and the U.S. McDermott oil companies. The situation caught the attention of the U.S. media when Sean McCormack, spokesman for the Department of State, gave details on the nature of the threat. He noted that there was some specific and credible information concerning threats to the U.S. embassy and plans by militants to harm individuals in or around the embassy. Public officials in Baku stated that “*activities of Wahabbis in Azerbaijan are organized and directed from abroad*”, but added that these activities could not undermine political stability or threaten the secular nature of Azerbaijan’s statehood.<sup>36</sup> These events showed the alarming tendency of evolution of militants Salafis. If before they were preoccupied with the war in Chechnya, Iraq or Afghanistan, so now they turned against their own secular government. Salafi penetration into the army exacerbates the problem. Although Defense Ministry fiercely refuted presence of Salafis in the army, the following detention of ten officers and students of military academies involved in Salafist cells in Azerbaijan showed the depth of the danger.<sup>37</sup>

Recent trends show that local radical organizations pose more of a danger to Azerbaijan than does al-Qaeda or other international terrorist organizations. Yet, the Azerbaijani government is trying to connect the surge of local radicalism with the foreign influence. There are several reasons for that. First, the country's government is trying to show the United States its loyalty concerning the war on terrorism. Thus, the sentencing of al-Qaeda "members" was done in order to demonstrate the activity of Azerbaijan's special services. Secondly, the government of Azerbaijan, as well as in many countries in the Middle East, falsely interprets the issue of religious extremism. They believe that terrorist attacks occurring in their countries, as well as the establishment of cells of radical Islamic organizations, are attributable to some "nerve" center headed by bin Laden's al-

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<sup>35</sup> Guliyev, Emil, *Terror Attacks Foiled in Baku (in Russian)*, in: Day.az, 29 October 2007. Available online at: <http://www.day.az/news/society/96284.html>

<sup>36</sup> Ali, C., *Wahabbis are Directed from Abroad (in Russian)*, in: Day.az, 31 October 2007. Available online at: <http://www.day.az/news/society/96330.html>

<sup>37</sup> The group of militant and radical Salafis who were expelled from this Muslim community came to be known as *Khawarij* (in analogy with 7<sup>th</sup> century rebellious group during the reign of third caliph Uthman). The *Khawarij* are most likely to evolve into militant Islamist groupings. Less than 100 individuals can be identified as *Khawarij*. They have many differences among themselves and are not organized. Some tendencies are more radical than others; some groupings are purely local, with aims to change the nature of the Azerbaijani state. Some of the individuals are open to jihad, but most appear to be pacific. International Crisis Group, *Azerbaijan: Independent Islam and the State*, Crisis Group Europe Report Nr. 191, Brussels, 25 March 2008. Available online at: [http://www.crisisgroup.org/library/documents/europe/caucasus/191\\_azerbaijan\\_independent\\_islam\\_and\\_the\\_state.pdf](http://www.crisisgroup.org/library/documents/europe/caucasus/191_azerbaijan_independent_islam_and_the_state.pdf)



Qaeda. It is easier for the Azerbaijani government to connect jihadi phenomena in the country with al-Qaeda rather than to look at the real factors leading to the emergence of such organizations. The core of these radical extremist organizations is usually a low income group of religious young men, who are mostly unemployed and dissatisfied with the government of their country. They tend to see a theocratic state as the only alternative for a highly corrupt and debauched government. Meanwhile, explanation for the fast Islamization of the youth and radicalization part of it can be found in relative deprivation theory. Paraphrasing Gurr<sup>38</sup> and Mandaville we can say that various programs and schemes through which Azerbaijani government initially sought to provide some form of participation for young generation very quickly came to be a synch with the pace of societal development. It is often possible to see educated people among the religious youth disappointed by government that failed to provide this aspiring middle class with decent jobs. The few and much-coveted positions available within the private sector, mostly in oil sphere, tended to be reserved for those elites whose patronage propped up the state. Far from opening new paths for participation and social mobility, Azerbaijani system seemed to have done no more than re-entrench existing patterns of social influence behind a new modern façade. In many cases the gap between rich and poor actually widened, with meaningful political enfranchisement of young generation. What Azerbaijan is experiencing now is a classical case of “relative deprivation” caused by rapidly rising economic and political expectations that were not being met by material conditions.

Historical experience shows that cracking down radical cells in the country will hardly bring long-term benefits. Instead, it could further alienate religious minority groups and lead them into the trap of terrorist organizations. The exaggeration of the terrorism threat has been used so far to justify repression and control of religious life, which risks leading to polarization and possible radicalization of the many more who have suffered from police brutality even if they were originally apolitical and purely religious.<sup>39</sup> But this policy can not continue forever. For the Azerbaijani government, it is time to address important issues such as corruption, poverty and democratic participation. Elements of today’s religious situation in Azerbaijan are similar to those of Iran in the early 1970s: disenchantment with current government, concern over a grave economic situation, anger over repression, and disappointment with democracy. If this situation continues, it is clear that religious organizations with ample foreign financing will recruit more followers. After all, even during the Iranian revolution a large portion of the population did not want Islamism but simply united behind an Islamist leadership to over-

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<sup>38</sup>Gurr, Ted, *Why Men Rebel*, Princeton University Press, Princeton, 1969. Mandaville, Peter, *Global Political Islam*, Routledge, London, 2007, at pp. 98-99.

<sup>39</sup> International Crisis Group, *Azerbaijan: Independent Islam and the State*, Crisis Group Europe Report Nr. 191, Brussels, 25 March 2008. Available online at: [http://www.crisisgroup.org/library/documents/europe/caucasus/191\\_azerbaijan\\_independent\\_islam\\_and\\_the\\_state.pdf](http://www.crisisgroup.org/library/documents/europe/caucasus/191_azerbaijan_independent_islam_and_the_state.pdf)

throw an unpopular government.<sup>40</sup> Azerbaijani state institutions should put greater efforts into formal religious education of citizens and aspiring clerics. The sectarian violence is another danger that could undermine the stability in the country. In 1980s almost everywhere in the Muslim world, except Azerbaijan, tensions between Shi'as and Sunnis were at their peak<sup>41</sup>. By the end of 90s, however, situation in Azerbaijan has changed and the danger of clashes between various Muslim communities is not fiction anymore. The government should gradually diminish the influence of radical ideologies through tight control over foreign missionary work and initiate of Salafi/Sunni-Shi'a dialogue to reduce sectarian tensions in society. A national public debate involving independent and official clerics, scholars and NGOs should be organized to define optimal relations between the means to more effectively guarantee religious freedom. Independent religious communities, in particular Salafi groups, should in turn clearly warn their members of risks connected to terrorism and militantism and should engage in genuine dialogue with official clergy and Azerbaijani authorities.<sup>42</sup> If Azerbaijan could incorporate various ideologies and independent communities into its social and political system, it would definitely enrich society and contribute to the further tolerant environment. Otherwise, Azerbaijan may soon be faced with the threat of terrorism and radicalism that could endanger the secular statehood of the young republic.

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<sup>40</sup> As the leader of the opposition Popular Front Party, Ali Karimli, stated in February 2005, due to the restriction of the secular political opposition, Islamists are getting stronger. As Karimli put it, "*On Fridays more than three or four thousand people turn up at services in every mosque in a country where I cannot gather fifty people together for a meeting!*". Capitol Hill Hearing Testimony Committee, *Testimony by Zeyno Baran, Director of International Security and Energy Programs*, The Nixon Center, 8 March 2005.

<sup>41</sup> Roy, Oliver, *Globalised Islam. Search for a New Ummah*, Columbia University Press, New York, 2004, pp. 161

<sup>42</sup> International Crisis Group, *Azerbaijan: Independent Islam and the State*, Crisis Group Europe Report Nr. 191, Brussels, Belgium, 25 March 2008. Available online at: [http://www.crisisgroup.org/library/documents/europe/caucasus/191\\_azerbaijan\\_independent\\_islam\\_and\\_the\\_state.pdf](http://www.crisisgroup.org/library/documents/europe/caucasus/191_azerbaijan_independent_islam_and_the_state.pdf)

# Kosovo's Post-independence Inter-clan Conflict <sup>1</sup>

*Tzvetomira Kaltcheva*<sup>2</sup>

*According to Lewis Coser and Georg Simmel's causal explanations of social conflict, in the absence of a common threat, conflicting groups are likely to resume their confrontational behavior. While the first eight years of post-war Kosovo have already seen a sharp increase in the number of blood feuds, I question whether this trend is likely to continue after Kosovo gains independence. I explore the impact of the tradition of gjakmarrja (blood feuds) on the political and social life in Kosovo after independence. I argue that clan-based divisions in Kosovo are likely to serve as a basis for political mobilization of elites competing for wealth, power and status. Independent Kosovo is likely to see increasing inter-clan conflict*

## **I. Introduction**

On April 15, 2005, Enver Haradinaj and Artan Tolaj were shot while driving near the village of Rausic, south of Peja. Enver Haradinaj, the younger brother of former Kosovo Prime Minister Ramush Haradinaj, died on the way to the hospital. Artan Tolaj survived to tell the story. While the motives and the identity of the killers remain unknown, the Kosovo Police Service (KPS) suspects that both men fell victim to the blood feud between the Musaj and the Haradinaj families.<sup>3</sup> If this is indeed true, why are such blood feuds taking place in Kosovo? How and why are blood feuds likely to influence the Kosovo political arena after independence?

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<sup>1</sup> An earlier version of this paper was presented at the Midwest Political Science Association Conference, Chicago, IL, April 3, 2008.

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<sup>3</sup> International Crisis Group, *Kosovo after Haradinaj*, Europe Report Number 163, 26 May 2005. Available online at: <http://www.crisisgroup.org/home/index.cfm?id=3474>. All websites in this paper were last checked on April 12, 2008.

In this essay, I explore the impact of the tradition of *gjakmarrja* (“blood feuds”) on the political and social life in Kosovo after independence. I argue that clan-based divisions in Kosovo are likely to serve as a basis for political mobilization of elites competing for wealth, power and status. I will first provide a short description of the *Kanun i Leke Dukagjinit* (Code of Leke Dukadjini), which established the practice of blood feuds. Second, I will provide a theoretical analysis of the inter-clan relations. Finally, I will advance several hypotheses about the possible implications of the clan-based divisions on independent Kosovo.

## II. Blood Feuds and the Code of Dukagjini

What is a blood feud? Anthropological studies have detailed blood feuds among the Northern Albanian Ghegs, a practice that is likely to have spread to neighboring Kosovo and Macedonia in the early 20<sup>th</sup> century.<sup>4</sup> The work of the British anthropologist Edith Durham (1863-1944) provides a particularly rich narrative on the traditions of the Ghegs and their adherence to the Code of Leke Dukagjini.<sup>5</sup> The Code is a customary law observed by the Ghegs as early as the 15<sup>th</sup> century but formally recorded by Franciscan Father Shtjefën Gjegjovi (1874-1929) in the mid-1920s.

According to the Code, the principle of “*an eye for an eye, a life for a life*” defines blood feuds. As the main value of traditional Albanian society is honor, any offense against one’s family, kinsmen or ancestors requires a murder as the only satisfactory revenge. At times, revenge killings among members of two feuding clans spread over decades. Frequently, justifications based on honor mask the real reason for the blood feud, i.e. the struggle for property rights.

Durham describes blood feuds as the “*central fact in the life of the people - not merely vengeance, but an offering to the soul of a dead man.*”<sup>6</sup> The Code has specific rules about carrying out blood feuds, and about who can engage and fall victim to blood feuds.<sup>7</sup> Blood feuds usually end with the intervention of a third party who helps settle

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<sup>4</sup> No studies are yet available on the approximate time of the transfer and adoption of the Code of Leke Dukadjini by Kosovo and Macedonian Albanians. Because of common language, culture and frequent interaction, it is plausible that the Code of Leke Dukadjini was gradually adopted in Kosovo and Macedonia in the early 20<sup>th</sup> century when Shtjefën Gjegjovi recorded and published the Code, or even much earlier.

<sup>5</sup> Durham, Edith M., *Some Tribal Origins, Laws and Customs of the Balkans*, George Allen & Unwin Ltd, London, 1928.

<sup>6</sup> Durham, Edith M., *Some Tribal Origins, Laws and Customs of the Balkans*, at p. 162.

<sup>7</sup> A dead man’s brother was usually the avenger. Blood feuds do not involve women. Each killer should be very careful to leave a mark so that the death could be identified as committed by one clan or another. Anonymous killings tended not to occur, partly because it defeated the purpose. See Durham, Edith M., *Some Tribal Origins, Laws and Customs of the Balkans*.

the “blood money” as a compensation for the first victim.

Between 1990 and 1997, Anton Cetta, a retired professor from the University of Prishtina, led a mass campaign for reconciliation that improved the relationships among feuding clans in Kosovo.<sup>8</sup> At the beginning of the campaign in 1990, nearly 17,000 men were under threat of blood feud revenge. A ceremony of reconciliation in May 1990 at *Verrat e Llukës* in the Decan region attracted several hundred thousand people.<sup>9</sup> As Anton Cetta said, this reconciliation campaign was difficult. “*It is not easy for families required to draw blood to forgive,*” he explained, “*because for many centuries, families who did not take vengeance were considered cowards*”.<sup>10</sup>

Cetta and 500 activists from his Commission for the Forgiveness of Blood toured many villages throughout Kosovo attempting to convince clans to forgive their blood feuds. Cetta successfully resolved several hundred blood feuds.<sup>11</sup> Such conflict mediation was within the prescriptions of the Code of *Leke Dukagjini*, which allowed for feuding families to negotiate a *besa*, a sworn truce.<sup>12</sup> The Code explains that “*the besa is a kind of temporary exemption and security which the victim's house grants the killer and his household members ensuring [a guarantee] that for some time they shall not be persecuted for the bloodshed*”.<sup>13</sup>

It is not clear whether Anton Cetta envisioned the reconciliation process to be a step towards a long-term solution to the blood feuds. The *besa*, in theory at least, is a short, time-bound truce. It is likely that “the need for unity in the emergency circumstances of the Serbian takeover” of Kosovo, rather than a true commitment to completely do away with the practice of blood feuds, dictated Cetta's appeal.<sup>14</sup>

The truce turned out to be short-lived. After the 78-day North Atlantic Treaty Organization (NATO) bombing of Kosovo and Serbia in 1999, cases of blood vengeance began reappearing. In the first four years after the war, the Council for the Defense of Human Rights and Freedoms in Prishtina recorded approximately 40 blood feud murders.<sup>15</sup> Ac-

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<sup>8</sup> Bytyci, Fatos, *Blood Feuds Revive in Unstable Kosovo*, Institute for War and Peace Reporting, BCR Number 481, 19 February 2004. Available online at:

[http://iwpr.net/?p=bcr&s=f&o=158066&apc\\_state=henibcr2004](http://iwpr.net/?p=bcr&s=f&o=158066&apc_state=henibcr2004).

<sup>9</sup> International Crisis Group, *Kosovo after Haradinaj*, at p. 10.

<sup>10</sup> Bytyci, Fatos, *Blood Feuds Revive in Unstable Kosovo*.

<sup>11</sup> Xharra, Jeta, *Comment: Time to End Destructive Kosovo Clan Warfare*, Institute for War and Peace Reporting, 20 April 2005. Available online at:

[http://iwpr.net/?p=bcr&s=f&o=242280&apc\\_state=henibcr2005](http://iwpr.net/?p=bcr&s=f&o=242280&apc_state=henibcr2005).

<sup>12</sup> See Doll, Brandon, *The Relationship between the Clan System and Other Institutions in Northern Albania* in: *Southeast European and Black Sea Studies* (Volume 3, Issue 2) May 2003, at pp. 147-148.

<sup>13</sup> Quoted in Mangalakova, Tanya, *The Kanun in Present-day Albania, Kosovo and Montenegro*, International Centre for Minority Studies and Intercultural Relations, Sofia, Bulgaria, 2004, at p. 12.

<sup>14</sup> International Crisis Group, *Kosovo after Haradinaj*, at p. 10.

<sup>15</sup> Quoted in Bytyci, Fatos, *Blood Feuds Revive in Unstable Kosovo*.

According to the Council's President, Pajazit Nushi, many people who agreed to *besa* in the 1990s have "restarted the old family blood feuds."<sup>16</sup> By December 2004, the number of blood feud murders reached 70, the majority of which had taken place in the mountainous regions of Dukagjini in the West, an area that includes the towns of Decan, Klina and Peja.<sup>17</sup>

The abovementioned explanation of Anton Cetta's reconciliation movement corresponds to Lewis Coser and Georg Simmel's causal explanations of social conflict.<sup>18</sup> The scholars hypothesize that in the presence of a common enemy, conflicting groups are likely to disregard their differences and unite against the common enemy. However, once the common threat is no longer a part of the equation, conflicting groups are likely to resume their confrontational behavior. In this respect, while the first eight years of post-war Kosovo have already seen a sharp increase in the number of blood feuds, the question whether this trend will continue after Kosovo's independence is a legitimate one. Coser and Simmel's theories would suggest a high likelihood for the escalation of blood feuds. After Kosovo's independence, neither Serbia nor the United Nations Mission in Kosovo (UNMIK) would constitute a common enemy for the feuding clans. Hence, in the absence of a common enemy, inter-clan tensions are likely to resume. One could argue, however, that Serbia, the principle enemy, was minimized with the end of the 1999 war. However, such limited interpretation of the situation between 1999 and 2007 omits the role of UNMIK, which could be perceived by clans as a "quasi-enemy." International oversight of Kosovo politics prevents clans from maximizing their wealth, power and status. While UNMIK is not literally an enemy, its presence and steering of Kosovo in directions according to UNMIK's own liking have allowed clans to perceive the enemy as both UNMIK and Serbia.

### III. Theoretical Frameworks

Based on studies of Central Asia, Kathleen Collins offers one theoretical framework of clan politics. She defines clans as "*informal identity organizations with a kinship basis*".<sup>19</sup> A clan, therefore, embodies both an identity and an organization. Kinship lies at the core of clan identity and defines intra and inter-clan relations. Both immediate or more distant kinship ties connect the many individuals who form a clan. A few clan elites or elders constitute the clan's core, and kinship ties extend vertically and horizon-

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<sup>16</sup> Quoted in Bytyci, Fatos, *Blood Feuds Revive in Unstable Kosovo*.

<sup>17</sup> Flottau, Renate, *Kosovo: A Prime Minister with a Kalashnikov*, Center for Research on Globalization, 1 May 2007. Available online at:

<http://www.globalresearch.ca/index.php?context=viewArticle&code=FLO20041213&articleId=332>.

<sup>18</sup> See Coser, Lewis, *The Functions of Social Conflict*, Free Press, Glencoe, IL, 1956, and Simmel, Georg, *Conflict*, Free Press, Glencoe, IL, 1955.

<sup>19</sup> Collins, Kathleen, *Clan Politics and Regime Transition in Central Asia*, Cambridge University Press, Cambridge, MA, 2005, at p. 24. See also Schatz, Edward, *Reconceptualizing Clans: Kinship Networks and Statehood in Kazakhstan* in: *Nationalities Papers* (Volume 33, Issue 2), 2005.

tally to form an extended family.<sup>20</sup> Clan members and the many sub-clans depend on the patronage of the clan elders.<sup>21</sup> A sense of shared identity, belonging, and mutual solidarity binds clan members. Within the clan, economic interdependency further reinforces a shared clan identity.

In the presence of a shared external threat, balance of power among the major clan factions, and a trusted leader, clans are likely to form informal pacts on which to rely in case of outside threat. Clan pacts unite to support regimes favourable to their interests, and those that allow for distribution of resources and power among the clans. Collins calls this process clan balancing.<sup>22</sup> Furthermore, during inherently unstable transitions to democracy, clan politics emerge, pervading formal regimes and weakening their durability. Through their informal rules of law, clans can pervade, transform, and undermine the formal regime. Clans do so through kinship-based patronage and “crowding-out” of formal institutions.<sup>23</sup> Jobs, for example, are given out on the basis of kinship, not merit. Informal clan-based institutions become the means of politics, in which clans crowd out non-clan forms of political participation. This makes clan politics inherently exclusionary and non-transparent.

Since shared identity and in-group solidarity are at the core of clan formation, clans could be interpreted as identity groups. It is, therefore, useful to apply the ethnic conflict literature to the case of inter-clan tensions in Kosovo in order to better understand the nature of inter-clan relations post independence.

Despite primordial explanations of ethnic conflict, which blame seething “ancient hatreds” for inter-group violence, interethnic disputes result from a complex interplay of multiple causal mechanisms. These include frustrations associated with unequal distribution and unequal growth rate of wealth, power and status that could be either real or perceived. Ethnic entrepreneurs determined to fulfil their opportunistic goals of gaining power often manipulate the perceptions about the ethnic group they oppose. Other explanations for inter-ethnic violence focus on the role of fear and the associated security dilemmas.

Ethnic violence is oftentimes labelled as irrational. However, Rui de Figueiredo and Barry Weingast’s game theory model shows that the actions leading to ethnic conflict are “*rational, fear-driven support of violence by average citizens*”.<sup>24</sup> According to their

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<sup>20</sup> Collins, Kathleen, *Clan Politics and Regime Transition in Central Asia*, at p. 25.

<sup>21</sup> Baker, Berit, *Behind Closed Walls: Changing Household Organization among the Albanians in Kosovo*, Peja, Kosovo, 2003, at p. 93.

<sup>22</sup> Collins, Kathleen, *Clan Politics and Regime Transition in Central Asia*, at p. 50.

<sup>23</sup> Collins, Kathleen, *Clan Politics and Regime Transition in Central Asia*, at pp. 52-53.

<sup>24</sup> Figueiredo, Rui de and Barry Weingast, *The Rationality of Fear: Political Opportunism and Ethnic Conflict*, in Walter, Barbara and Jack Snyder (eds. MFKKFBN), *Civil Wars, Insecurity, and Intervention*, Columbia University Press, New York, 1999, at p. 292.

model, a member of group **A** perceives group **B**'s actions "as a given," without differentiating that not all **B** members act the same way. Driven by fear and uncertainty *vis-à-vis* **B** leaders' intentions, **A** members face a security dilemma. **A** members then behave in ways that produce violence. This could be different if **A**'s perception of **B** is not taken as a given. As in the case of Milosevic who feared losing power when the former Yugoslavia disintegrated, attempts by weak leaders to use violence as a tool of manipulation, and as way of stoking the population's fear of victimization have powerful causal influence on ethnic conflict.<sup>25</sup>

Jeffrey Ross proposes another model for the rise of ethnic violence. Two causal mechanisms work simultaneously. First, the existence of social, cultural, historical and economic discontent and the presence of a culture of protest and violence, which are mutually reinforcing, fuel perceived or real grievances.<sup>26</sup> Second, the failure of a counter-terrorism organization creates opportunities for the organizational development of terrorism and the trafficking and stockpiling of weapons and explosives.<sup>27</sup> When traditional channels for resolving social and political discontent do not address popular grievances, some people find an outlet for the expression of their grievances through powerful terrorist organizations. This complex interplay of factors then results in violence against a particular identity group.

The Ross model, when applied to Kosovo, could explain the inter-clan violence that is likely to erupt after independence. Prior to the independence, the social, cultural, historical and economic discontent in Kosovo centred around (1) the unresolved status, (2) the still large number of missing persons, and (3) UNMIK's "occupation" of Kosovo. It is likely that after independence the issue of missing persons will still drive popular unrest. After independence, the discontent associated with the "foreign occupation" will partially decrease. Discontent towards the international presence in Kosovo will continue as an international authority is likely to remain in charge of minority affairs and external borders. Furthermore, as evidenced during the March 2004 riots and, more recently, during the 2006 attacks against UNMIK Headquarters and the Assembly of Kosovo, a culture of protest does exist in Kosovo and is likely to persist after independence.<sup>28</sup> Similarly, the culture of violence enshrined in the *Code of Leke Dukagjini* will continue long after independence. Not only is the Code a basis for social interaction, but unless a new Anton Cetta and a new reconciliation movement come into existence, Kosovo's social and political life will continue to be marred by blood feuds.

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<sup>25</sup> Figueiredo, Rui de and Barry Weingast, *The Rationality of Fear: Political Opportunism and Ethnic Conflict*, at pp. 271-275.

<sup>26</sup> Ross, Jeffrey, *The Rise and Decline of Quebecois Separatist Terrorism* in: *Studies in Conflict and Terrorism* (Volume 18, Issue 4), 1995, at p. 291.

<sup>27</sup> Ross, Jeffrey, *The Rise and Decline of Quebecois Separatist Terrorism*, at p. 288.

<sup>28</sup> Southeast European Times, *UNMIK Headquarters in Pristina Attacked by Protesters*, 29 November 2006. Available online at: [http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2006/11/29/feature-01](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2006/11/29/feature-01).



Furthermore, the law enforcement authorities' attempt to counter terrorist activities in Kosovo has completely failed. Adjusted to the particularities of Kosovo, the Ross model's definition of terrorism could be redefined to include violence perpetrated by the Kosovo Albanian mafia as it protects its territory of operation and the supply chain of resources and materials to other criminal groups. Permeable borders and the diffusion of clan politics among law enforcement authorities, including border control, have contributed to the organizational strength of the mafia, which is now equipped with readily available weapons smuggled through Macedonia and Albania. After independence, it is likely that the mafia will continue to grow stronger. Powerful clans who control both the mafia and the government will continue to have an interest in a weak central government. The Ross model, therefore, suggests that it is plausible to expect that inter-clan violence will continue after independence as clans compete for wealth, power and status.

#### **IV. Clan-based Divisions After 1999**

Inter-clan relations during the past eight years indicate a growing number of blood feuds. The "tit-for-tat" interactions between the Musaj and the Haradinaj clans - both very powerful clans from the Dukagjini region of Western Kosovo - exemplify Kosovo Albanians' practice of blood feuds and their observance of the Code. The significance of this particular blood feud is high because of the political repercussions of a blood feud that entangles Kosovo political elite in endless retaliatory attacks.

During the peak of Albanian resistance to the Serb forces between 1998 and 1999, the Dukagjini region was the playground of heated competition between two Albanian rebel groups fighting against the Serb forces - the Kosovo Liberation Army (KLA) and the Armed Forces of the Republic of Kosovo (FARK), supported by late Kosovo President Ibrahim Rugova's Democratic League of Kosova (LDK) party. The Haradinajs and the Musajs led the KLA and FARK. In the summer of 1999, Ramush Haradinaj's brother Daut together with Idriz Balaj, Ahmet Elshani, and Bekim Zekaj abducted five men who were close to FARK's commander Tahir Zemaj.<sup>29</sup> They tortured and killed four men of the Musaj and Muriqi clans while the fifth, Vesel Muriqi, managed to escape.

The feud between the Musaj and the Haradinaj families began that summer when the Musajs accused Daut Haradinaj of being responsible for the killing and disappearance of Sinan Musaj - one of the four men killed by the KLA in the abovementioned incident.<sup>30</sup> A year later, in July 2000, the two Haradinaj brothers went to the Musaj family

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<sup>29</sup> Xharra, Jeta, Muhamet Hajrullahu and Arben Salihu, *Kosovo's Wild West*, Institute for War and Peace Reporting, 18 February 2005. Available online at:

[http://iwpr.net/?p=bcr&s=f&o=242391&apc\\_state=henibcr2005](http://iwpr.net/?p=bcr&s=f&o=242391&apc_state=henibcr2005).

<sup>30</sup> International Crisis Group, *Kosovo after Haradinaj*, at p. 10.

compound in the village of Strelc. There are conflicting reports about who first opened the fire that injured the Haradinaj brothers.<sup>31</sup> Ramush Haradinaj later issued a “declaration of peace” to the Musaj family pledging that “no one from [his] side will retaliate or undertake any measures against them”.<sup>32</sup> It is clear, however, that since then both families have engaged in repeated attacks, wounding and killing members of each other’s clans. In January 2002, Idriz Balaj’s family suffered a car bomb attack; in August 2002, Tahir Zemaj survived a rocket-propelled grenade attack; in September 2003, Ramiz Muqiri, a cousin of Vesel Muriqi, survived a bomb attack and Ismet Musaj fell victim to a blood feud murder;<sup>33</sup> in November 2003, Isuf Haklaj and Sebahate Tolaj, KPS officers who formerly fought for FARK and were investigating Tahir Zemaj’s murder, were shot dead.<sup>34</sup>

Most recently, the vendetta between the Musaj and Haradinaj clans took the following victims: Sadik Musaj was shot dead in February, 2005; two months later, Enver Haradinaj was killed,<sup>35</sup> in July 2005, Xheladin Musaj and his grandson were assassinated in a drive-by shooting in Peja.<sup>36</sup>

In addition to the Haradinaj-Musaj blood feud, two other vendettas mark the political and social life of Kosovo. The Zemaj-Haradinaj dispute dates back to mid-1998 when the FARK paramilitary forces led by Tahir Zemaj established quarters in Glodjane, the home village of the Haradinajs.<sup>37</sup> Returning from a long exile abroad, Tahir Zemaj testified in the trial against Daut Haradinaj, and after several attempts on his life, Tahir Zemaj was killed in 2003. His son and nephew also died in the attack.<sup>38</sup> In addition, be-

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<sup>31</sup> US military flew Ramush Haradinaj, who sustained grenade injuries in the exchange of fire, to a military hospital in Germany. Nicholas Wood writes that US military removed evidence from the crime scene, impeding the work of UNMIK police. Speculations are high as to the relationship between the US military and Ramush Haradinaj and the importance of Ramush Haradinaj to US military. Most probably, it is connected to the interaction of KLA and the US military during the NATO bombing campaign which would not have been as successful had it not been for KLA activities on the ground. See Wood, Nickolas, *US 'Covered Up' For Kosovo Ally*, *The Observer*, 10 September 2000. Available online at: <http://www.commondreams.org/headlines/091000-01.htm>.

<sup>32</sup> Xharra, Jeta, Muhamet Hajrullahu, and Arben Salihu, *Kosovo's Wild West*.

<sup>33</sup> Rusche, Renata. *Activities of the Criminal Groups in Kosovo & Metochia and Independence of the Province*, Center for International Relations, Warsaw, October 2006, at p. 5. Available online at: [http://www.csm.org.pl/index\\_new.php?s=page&id=28&mid=5&sid=26](http://www.csm.org.pl/index_new.php?s=page&id=28&mid=5&sid=26).

<sup>34</sup> See International Crisis Group, *Kosovo after Haradinaj*, at pp. 10-11, Xharra, Jeta, Muhamet Hajrullahu, and Arben Salihu, *Kosovo's Wild West*, and Xharra, Jeta, *Comment: Time to End Destructive Kosovo Clan Warfare*.

<sup>35</sup> See the introduction of this paper for more details on the death of Enver Haradinaj.

<sup>36</sup> See Council for the Defense of Human Rights and Freedoms, *Report on the Situation of Human Rights and Freedoms in Kosova*, July 2005. Available online at: <http://www.cdhrf.org/English/Monthly/072005.pdf>.

<sup>37</sup> Rusche, Renata, *Activities of the Criminal Groups in Kosovo & Metochia and Independence of the Province*, at p. 5.

<sup>38</sup> Rusche, Renata, *Activities of the Criminal Groups in Kosovo & Metochia and Independence of the Province*, at p. 5.

cause of a fierce blood feud between the Keljmeni and Luka clans, both sides have lost family members.<sup>39</sup>

## **V. Clans and the Struggle for Wealth, Power and Status after Independence**

The March 2004 riots, which underlined the precariously volatile and explosive situation in the province, were a wake-up call for the international community. The need for an internationally recognized status was urgent. Further disregard of the final status would only have caused more instability in Kosovo and throughout the Balkans.<sup>40</sup> Granting immediate full independence or reincorporating Kosovo back into Serbia proper were equally impossible options because of possible eruptions of violence. After nine years of living in limbo, Kosovo declared independence on February 17, 2008, and many world powers have already recognized its sovereignty. How will Kosovo's independence influence the inter-clan relations among Albanian families? Will clan-based divisions in Kosovo's society serve as a basis for political mobilization of elites engaged in conflicts for wealth, power and status?

Establishing rule of law will be paramount in a newly independent Kosovo. As KFOR scales down and UNMIK police assumes responsibility only for minority protection and policing in minority areas, KPS will secure more power and authority. There will be a simultaneous increase in the role and status of the Kosovo Protection Force (KPC), which the international community assembled from remnant KLA and FARK rebel forces. The KPC currently exists only nominally and has no power. The partial or total withdrawal of international police and military forces will create a power vacuum in the law enforcement sector. It is likely that this power vacuum will result in a struggle between powerful clans both at local and national levels. As powerful clans have an interest in gaining as much power and status as possible, each clan will try to secure access to and dominate the law enforcement apparatus. Clan politics, particularly the practice of nepotism, is one way in which clans could secure presence and authority in law enforcement.

Once a balance has been achieved in which all clans participate and hold key positions in the law enforcement sector - i.e. once police and army positions are 'equally' distributed among the clans - problems will continue to mar Kosovo's transition to sustainable democracy. First, it is expected that the Code will prevail over the rule of law as the key principle guiding Kosovo's socio-economic life. In some cases, clan interests will prevail over law enforcement and the concerned authorities - belonging to one or another

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<sup>39</sup> Rusche, Renata, *Activities of the Criminal Groups in Kosovo & Metochia and Independence of the Province*, at p. 5.

<sup>40</sup> International Crisis Group, *A Kosovo Roadmap (I): Addressing Final Status*, Balkans Report Number 124, 1 March 2002, at p. ii.

clan - will lack incentives to solve a given blood feud-related murder and will have no genuine interest in finding the culprits and resolving the case. At times, the Institute on War and Peace Reporting (IWPR) reports, “*old political allegiances play a role in how policemen act*”.<sup>41</sup> Kosovo’s post-independence rule of law is likely to closely resemble the situation in Kosovo prior to independence. The IWPR writes: “*As the families of murder victims grow increasingly resentful of the [KPS] inactions, many come to believe that justice will only be done if they take matters into their own hands*”.<sup>42</sup> The pleas of citizens for KPS to investigate and prosecute those responsible for violent attacks oftentimes go unheard. Inaction, however, backfires. Albanians in Peja, for example, have reportedly developed “*a widespread lack of confidence that either the KPS or the UNMIK police was up to the challenge*” of resolving murder cases.<sup>43</sup>

The second reason for the possible poor performance of law enforcement authority post-independence is the intricate relationship between police and the mafia. Clan-based kinship ties not only permeate police authorities, but also define the mafia configuration. The Kosovo mafia is an agglomeration of several powerful clans who control the majority of import of valuable goods, particularly petrol and cigarettes. Lawlessness rules in Kosovo. Trafficking of heroin, excise goods, and, worst of all, trafficking of people are the domains of the Kosovo Albanian mafia which has close connections with the mafia operating in Albania, Macedonia, Bulgaria and Albanian-run mafia in Italy.<sup>44</sup> The Kosovo daily newspaper *Koha Ditore* wrote at the end of 1999 that “*drugs are flowing into Kosovo where we are witnessing the birth of a powerful mafia network*”.<sup>45</sup>

Clans protect their wealth, power and status, and this protectionism reigns the police-mafia relationship. Kosovo is at the crossroads of drug and human trafficking between Europe and Asia. Within Kosovo, regional differentiation marks the “*territory*” of operation for each clan. When a clan encroaches upon another’s territory, lingering animosities explode into open conflict.<sup>46</sup> The Haradinajs, for example, control the “*illegal trade of weapons, drugs, excise goods and stolen cars*” in the Dukagjini region.<sup>47</sup>

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<sup>41</sup> Xharra, Jeta, Muhamet Hajrullahu and Arben Salihu, *Kosovo's Wild West*.

<sup>42</sup> Xharra, Jeta, Muhamet Hajrullahu and Arben Salihu, *Kosovo's Wild West*.

<sup>43</sup> Xharra, Jeta, Muhamet Hajrullahu and Arben Salihu, *Kosovo's Wild West*.

<sup>44</sup> See Rusche, Renata. *Activities of the Criminal Groups in Kosovo & Metochia and Independence of the Province*, and Government of Serbia, *White Book on Albanian Terrorism and Organized Crime in Kosovo and Metohja*, BIA, Belgrade 2003, Available online at:

[http://www.media.srbija.sr.gov.yu/medeng/documents/albanian\\_terrorism\\_crime1.pdf](http://www.media.srbija.sr.gov.yu/medeng/documents/albanian_terrorism_crime1.pdf).

<sup>45</sup> Quoted in Raufer, Xavier, *At the Heart of Balkan Chaos: the Albanian Mafia*, Departement de recherches sur les menaces criminelles contemporaines, Institut de Criminologie de Paris, 2002. Available online at: [http://www.xavier-raufer.com/english\\_5.php](http://www.xavier-raufer.com/english_5.php).

<sup>46</sup> Xharra, Jeta, Muhamet Hajrullahu and Arben Salihu, *Kosovo's Wild West*.

<sup>47</sup> Government of Republic of Serbia, *White Book on Albanian Terrorism and Organized Crime in Kosovo and Metohja*, at pp. 16-17.

This illegal trade is further facilitated by Kosovo's porous borders and the clan politics permeating the Kosovo Border Police.<sup>48</sup>

Following independence, a heated inter-clan competition for political power and status will also mark Kosovo's social and political life. The seats at the Assembly of Kosovo are currently shared between the three main political parties: the Democratic League of Kosovo (LDK) with 25 legislators led by Lutfi Haziri, the Democratic party of Kosovo (PDK) with 37 legislators and led by Ramë Buja, and the Alliance for the Future of Kosova (AAK) with 13 members in parliament and led by Ardian Gjini.<sup>49</sup> Traditionally, LDK, PDK and AAK are related to the leadership of the late President Ibrahim Rugova, Hashim Thaci and Ramush Haradinaj respectively. Each political party has a clearly defined regional support base. AAK, for example, is supported by the clans close to Haradinaj in the Dukagjini region. Drenica region is the home base of PDK since both the former PDK leader Jakup Krasniqi and former KLA leader and spokesman Hashim Thaci come from Drenica.<sup>50</sup> At the local level, the positions of mayors and municipal council advisors are distributed in a similar fashion.

The schism in the political arena today is between LDK and PDK, with a fragile coalition between LDK and AAK.<sup>51</sup> While this coalition initially reduced the tensions in the Dukagjini region, the blood feud murder of Sadik Musaj and Enver Haradinaj and the anticipation of possible retaliatory attacks risk escalating the tensions between the two parties. As the International Crisis Group reports, PDK and media allegations that LDK members from western Kosovo will testify against Haradinaj at The Hague are further fueling the fire.<sup>52</sup>

In the absence of a unifying leader at a national level such as former President Rugova, Kosovo politics will be fiercely contested after independence. One would think that the independence would unite conflicting political parties so that they could jointly work for the common good of a prospering Kosovo. However, the schisms between the parties are deep, and differences will only be overcome with great difficulty in a post-independence setting. The intricate interplay of inter-clan relations based on political affiliations, former KLA or FARK affiliations, and clan balancing in the illegal trade and trafficking will define each party's struggle for greater power and status. With feuding clans and revenge killings in the background, the competition between LDK, PDK and AAK will be profoundly feverish. From today's perspective, one could only specu-

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<sup>48</sup> Many Serbian sources point to the Kosovo Albanian mafia. While the information these sources provide is clearly nuanced with Serbian nationalist propaganda, Western sources also provide similar information. The work of French criminologist Xavier Raufer is particularly rich.

<sup>49</sup> Assembly of Kosovo, *Numerical Representation of the Kosovo Assembly*. Available online at: <http://www.assembly-kosova.org/?krye=grup&lang=en>.

<sup>50</sup> International Crisis Group, *Kosovo After Haradinaj*, at p. 18.

<sup>51</sup> International Crisis Group, *Kosovo After Haradinaj*, at p. 19.

<sup>52</sup> International Crisis Group, *Kosovo After Haradinaj*, at p. 21. Interestingly, The Hague acquitted Haradinaj in Spring 2008.

late about the end result of this competition.

In conclusion, the Code of Leke Dukagjini is enshrined deeply in the culture and lifestyle of the Kosovo Albanians. Even after independence, when the security dilemma particularly vis-à-vis Serbia is likely to decrease, Kosovo will still remain unstable because of the heated inter-clan relations. Clan-based kinship ties are likely to be the basis for the mobilization of manipulative elites who will struggle to gain wealth, power and status. The formation of a stable central government will be impeded by the interests of powerful clans who permeate not only the political life but also reign in the “underground” world of the Albanian mafia. A stable government will be possible only if a solution can be found for Kosovo’s inter-clan conflict.

# Tribunal vs. Truth: ICTY and TRC in the Case of the Former Yugoslavia

*Beyazit H. Akman*<sup>1</sup>

*The International Tribunal for the Former Yugoslavia (ICTY) was established after a series of atrocities took place between the Serbs and Bosnians from 1992 to 1995. The tribunal received harsh criticism from all around the globe for not taking serious action and for being unable to bring to court the top generals responsible for many atrocities in the region. As a result of this criticism, another alternative to the tribunal, a Truth and Reconciliation Commission (TRC), has been brought up over several years. The commission would place an emphasis on truth rather than (or in addition to) justice. This paper analyzes what these institutions can do, and the possibility of an impasse they both could face.*

## **I. Introduction**

The conflict between the Serbs and Bosnians from 1992 to 1995 led to the establishment of the International Criminal Tribunal for the Former Yugoslavia (ICTY). Being the first of its kind in history<sup>2</sup>, the tribunal set out to try the accused leaders of the Serbian regime for crimes committed against humanity. At the same time, the tribunal faced many challenges both from Bosnia and the international community regarding its mission and role in the establishment of justice, its credibility in such a mission (after a long delay and misrecognition of the atrocities in the region) and its power to do so.

Based partially on the doubts and challenges against the ICTY, the idea of a Truth and Reconciliation Commission (TRC) in Bosnia-Herzegovina has been entertained over the course of several years. The concept of TRC springs from a much more comprehensive

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<sup>2</sup> Malhi, Gurjot, *An Experiment in International Criminal Justice: The Philosophy, Methodology, and Working of the International Criminal Tribunal for the Former Yugoslavia, Experiments with Truth: Documental1 Platform 2*, in: Enwezor, Okwui et al (eds.), Hatje Cantz, Germany, 2002, at. p. 196.

sense of justice; it places emphasis on the victims rather than the criminals and is based on a belief in reparative justice. The TRC's evaluations are future oriented and large-scale, providing for 'lessons learned' and projecting into the future. Central to the TRC concept is its inherently dominant mission to acknowledge "truth".

This paper will address the pros and cons of both the ICTY and TRC in a comparative perspective. Taking as a starting point the differences in the basic conceptions of these institutions, I will also attempt to determine to what extent the assumption of a dichotomy between them finds support in the related discourse headed by academic literature. In addition this paper seeks to deconstruct the very dualisms (such as that the former seeks justice whereas the latter is geared towards reconciliation) and demonstrate what they can really do as much as the impasse they both face. After all, the very concept of TRC is challenged by more 'traditional' forms of justice. As a result, this study will open up a comparison between the "truth" of the commissions and the "justice" symbolized by the tribunal.

## **II. How It All Started**

In July 1995, thousands of Muslim Bosnians poured into Srebrenica -a town declared as a "safe" area by United Nations (UN) in 1992. In the same year, the Christian Serbian Army set out to wipe out all other religious and ethnic groups in the region despite being a minority. Those Bosnians who had escaped from on the roads or surrounding towns that had already been cleansed fled to the Srebrenica "safe" zone in the belief that UN troops would protect them from the Serbians. Contrary to their expectations, UN troops primarily consisting of Dutch and French soldiers proved unable to protect them and, even worse, failed to put effort to prevent mass-killings by the Serbian Army and by that, made the latter's job easier; the UN troops did not launch any air strike or fire a single bullet against the Serbian Army. Later, the troops claimed in their defense that they were not authorized to do so. An alternative explanation is that, by believing the Serbian General Mladic, who promised that he would allow the Bosnians to leave the town unharmed by trucks, provided for by his army, the UN commanders ran into a deliberately set up trap. First, truck by truck, all men were deported out of town and thus separated from their families. Subsequently, children were taken, and finally the trucks were filled with women all before the eyes of the UN troops. Serbian soldiers, having killed some UN soldiers and taking their UN helmets, approached the Bosnians posing as UN troops. Despite Mladic's promises, the trucks never brought the Bosnians to freedom and peace. Instead, they were transported to mass graves, which were found only later; obeying Milosevic's orders, the soldiers tried to erase any trace of the graves. In this single event of four days, 7,500 people were killed.<sup>3</sup>

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<sup>3</sup> Srebrenica Massacre was summarized based on the accounts and information provided by Peace Pledge Union (PPU) Organization. Peace Pledge Union, *Bosnia Genocide 1995*. Available online at



In the Bosnian conflict, the overall casualties are even more shocking: more than 250,000 lives were lost, and out of the pre-war population of 4.5 million, 1.8 were displaced or exiled from Bosnia. More than 30% of all residential buildings were destroyed, and almost all public, cultural and civilian institutions such as hospitals, schools, and mosques were demolished. Further, the 4.5 million population was diminished to 2.9 million people.<sup>4</sup>

Facing the enormous flow of media pouring into the region, the United Nations (UN) in May 1993 established the International Criminal Tribunal for the Former Yugoslavia in The Hague of the Netherlands under Security Council Resolution 827 and chapter VII of charter of UN<sup>5</sup>. The accusations and challenges by both the domestic and the international community against the ICTY are already obvious; the UN was accused of reacting too late to the atrocities in the region. Even in the presence of its own troops, it did very little to prevent even small scale crimes committed by the Serbian regime. Kofi Annan, the former UN Secretary General has admitted that, “the UN will always be haunted by Srebrenica Massacre”<sup>6</sup>. What followed after the establishment of the Tribunal did not make things easier, either; as we will see, fifteen years after its emergence, the tribunal has neither been able to bring most of the major actors of the atrocities into the courtroom, nor has it been able to establish enough credibility partly due to lack of sincerity and of cooperation on the part of powerful Western governments.

Richard J. Goldstone, the former Chief Prosecutor of ICTY and effectively the head of the Tribunal, narrates in his *For Humanity: Reflections of a War Crimes Investigator* the innumerable difficulties he faced when trying to put the tribunal into action in a time when everybody was spreading out blatant messages. In a casual meeting, Edward Heath, the former British Prime Minister, asked Goldstone why he had accepted such a “ridiculous” job as a war crimes investigator for the Former Yugoslavia, and went on to state that, “if people wished to murder one another, as long as they did not so in his country, it was not his concern, and should not be concern of the British government”<sup>7</sup>.

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[http://www.ppu.org.uk/genocide/g\\_bosnia1.html](http://www.ppu.org.uk/genocide/g_bosnia1.html). For an interactive presentation on the Srebranica Massacre, see the Guardian website <http://www.guardian.co.uk/flash/0,5860,474564,00.html>. All websites used in this essay were last checked on 1 February 2008. For a novelistic narrative source on the Srebrenica massacre, see Rohde, David, *Endgame: The Betrayal and Fall of Srebrenica, Europe's Worst Massacre Since World War II*, Farrar, New York, 1997. For more on war crimes and Kosovo: Human Rights Watch, *Under Orders: War Crimes in Kosovo*, Washington, 2001; and Jones, Adam (ed.), *Genocide, War Crimes and the West: History and Complicity*, Zed, New York, 2004.

<sup>4</sup> Bringa, Tona, *Reconciliation in Bosnia-Herzegovina, Roads to Reconciliation*, in: Skaar, Elin et al (eds.), Lexington, Maryland 2005, at p. 187.

<sup>5</sup> Malhi, Gurjot, *An Experiment in International Criminal Justice: The Philosophy, Methodology, and Working of the International Criminal Tribunal for the Former Yugoslavia*, in: Enwezor, Okwui et al (eds.), *Experiments with Truth: Documenta11\_Platform2*, Hatje Cantz, Germany, 2002, at p. 197.

<sup>6</sup> Peace Pledge Union, *Bosnia Genocide 1995*. Available online at [http://www.ppu.org.uk/genocide/g\\_bosnia1.html](http://www.ppu.org.uk/genocide/g_bosnia1.html).

<sup>7</sup> Goldstone, Richard J., *For Humanity: Reflections of a War Crimes Investigator*, Yale, New Haven, 2000, at p. 74.

Although the statement at first startled Goldstone, he also admitted that the British prime minister was just echoing openly what many leading politicians in major Western nations were saying in private, and what many of them still believe. This instance demonstrates explicitly the insincerity of the International Leaders upon whom the very proceedings and results of the Tribunal, as we will see later on, depend.

Then, why, in the first place, did the international community come up with such an institution as the International Criminal Tribunal? The answer to the question requires a brief historical sketch going back to another tragic event in the history of mankind; that of 1945. Before World War II, nations—not individuals—were accountable in the face of an international law violation. The problems which arouse on the level of international relations were solved on a state-to-state, or a government-to-government basis, rather than on a personal one. The actions of a particular regime were accountable; or the misdoings of a state or a government could only be articulated rather than questioning about an individual fault or intent. “*It was not until the trials at the end of World War II that a substantial case law on [the concept of individual criminal responsibility] was established.*”<sup>8</sup> The articles of The Charter of the International Military Tribunal prepared in 1945 by France, Great Britain, Russia and the United States, which laid down the principles of Nuremberg, state clearly “individual responsibility” (although some certain terms are left undefined).<sup>9</sup> The London agreement of 8 August 1945 establishing the Nuremberg Tribunal was historically the first treaty to recognizing ‘crimes against humanity’. These crimes distinguish themselves by recognizing (criminal) liability for offending humankind, rather than for injuring individuals as immediate victims. Thus, “*For the first time,*” states Overy, “*the leaders of a major state were to be arraigned by the international community for conspiring to perpetrate, or causing to be perpetrated, a whole series of crimes against peace and against humanity.*”<sup>10</sup> The UN affirmed the crime against humanity in 1946, and war crimes were stated openly in the Geneva Conventions of 1949, which are recognized by the international community. Therefore, the Holocaust changed the case of individual liability in international war crimes irrevocably - or we just assume so, over-generalizing the results of the Nuremberg Trials to future and prospective proceedings, which is quite problematic looking at what followed in the Tribunals (the articulation of individual liability did not necessarily bring about the power to bring the indicted to the court), which means that retrospectively speaking, the legacy of the Nuremberg trials is still an unfulfilled project. On the basis of the Nuremberg Trials lay the need to indict Nazi leaders as well as the urgency

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<sup>8</sup> Greenwood, Christopher, *The International Tribunal for the Former Yugoslavia, International Affairs* (Royal Institute of International Affairs 1944) (Volume 69, Number.4.), October, 1993, pp. 641-655.

<sup>9</sup> For more on the question of “individual responsibility” regarding Nuremberg Trials and international law, see Wasserstrom, Richard, *The Relevance of Nuremberg, Philosophy and Public Affairs*, (Volume 1, Number 1), Autumn 1971, at pp. 22-46.

<sup>10</sup> Overy, Richard, *The Nuremberg Trials: International Law in the Making*, in: Sands, Philippe (ed.), *From Nuremberg to the Hague: the Future of International Criminal Justice*, Cambridge University Press, Cambridge, 2003, at p. 2.

to state the fact that Nazi leaders do not represent Germany—thus individualizing the crimes. Yet, above all, the main desire was not to see other genocide by sending out the message to the world that criminal leaders will not get away with their atrocities. Unfortunately, it is also most questionable to what degree this desire has been realized. As Goldstone, the former Chief Prosecutor at the Hague Tribunal has stated, “The hope of ‘never again’ became the reality of again and again.”<sup>11</sup>

Based on such a background, and particularly on the legitimacy of Geneva Conventions, the UN established the ICTY. However, maybe not because of the previous experiences of Nuremberg and the explicit definition of international war crimes and crimes against humanity, but due to intense and global pressure of the international media, which kept showing disturbing footage from the region to the world, the UN had no choice but to establish the Tribunal. It is true that the UN had the legal means and authority to establish a tribunal given the clear justifications established after the WWII, yet the reluctance of the international community (i.e. the political leaders, not the international public) inhibited the emergence of a war crimes tribunal regarding the Yugoslavian context; had it not been the spread of public opinion on a large scale in the digital age of the twenty first century, the tribunal would not have taken place. The reluctance on the part of the international leaders is illustrated by the fact that after years of its establishment, the tribunal was still lacking primary funding, which belated its proceedings if not for the generous donation of \$1,000,000 by the Pakistani government, as Goldstone seems to imply. The generosity of the Pakistani government can be explained by the fact that many victims were Muslims and seen as ‘brothers’ by the Pakistani. It is most likely that the ICTY could have never initiated its proceedings<sup>12</sup> without this donation. The tribunal is also said to have been established to hide the UN’s inaction in the region.

### III. Mission Unaccomplished

All these controversies and challenges notwithstanding, and perhaps just because of these very issues, the ICTY was finally provided with utmost power, authority, jurisdiction, and an almost omniscient rule of mandate starting from 1991, the date when very the first atrocities began to take place, until an indefinite time in the future when NATO and UN peacekeeping troops in the region are no longer needed as peace is stabilized<sup>13</sup>. However, the mandate of the tribunal did not mean immediate results, or to put it more clearly, the authority was not realized into practice: “*For the most of its two years, the ICTY had no defendants in custody even though it already had issued thirty-four public*

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<sup>11</sup> Cited in Booth, Cherie, Prospects and Issues for the International Criminal Court: *Lessons from Yugoslavia and Rwanda*, in: Sands, Philippe (eds.), *From Nuremberg to the Hague: the Future of International Criminal Justice*, Cambridge University Press, Cambridge, 2003, at p. 157.

<sup>12</sup> Goldstone, Richard J., *For Humanity: Reflections of a War Crimes Investigator*, at p. 78.

<sup>13</sup> Malhi, Gurjot, *An Experiment in International Criminal Justice: The Philosophy, Methodology, and Working of the International Criminal Tribunal for the Former Yugoslavia*, at p. 196

*indictments.*”<sup>14</sup> Securing the apprehension of the indictees would not only become a problem in the formative years of the tribunal but also be one of the defining elements for the rest of its course.

The mission of ICTY is summarized under five categories on the official website of ICTY of UN. The first of these are “*spearheading the shift from impunity to accountability*” and “*strengthening the rule of law.*” As these are the most obvious and fundamental grounding of the tribunal they hardly require any more explication. The message that no matter who you are, at whatever position you are, you will be held accountable for your crimes is the strongest code the ICTY has been trying to send out to the world, thus aiming a prospective and pre-emptive stimulus in the hindrance of further atrocities as well as targeting at past crimes in the service of justice. Despite the simplicity of the basic idea behind the tribunal and its effective rhetoric, what happens in reality, however, is a cliché example of the clash between theory and practice. Even after fifteen years of the initiation of the proceedings, the number one criminal Slobodan Milosevic, the then president of Serbia, died ‘not guilty’ as his trial had not been concluded after about two decades. The cases of other leading figures are even worse; Radovan Karadzic, the then president of the Bosnian Serb Republic of Srpska, who is indicted by ICTY with ample evidence against him, has never been brought to court; he is actually one of the most wanted men in the world according to BBC. The fate of Ratko Miladic, Karadzic’s military commander who played the leading role in Srebrenica massacre, is also missing, not even mentioning that these were the *de jure* persons in command rather than many others who were *de facto* perpetrators, the latter being incomparably difficult to be indicted as evidence is hardly available<sup>15</sup>. Goldstone narrates how he pushed the world leaders, the United States particularly, to arrest these persons and how they not only ignored the legal power of ICTY but also insisted on not catching a figure such as Miladic in a time of elections in the USA<sup>16</sup>. Moreover, not only Pentagon but also NATO and European leaders are most reluctant to arrest these criminals<sup>17</sup>. Bearing in mind that ICTY has focused on top ranking only, officials given the huge number of perpetrators, the inability and inertness of the ICTY becomes obvious.

“*Establishing the facts*” is another mission ICTY has set out to do, and this may be the one area in which the tribunal has been at least partly successful. The crimes committed in and around Bratunac, Brcko, Celebici, Dubrovnik, Foca, Prijedor, Sarajevo, Srebrenica and Zvornik, to name a few, have largely been recognized and acknowledged. However, the process was neither an easy nor a quick one. As one of the officials of the

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<sup>14</sup> Roper, Steven D. and Lilian A. Barria, *Designing Criminal Tribunals, Sovereignty and International Concerns in the Projection of Human Rights*, Ashgate Publishing Ltd., Hampshire, 2006, at p. 86.

<sup>15</sup> Malhi, Gurjot, *An Experiment in International Criminal Justice: The Philosophy, Methodology, and Working of the International Criminal Tribunal for the Former Yugoslavia*, at p. 198.

<sup>16</sup> Goldstone, Richard J., *For Humanity: Reflections of a War Crimes Investigator*, at p. 125.

<sup>17</sup> Goldstone, Richard J., *For Humanity: Reflections of a War Crimes Investigator*, at p. 116.

tribunal, Malhi describes the intense and expensive inner-workings of ICTY<sup>18</sup>. The institution is divided into three main divisions; the Chambers, which consists of 14 different judges, a Registrar, and the Office of Prosecutor. Analysts, investigation teams, language staff, criminal professors, historians, and research officers are only some of the examples of the wide-ranging personnel employed by ICTY. All costs add up to a budget of \$96,443,900 as of 2001<sup>19</sup>. However, the fact finding of the tribunal is focused on behavior of individuals rather than on the collectivity and much emphasis is put on the question of which high-ranking officials are to be indicted and to what extent they are guilty rather than general or detailed facts about the nature of the events in the region. The tribunal, as such, inevitably represents the Kafkaesque side of justice; numbers, pages, endless rooms and officials, and paperwork to complete which would take an infinite number of years. At least, Carla del Ponte, the UN's chief crimes prosecutor is optimistic (!), by 2010, the work of the ICTY will be completed<sup>20</sup>. Criticizing the meticulous proceedings and preparations, however, is not to suggest the tribunal some sort of superficiality, although it is generally agreed that things could have been much more swiftly run (if the international leadership were more eager for a conclusion). Rather, the intricately labyrinthine job of the tribunal might be balanced by a TRC, which would have a much more gestaltian approach. Thus the victims of the crimes in question, those who are most in need to be aware of the proceedings of the tribunal, might be lost in the details and a truth commission would be a solution.

*“Bringing justice to thousands of victims and giving them a voice” and “accomplishing international law”* are the final, and probably most problematic, goals of the tribunal. Given the millions of people killed, exiled, deported, tormented, injured, or deprived of their property, such a mission is impossible from its very beginning; it is simply impractical. Furthermore, one might argue to indict even only one person requires several years, piles of documents, and lots of judges, lawyers, defendants, prosecutors, and persecutors, which makes it why many believe the ICTY is bound to be unsuccessful in this regard. Although, it is claimed that *“Through its work, by holding senior individuals responsible for the crimes committed in the former Yugoslavia, the Tribunal is bringing a sense of justice to the many thousands of victims across the region,”* the tribunal, according to its critics, has proven unable to hold serious individuals responsible as we have seen renders the argument invalid. Waller indicates gravely that many Serb war crime suspects still enjoy popular support; both Karadzic and Mladic are free and most probably in Serb-controlled territory.<sup>21</sup>

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<sup>18</sup> Malhi, Gurjot, *An Experiment in International Criminal Justice: The Philosophy, Methodology, and Working of the International Criminal Tribunal for the Former Yugoslavia*, at pp 196-199.

<sup>19</sup> Malhi, Gurjot, *An Experiment in International Criminal Justice: The Philosophy, Methodology, and Working of the International Criminal Tribunal for the Former Yugoslavia*, at p. 203.

<sup>20</sup> Waller, James, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*, Oxford University Press, New York, 2002, at p. 263.

<sup>21</sup> Waller, James, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*, at p. 263.

Before going on our analysis with the truth commissions, we should give the tribunal its due place rather than rhetoric of blame. As of 2007, ICTY had indicted 161 individuals, some of whom are top-ranking officials. Most recently, in December, 2007, Gen Dragomir Milosevic, a major figure, was sentenced for orchestrating the Sarajevo siege.<sup>22</sup> Although the figures are not most promising given the time of a decade and a half which passed since the founding of the tribunal, they suggest the strict, disciplined, and quite detailed nature of the investigations, thus leaving no question about the validity or reliability of the proceedings. “*The primary goal was not to achieve convictions but rather to ensure that those indicted would enjoy fair processes and procedures. That goal was by and large achieved*”<sup>23</sup>. The second major success of the tribunal is its contribution to the valorization of the international law, and ultimately, humanity. By putting on the table the Geneva Conventions and other related international laws, and by stressing the rule of law, and pointing its finger at responsible parties, the sense of justice is established before the global community, at least in theory if not in practice. Another important aspect of the tribunal is that, unlike the previous conception that international law applies when inter-borders-activities take place, the court approached atrocities that took place within borders with precision. This suggests a major shift from state-centered to international humanitarian approach, which increases both the power and the credibility of the tribunal. The last, but not the least, and perhaps the most important accomplishment of the proceedings is that it considered mass rape to be a war crime and treated it as such, unlike the treatment of such atrocities in the trials after the WWII. Mass rape was committed by an enormous number of Serbs as a method of ethnic cleansing, and the case was better documented than ever in history<sup>24</sup>. ICTY listened to many women, and recognized rape as a war crime against humanity. This fact becomes even more significant especially when we bear in mind that “*rape of the women’s body symbolically represents the rape of the community itself*.”<sup>25</sup>

#### IV. Another Alternative: Truth

However, rape was applied systematically as a major ethnic cleansing technique, and the tribunal does not have the ability at all to listen to even a fraction of the thousands of sufferers, let alone mentioning many other victims from many other cases. The issue brings us to one of the strongest arguments lying behind the idea of establishing a Truth and Reconciliation Commission (TRC) in the area. The victims in the region mostly

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<sup>22</sup> For a detailed list of indictments and proceedings of the ICTY, please visit the official website [www.un.org/icty](http://www.un.org/icty).

<sup>23</sup> Goldstone, Richard J., *For Humanity: Reflections of a War Crimes Investigator*, at p. 123.

<sup>24</sup> Arcel, Libby Tata, *Deliberate Sexual Torture of Women in War: the Case of Bosnia-Herzegovina.*, in: Shaleve, Arieh Y. et al (eds.), *International Handbook of Human Response to Trauma*, Plenum, New York, 2000, at p. 179.

<sup>25</sup> Chesterman, Simon, cited in Booth, Cherie, *Prospects and Issues for the International Criminal Court: Lessons from Yugoslavia and Rwanda*, in: Sands, Philippe (ed.), *From Nuremberg to the Hague: the Future of International Criminal Justice*, Cambridge University Press, Cambridge, 2003, at p. 165.

claim that workings of ICTY hardly ever touch on their experiences, thus providing them with a sense of injustice, rather than its positive counterpart. Those who have been able to attend to the proceedings of the tribunal as witnesses or participants are so few that they cannot even work as a representative sample of the whole nation. The success of the TRC in South Africa<sup>26</sup> has also boosted interest in such a commission.

The logic behind a TRC in Bosnia can be grouped under three categories. We have already started discussing the first of them: the need to enable many more victims to participate in the process of creating and establishing justice. As two of the strongest defendants of a TRC in Bosnia-Herzegovina, Kritz and Finci argue, “*Trials will appropriately only provide an opportunity for a few victims—well under one percent of the total, to tell their story, as it relates to the charges against to the particular defendant. The TRC will provide an official forum for all victims [. . .] to tell their story and ensure their experience [. . .] is preserved as part of the publicly acknowledged history of Bosnia-Herzegovina.*”<sup>27</sup>

In this respect, a TRC can be conceived as a mirror image, a reverse institution of the tribunal. Whereas the emphasis of ICTY is on the criminals and perpetrators, that of TRC is on the victims. Taking its very name from the criminals, ICTY tries to prove which perpetrators are not guilty as much as trying to find the guilty. Lots of defendant lawyers and many other innumerable officials are working in the service of the indicted, while victims are only a temporary and transient part of the whole procedure. Moreover, as we have seen, indictments of the tribunal are long, laborious and highly expensive. On the other hand, as its South African counterpart has proved, a TRC can listen to thousands of victims without the least amount of paperwork, bureaucracy, and in the most cost-effective way (when compared to ICTY). We should not, however, stretch the mirror-image metaphor too much as the idea that TRCs only listen to victims and their experiences is not only a fallacious one but also a wrong premise regarding the core logic of these commissions. TRCs do listen to perpetrators, but not from the vantage point of the criminals; not trying to see whether they are guilty, but from the perspective of the victims, and how the information gained from the perpetrators can be used in advantage of the sufferers. It can be justly argued at this point that ICTY has already been doing this mission; but once we remember the limited scope of the tribunal, a need for a more comprehensive and inclusive system becomes obvious. Claude Jorda, the president of the ICTY as for 2001, suggests in a speech given on the idea of a TRC in Bosnia (from which we will quote extensively) that since the tribunal is focused on top officials, the fate of the lower-ranking officials can be submitted to the commission. In addition, he argues that these perpetrators should be encouraged to participate voluntarily

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<sup>26</sup> Although this is a problematic premise as this commission has undergone serious criticisms - perhaps we should say the *seriousness* of the South African TRC - it has received utmost attention both nationally and internationally, regarding its impact on a post-apartheid society.

<sup>27</sup> Kritz, Neil J. and Jacob Finci, *A Truth and Reconciliation Commission in Bosnia and Herzegovina: An Idea Whose Time Has Come*, in: *International Law Forum* (Volume 3), 2001, at pp. 52-53.

in the workings of the TRC and in conjunction with ICTY, mitigating circumstances can be suggested for these individuals as a stimulus to their participation.

This issue of “*mitigating circumstances*” opens up the question of amnesties, a highly controversial topic with respect to TRCs. As for the case of Bosnia, the issue lies at the core of the difference between the tribunal and a prospective commission. When the idea of a TRC is first uttered, the ICTY was said to have negative attitude against it because of the South African example, one which had enormous authority and power such as amnesties. However, once it has been acknowledged that a Bosnian TRC, like many other examples in Chile, El Salvador, or Chad, may not and most probably will not have the power to authorize any sort of amnesty, the ICTY changed its attitude as Jorda’s speech already suggests. The problem arises from the fact that if TRC in Bosnia has the power of amnesty, there will be a severe clash between the authorities of TRC and ICTY; the former can try to provide amnesty for a perpetrator, who might be found guilty by ICTY, which means that the institutions will render each other’s proceedings invalid. This is a major setback, however, as these bodies are supposed to work in cooperation with each other—thus completing the missing aspects of one another—rather than in a form of competition or rivalry, which we will turn back later on. Moreover, TRCs are flexible and adaptable by nature. The commission in South Africa does not resemble the one in Chile, nor does the one in Sierra Leone have equal perspective and authority as its counterpart in Argentina. So, usually and for good reasons the power of amnesty is not conferred to TRC, and in the presence of the Tribunal it makes little sense for the Bosnian commission to have it.

Each of the described TRCs does not only have different powers, but they also have different priorities. “Acknowledgement of truth” is the second category which we will look at regarding what a truth commission can do, and it is the area where another major difference between a Bosnian TRC and the others exists in terms of their mission’s priorities. As its name already suggests, establishing the truth is the foremost aim of any TRC, which is generally hidden from the society. By saying that the truth is hidden I mean the intricate web of discourse of the international leadership, which shows a reluctance to recognize what happened between 1992 and 1995 in the Former Yugoslavia as a genocide, or still worse, anything close to it. The type of recognition which is clearly visible in the discourse, let’s say, about the Holocaust is still missing in the Yugoslavian context. Thus, it is understandable how the mere acknowledgment of that truth is supposed to soothe and provide victims with at least a minimum sense of justice. The concept of spreading truth also bears the notion of making the suffering of the victim public, and of enabling the domestic and international society to recognize their victimization. Sachs explains that “*Acknowledgement involves an acceptance not only existence of a phenomenon but of its emotional and social significance as well.*”<sup>28</sup> This way,

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<sup>28</sup> Sachs, Albie, *Different Kinds of Truth: The South African Truth and Reconciliation Commission*, in: Enwezor, Okwui et. al (eds.), *Experiments with Truth: Documental1\_Platform2*, Hatje Cantz, Germany, 2002, at p.52.



‘knowledge’ turns into acknowledgement; it is already ‘known’ that many people died and many more suffered. “*Yet, the human and personal dimension had been extruded, the pain shut out.*” However, when the ‘facts’ turn into ‘narratives’: dull histories into personal stories; and data into individual names, the statistics are transformed into a three-dimensional space. This, in turn, can be of a healing effect to the victims.

However, the obvious generality of this mission is blurred once again when the specificity of the case is taken into account, thus creating and multiplying different sorts of missions. “[*W*]hat happened in the dark in Chile and South Africa,” explains Goldstone, “*happened in the open in Rwanda. There were denials and lies in the former, while there were boastful admissions in the latter. Whether truth commissions have something new to tell the victims depends on such contexts*” (*Exposing Atrocity*). Furthermore, when we turn back to the case of Bosnia, the truth is claimed to be everywhere, but in multiple forms; the truths of the Muslim Bosnians, those of the Serbians, and finally those of the Croats. In *UNESCO Courier*, Finci argues, “*In Bosnia, such a commission is not needed because of a hidden truth, but because of multiple “truths,” each with a distinct ethnic vein. Nationalists from the three ethnic communities involved in the recent war propagate a history that portrays their group as the one and only victim of mass abuses, depicting the other two as evil perpetrators and monsters*”<sup>29</sup>.

Every nationalist group tries to establish, solidify and make official its own version of truth based on the demonization of the ‘other’ and victimization of their own. This is most problematic given the theme and the name of the commission; *Truth and Reconciliation*. The basic premise is that the former leads to the latter, and to a certain extent, it is a valid assumption as we have stated in the previous paragraph. However, each of these terms brings about myriad problems. To begin with, the ‘Truth’ per se might not exist at all; the assumption that there is a mathematical precision regarding the uniqueness of Truth is fallacious. In “Different Kinds of Truth,” Sachs explores the issue regarding the TRC in South Africa, which might project some light on a prospective TRC in the case of the Former Yugoslavia. She lists four basic types of Truth: microscopic, which is detailed, focused and measurable (i.e. the truth of Science); logical, which is arrived at by deductive and inferential processes; experiential, the one which is ‘deep and profound’, the type of truth which one can understand only by individual experience (i.e. epiphany), and finally dialogical truth, based on an interchange between people.<sup>30</sup> It is already obvious that beneficial as it is, such a classification is totally arbitrary and can easily be expanded (or, for that matter, narrowed down). Margalit, on the other hand, contextualizes Truth, the type which is implied by a TRC: “*uncovering and disclosing shameful, painful and distressful facts*

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<sup>29</sup> Finci, Jacob, *Revenge in the Making*, UNESCO Courier, May 2001. Available online at: [http://www.findarticles.com/p/articles/mim1310/is\\_2001\\_May/ai\\_75143887](http://www.findarticles.com/p/articles/mim1310/is_2001_May/ai_75143887).

<sup>30</sup> Sachs, Albie, *Different Kinds of Truth: The South African Truth and Reconciliation Commission*, in: Enwezor, Okwui et. al (eds.), *Experiments with Truth*, Documenta11\_Platform2, Hatje Cantz, Germany 2002, at. p. 53.

that people try hard to conceal from others or from themselves.”<sup>31</sup> In both of these instances, then, ‘truth’ has a personal connotation; it is first individual and then (by way of acknowledgement) public; it is dialogic and communicative. To put in another way, this type of Truth is requires narration, which is the basis of storytelling. Then, again, we end up where we begin: the ‘truth’ of storytelling is most slippery; “*mutable, fluid and above all deviant - that have to be constantly produced from the guts, bodies, and voices of actors.*”<sup>32</sup> This type of truth is also based on rhetoric and can easily be manipulated by politics and ideology. Moreover, the slippery ground of the conception of Truth also makes the perpetrators advantageous. In his defense on the International Tribunal, Milosevic represents his version of Truth which defies the court and its legitimacy.<sup>33</sup> According to him an independent Serbia is the ultimate Truth: “*So, what was an understandably natural right for all others --Germans, Russians, English, French, Spaniards and Italians -- in the 19<sup>th</sup> century to live in a single state, was to be denied to the South Slavs, that is to the Serbs, forever. Their aspirations for national unification were called a heresy and presented as a threatening specter.*”<sup>34</sup> This is indeed an interesting approach to Truth, but Milosevic’s historical approach to truths are not surprising given the fact that he sees it in June 28, 1389<sup>35</sup>, the date of the Battle of Kosovo, when Serbians were defeated by Ottoman Turks, as the starting point of Serbians’ ‘aspirations’. It is well known that on the 600<sup>th</sup> anniversary of the Battle, Milosevic delivered a public speech to 1 million people where he declared the ‘Serbian heroism against Europe’.<sup>36</sup>

Another form of truth, however, can easily be found regarding the consequences of the Serbian ‘heroism’, that of microcosmic and scientific, and for that matter mathematical and logical states (based on a multiplicity of sources): The dead count by Research and Documentation Center in Sarajevo has reached 97,901 (the figure which is the least amount in any given toll) as of January 2007<sup>37</sup> Of the 97,901 documented causalities in Bosnia-Herzegovina, 83 percent of civilian victims were Bosniaks, 10 percent Serbs and more than 5 percent Croats. CIA reports that 90 percent of all the war crimes in Bosnia

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<sup>31</sup> Margalit, Avishai, *Is Truth the Road to Reconciliation*, in: Enwezor, Okwui et. al (eds.), *Experiments with Truth: Documenta11\_Platform2*, Hatje Cantz, Germany, 2002, at. p. 62.

<sup>32</sup> Bharucha, Rustom, *Between Truth and Reconciliation: Experiments in Theater and Public Culture*, in: Okwui Enwezor, Okwui et. al (eds.), *Experiments with Truth: Documenta11\_Platform2*, Hatje Cantz, Germany, 2002, at. p. 362.

<sup>33</sup> For a transcript of Milosevic’s defense see *The Defense Speaks: for History and the Future: Opening defense statement at the Hague*, International Action Center, New York, 2006.

<sup>34</sup> *The Defense Speaks: for History and the Future: Opening defense statement at the Hague*, International Action Center, New York, 2006, at p. 37.

<sup>35</sup> For a more comprehensive analysis of what this date means in the Serbian history, see Gow, James, *The Serbian Project and Its Adversaries: a Strategy of War Crimes* McGill-Queen’s University Press, Montreal, 2003.

<sup>36</sup> For a complete transcript of the speech see: <http://www.slobodan-milosevic.org/spch-kosovo1989.htm>

<sup>37</sup> Research and Documentation Center Sarajevo, 8 Feb. 2008, Available online at: [http://www.idc.org.ba/aboutus/Overview\\_of\\_jobs\\_according\\_to\\_%20centers.htm](http://www.idc.org.ba/aboutus/Overview_of_jobs_according_to_%20centers.htm)

were committed by Serbs<sup>38</sup>. The Bosnian government estimates the death toll at around 200,000 and record around 1,326,000 refugees and exiles. Furthermore, between 20,000 and 44,000 women were systematically raped by Serb forces.<sup>39</sup>

It might be only one type of truth to say that Milosevic and his men set out for an ethnic cleansing of Muslims in the region and a population of 4.5 ended up with 2.9. Yet, claiming that this is the version of Bosnians is as meaningful as claiming that the statement Holocaust occurred is the version of the Jews. Arguing that Serbians had plausible reasons stemming from the Tito regime, going all the way back to the World War II is to argue Hitler had just arguments against non-Christians. It is an unfortunate instance to see the politics of rhetoric even in scholarly articles, and as this is a diversion within the topic of this paper, suffice it to say that the instance shows the difficulty of establishing *that* obvious truth and how meaningful it can be once it is done so.

As what should be called as ‘lies’ are sometimes called different versions of ‘truths’, especially in the field of historiography, a new generation full of hatred emerges as each ethnic youth is raised by learning to hate the ‘other’, and this is why a truth commission should be established without further delay for the service of a shared truth to be accepted by anybody in the society. Moreover, the media, intellectuals and all sorts of public participation should be encouraged and integrated into the commission so as to solidify strongly the common truth established by the TRC. Jorda states, “[*Commission’s*] ultimate objective would be to fashion a collective memory of the war, that is, one shared by all the citizens of Bosnia and Herzegovina whether Serb, Muslim or Croat.”<sup>40</sup> This is the first and foremost way for a lasting peace and brotherhood in the region, although, as we will see later on, this is wishful thinking, and maybe why it can be conceived as too idealistic to be true and thus not useful.

Finally, “*large-scale evaluations, reparations, and projections to the future*” is the final possible mission, I will analyze, a prospective TRC can set out to accomplish in Bosnia. On several occasions, we have seen how ICTY focuses on individual cases, positioning its sources around the perpetrator and thus reaching to a result mostly, and in almost all cases, only pertaining to the fate of that one perpetrator (although we should also acknowledge that the fate of that one perpetrator can be of utmost importance in the eyes of the victims). However, a lasting peace requires first an in-depth analysis of larger historical, social, economic, cultural, and religious structures to lead to the diagnosis of the problem(s) within these structures that paved the way for the conflicts and atrocities

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<sup>38</sup> Cohen, Roger, *C.I.A. Report on Bosnia Blames Serbs for 90% of the War Crimes*, in: New York Times, 9 March 1995.

<sup>39</sup> *Wikipedia* gives a comprehensive bibliography of official and governmental links on these tolls and more, 8 Feb. 2008. Available online at: [http://en.wikipedia.org/wiki/Bosnian\\_War#Casualties](http://en.wikipedia.org/wiki/Bosnian_War#Casualties)

<sup>40</sup> Jorda, Claude, *Speech on a prospective TRC*, 17 May. 2001. Available online at: <http://www.un.org/icty/pressreal/p591-e.htm>.

in the region. Then, what follows is the treatment which can only be accomplished through the projections provided for by the commission in a report thoroughly prepared by the commission. “*This analytical work must be carried out first and foremost as a pedagogical exercise,*” explains Jorda, “*It must educate the generations of today and tomorrow and teach them a lesson in history while also possibly implementing a programme of national mobilization*”. Reforms in educational practices, changes in historical ‘information’ or we should say ‘narrative’, or very simply, the impulses of society to re-think one’s own relation to the community around oneself are some of the practical ways on how to make that society undergo a soothing treatment with the aim of bringing peace. “*In this way, the TRC process will help the people of Bosnia and Herzegovina to explore together what in their socio-cultural make-up resulted in the especially cruel and inhuman nature of this latest breakdown of their society, and thereby avoid the same mistakes in the future*”<sup>41</sup>.

Such practices are never within the scope of court rooms, not even mentioning the case of ICTY. Furthermore, without such broad projections, even if each and every perpetrator is punished, and every victim provided with sufficient financial reparations, a prospective conflict between newer generations stays solidly and dangerously in the path of peace. Apart from these large scale prognostications, the TRC should also narrow down its scale of reparations to the level of each victim as much as possible. Financial, material, or educational assistance should be provided in the light of the data TRC has accumulated. This is also a major part of the message that ICTY sends out to the world: those responsible cannot get away with what they have caused. This means that even if the perpetrators are punished, as long as the ethnic cleansing has reached its purposes, a full sense of justice is nowhere to be found. The pre-war conditions, let it be demographic, social, or economic, should be restored as much as possible; otherwise, neither ICTY or TRC’s missions are achieved, but that of Milosevic. Both Bharucha states that this was one of the major mistakes in the South African TRC. While the victims continued to wait for the meager reparations, the perpetrators of violence have returned to their older (or newer) positions as the beneficiaries of the South African global economy.<sup>42</sup> “*Reconciliation without reparation, it would seem, is at best a wish-fulfillment,*”<sup>43</sup> and at worst perpetuation of injustice for the victims.

Yet, is it as easy as we scribble these lines? Can the results of an ethnic cleansing be really cleansed or like other issues related with TRC, is it wishful thinking? The ultimate question is: can a TRC complete the missing part of the ICTY puzzle? The answer to these grave questions is not very promising; the gap between theory and practice is

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<sup>41</sup>Kritz, Neil J. and Jacob Finci, *A Truth and Reconciliation Commission in Bosnia and Herzegovina: An Idea Whose Time Has Come*, in: International Law Forum, at p. 52.

<sup>42</sup> Bharucha, Rustom, *Between Truth and Reconciliation: Experiments in Theater and Public Culture*, at p. 374.

<sup>43</sup> Bharucha, Rustom, *Between Truth and Reconciliation: Experiments in Theater and Public Culture*, at p. 374.

still existent both in the case of a prospective TRC and in the case of ICTY. It was already mentioned that the acknowledgement of truth is the basis on which a lasting peace can be established, and suggestions were presented how a TRC can try to achieve that “*How can reconciliation be achieved,*” asks Todorovic if, on the other hand, “*there is no readiness to confess to having committed a crime, if there is no readiness to face up to the painful truth, if the truth is concealed and justice is obstructed, and if there is no joint attitude in relation to the past and the future*”<sup>44</sup>.

The current situation in Bosnia proves this case once more. Although ICTY in conjunction with the UN declared gravely that those who had been deported, exiled or who had escaped from the area were free to return to their homes, and that peace-keeping UN and North Atlantic Treaty Organization (NATO) forces will help them to do so, those who have returned are not very hopeful. In the past years, the Serbians have made the most out of the absence of the Bosnians; they have built war memorials to demonstrate the bravery (!) of their Serbian soldiers at every possible corner, have replaced former Bosnian shops and markets with their Serbian counterparts, and toppled down the demographics of most cities. The pre-war 47 percent minority Serbs turned into 90 percent majority as for 1995<sup>45</sup>.

The case of the city of Kiseljak is an important example of how reconciliation under the current circumstances can never have its way in the region: “*In Kiseljak, the huge war memorial in the central square speaks of Croat heroes who died in the struggle for a national homeland from 1941 to 1995 [notice the first date] (in 1941, Croat soldiers fought for the fascist Ustasa regime that cooperated with Nazi Germany). In Kiseljak, there is no memorial for the Bosniaks who died when the Croat army attacked to expel the Bosnian population*”<sup>46</sup>.

The exiled and the deported have returned, but the question of whether they feel welcome does not have the most positive answer. On the contrary, in many parts of Bosnia, they are made to feel they do not belong. This is why Bosniak Nusreta, when asked whether she could ever live with her Croat neighbors again, exclaimed, “*Now? Never! There is no more of that life together!*”<sup>47</sup> In a chapter about the Other, Waller mentions the concept of social death of the victims. This social death can happen in two ways; before or after the atrocities take place. In the former case, he cites the example of historian Marion Kaplan on the social death of Jews in Nazi Germany: “*Well before the physical death of German Jews, the German ‘racial community’— the man and woman on the street, the real ‘ordinary Germans’— made the Jews suffer social death every*

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<sup>44</sup> Todorovic, Branko, *Ways of Reconciliation in Bosnia and Herzegovina*, Stockholm International Forum. Available online at: <http://www.dccam.org/Projects/Affinity/SIF/DATA/2002/page1685.html>

<sup>45</sup> Bringa, Tona, *Reconciliation in Bosnia-Herzegovina*, at p. 188.

<sup>46</sup> Bringa, Tona, *Reconciliation in Bosnia-Herzegovina*, at pp. 196-197.

<sup>47</sup> Bringa, Tona, *Reconciliation in Bosnia-Herzegovina*, at p. 194.

day.”<sup>48</sup> Whereas in this case, social death was an antecedent for genocide, in the context of the Former Yugoslavia, it is a result, a consequence of the atrocities. “*The social death of victims may come after the extraordinary evil.*”<sup>49</sup> Examples like this arouse serious questions about how a TRC can do it work in this society. On the other hand, It can also be argued that it is this very context where everything seems to argue against reconciliation where a TRC is most needed; its foremost mission is to provide a background for peace in a place where hatred for the other rules. Yet, reconciliation can only take place when both parties show a strong will to recognize the atrocities, and the current situation shows that the Serbians are not ready for that recognition; honoring their martyrs with war monuments is a much more attractive option for them, it seems. Most of the Serbian politicians and leaders are also in their pre-war positions, and these are the leaders who are supposed to get into action for a TRC and then apply the following social reforms the results of which would put their positions at stake in the first place. One cannot be a writer-director-actor in this context; the ones who are supposed to judge cannot be the suspects at the same time. This is one of the main reasons why ICTY itself argued against a TRC beforehand; it can be abused by nationalist leaders in a counter-productive way against ICTY.

Reconciliation, moreover, can usually take place when both parties are equally guilty. “Reconciliation,” states Margalit, “unlike repentance, is a symmetrical relation: both sides in a conflict have to settle down and resolve their bitterness by accepting and admitting their shameful deeds toward each other as a way of restoring harmony.”<sup>50</sup> This is why, she further explains, no one can ask for reconciliation between Jews and Germans; nothing was symmetrical between them; it was all one sided. The previously given data suggests that the nature of the conflict in the Former Yugoslavia is a similar one; rather than a ‘war’, it is mostly conceived as a systematical killing of civilians.

Other than the reality above, moreover, even the core notion of a TRC is a controversial one. The emphasis of the commission on reconciliation shows its foremost function of healing victims rather than punishing criminals. However, this very concept—healing victims without punishing perpetrators—may be a fallacious argument from the beginning as the premise of healing victims is in most cases based on punishing perpetrators. The problem rises from the fact that to think of reconciliation without justice may be sometimes illogical. Furthermore, most victims think of ‘reconciliation’ as forgiving perpetrators. The ultimate question about whether the victims are relieved by their working or is it a system of relieving the perpetrators also lies unanswered. The basic assumption that ‘truth’ will have a healing impact on the victims is a most troubling, if not an invalid, one. Moreover, the psychoanalytic model of liberating oneself, as is the case of acknowledging truth, might just have the opposite effect; reliving the past can

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<sup>48</sup> Waller, James, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*, at p. 237.

<sup>49</sup> Waller, James, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing*, Oxford University Press, New York, 2002, at p. 237.

<sup>50</sup> Margalit, Avishai, *Is Truth the Road to Reconciliation*, at p. 63.

recreate the experience of trauma, and make the humiliation anew. “*The effect of the TRC to reenact the past seems to undermine the very idea of healing its wounds.*”<sup>51</sup> It is also true, on the other hand, as Martin Luther King, Jr. once said, “*An eye for an eye leaves everybody blind,*” which might well be the summarizing mantra of any TRC. To facilitate the process even further, forgiving the perpetrators is not a prerequisite for the victims. Yet, as much as the victims waive their claim that the perpetrators should be punished, the latter should demonstrate sincerity, regret and remorse. For reconciliation is but only a mutual process.

## V. **Either or Both?**

In conclusion, while evaluating the efficiency of the International Criminal Tribunal for the Former Yugoslavia and a prospective Truth and Reconciliation Commission in the region, it is better to think of them as complementary rather than either/or terms. Both have serious deficiencies as well as serious powers in service of justice, peace, and truth. The minute-detail justice of the tribunal is balanced by the general perspective of the commission; the emphasis of the ICTY on perpetrators is replaced by the TRC’s focus on the victims; and whereas the former aims at punishing, the latter strives to heal. However, these are not to be conceived as justly differentiations but as helping remarks on the understanding of the two, not as black and white distinctions but as overlapping areas. A TRC without an eye on the perpetrators is as unthinkable as a tribunal without a place for victims. Furthermore, both confront the past, acknowledge atrocities in different veins, try to forge a collective memory, work for reconciliation, advance toward a historical emancipation, and above all, serve justice and truth.

However, the case of Bosnia-Herzegovina shows us that neither can function properly without the sincerity of both the international and domestic community. It does not make sense to establish a tribunal if it does not begin to act even after several years of its creation. And after it does begin to act, a decade and a half should not be the duration of one single case; celerity - not hastiness - and competency should be its driving forces. When it comes to declaring some of the high-ranking officials as guilty, the international community, UN and NATO, and particularly the United States, should follow the tribunal’s decisions and put the perpetrator behind bars in its most literal sense. As long as politics and self-interest govern the international agenda, neither the establishment of a tribunal nor the argumentation of pros and cons is of any use. As for a truth commission, on the other hand, the society should first see the strict and sincere sign which should come either from the tribunal or any other international community that perpetrators cannot get away with what they have done. So that those filled with hatred can come to an understanding that there is no way out but only the way of peace and brotherhood, which will lead to the essential compromises from any side, any ethnic

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<sup>51</sup> Margalit, Avishai, *Is Truth the Road to Reconciliation*, at. p. 63.

group, or any religious pact. If pre-war leaders of the Former Yugoslavia leading to the atrocities are tried and found guilty, punished by the tribunal and replaced, then the new leaders can take bold steps towards a truth and reconciliation commission. Unless the pre-war conditions are imposed in a most effective way by the tribunal, the ground will not be ready for a TRC. As long as perpetrators live behind the bars, their ethnic brothers can get rid of the shame, which will otherwise always be a barrier to unity. Thus can the lethal victims of the Srebrenica massacre rest in peace, and their relatives live in peace.



# **An Exploration of Transformation of Criminality and Human Exploitation within the Network Society**

*Yuliya Zabyelina*<sup>1</sup>

*The intensification of global information flows, utilization of information and rapid advancement of information communication technologies (ICTs) have boosted illegal exploitation and abuse of technology for criminal activities. Within the course of a decade, the trafficking of women has been more frequently reported as well as its fight became one of the priorities on the political agenda. Regardless of this escalating violation of women's dignity, privacy, psychological and physiological well-being, the research on human trafficking has been excluded from the academic mainstream. The aim of this research is to elaborate on the phenomenon of human trafficking within a social theory framework. The research questions to be addressed in this study deal with the analyses of transformations in the structure of criminal organizations, the emergence of new forms of trafficking, and the likelihood of images of women to be implicated in their abuse.*

## **I. Introduction: Relevance of the Study, Hypothesis and Research Questions, Methodology**

Human trafficking is a trans-national crime, a worldwide exploitation of human beings – bought, sold, and held against their will in sexual and domestic servitude. Leading international organizations studying the phenomenon of human trafficking report that the quantity of persons trafficked across national borders is constantly growing. Yet, statistical account on the exact number of victims of human trafficking are rather unreliable due to low accessibility of criminal data and a variety of methodological weaknesses, i.e. the calculation of reported and unreported victimization, and the inclusion of different forms of exploitation. Such international organizations as International Labor

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Organization (ILO), International Organization of Migration (IOM), United Nations Office on Drugs and Crime (UNODC), to name a few, provide diverse statistical estimates which can approximate numbers around 600,000 - 800,000 victims per year.<sup>2</sup> The numerical discrepancies can be explained by the different aspects of human trafficking brought into focus depending on the mandate of the organization. ILO refers to human trafficking as a form of forced labor. According to the ILO report (2005), the global estimate of victims engaged in trafficking from 1995 to 2003 is as much as 2.45 million people trafficked internationally and domestically, where 43% are trafficked for commercial sexual exploitation purposes.<sup>3</sup> UNODC traces major international trafficking routes with the emphasis on the analysis of criminal networks.<sup>4</sup> Therefore, this organization does not provide any particular estimates of the victims of human trafficking, but focuses instead on proportions and dependencies between origin, transit, and destination countries. IOM reconsiders human trafficking from migration and human rights perspectives bringing in the account of victims of human trafficking during 1999 – 2005: as many as 7,711 people based on the evidence derived from IOM country reports compiled at representation offices in 26 countries.

The intensification of global information flows, utilization of information and rapid advancement of Information Communication Technologies (ICTs) have only increased the reported accounts of victims involved in human trafficking. ILO, IOM, UNODC all contain some mention of communication technologies being employed by traffickers who constantly modernize their operations in order to increase profits and optimize their invisibility to the arm of the law and international police. Indeed, ICTs present almost boundless opportunities for traffickers, as they provide interactive mechanisms of immediate communication – net to net, net to people, and people to people, taking on almost any aspect: politics, economy, entertainment, interpersonal communication and dating, etc. The wide diffusion of ICTs, trans-nationalization, decentralization, and poor regulation have led to the emergence of new forms of human exploitation and violation of human dignity and privacy. In addition to the tremendous personal damage suffered by individual victims of human trafficking, this global crime has brought deep societal repercussions, such as the transformation of criminal structures and activities, the transformation of forms of human trafficking – both practical (recruiting, advertising women) and cultural (reinforcing and normalizing attitudes towards women as sexual

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<sup>2</sup> GAO, *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Anti-trafficking Efforts Abroad*, Report to the Chairman, Committee on the Judiciary and the Chairman, Committee on International Relations, House of Representatives, 2006, at p. 3

<sup>3</sup> International Labor Organization, *ILO Minimum Estimate of Forces Labor in the World*, Geneva, 2005, at p. 5. Available on-line at:

<http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1006&context=nondiscrim>. All websites in this paper were last checked on 11 December 2007

<sup>4</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons Global Patterns*, Vienna, 2006, at p. 13. Available online at: [http://www.unodc.org/unodc/trafficking\\_persons\\_report\\_2006-04.html](http://www.unodc.org/unodc/trafficking_persons_report_2006-04.html)

objects and commodities). This negative impact exerted by ICTs should not be over-seen.

The expectation of this study is to elaborate on the phenomenon of human trafficking within a social theory framework. The major social transformations related to human trafficking<sup>5</sup> caused by information communication technologies will also be reconsidered. More precisely, the study explores the relationship between ICTs, primarily the Internet, criminal networks, and the abuse, sexual exploitation and trafficking of women in persons and in images. The main questions to be addressed in the research are the following:

Q1: What are the recent transformations in the structure of criminal organizations brought by ICTs?

Q2: What are the new forms of human trafficking?

Q3: How is trafficking in images likely to be implicated in the visual abuse of women?

Before a social scientist ventures to get involved into human trafficking research, he should be aware of the substantial methodological complexities in this field. The research on human trafficking requires an interdisciplinary approach within an array of different academic fields, i.e. political science, international relations, jurisprudence, criminology. It is also necessary a combination of different methodological approaches and methods. The research on human trafficking should employ a synthesis of concepts elaborated by different scholars and a dialogue of ideas and findings, as well as an exchange of data between IGOs, NGOs, and academy. Therefore, this study will follow the methodological design where a variety of concepts, theories, and numerical data are incorporated in order to arrive at meaningful and comprehensive conclusions. The study is designed as a qualitative research that mingles conceptual and empirical types of gathering. On the one hand, the study includes very strong conceptual components where writings and concepts related to the area of inquiry produced by other authors are juxtaposed and synthesized. The procedures for studying subjects and social dimensions are presented through an extensive and prolonged description of patterns or relationships of meaning and change. The empirical elements of the paper become obvious when the reader goes through the analysis of criminal organizations and 'marriage agencies', where such methods as coding, survey (secondary analysis), and content analysis are presented.

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<sup>5</sup> For the purpose of this paper, the expression human trafficking refers to trafficking for purposes of sexual exploitation, sexual assault or abuse that involve the violation of human rights of women and children as the most vulnerable groups. This author acknowledges the phenomenon of human trafficking in men however, it is beyond the scope of this study.

Driven by the complexity, intricacy and the novelty of the chosen research questions, as well as the entire area of inquiry, this study will be divided into seven main sections. Section I elaborates the major concepts employed in the research. The terms human trafficking, criminal network, sexual exploitation, transnational offence, etc. will be defined. Section II presents a concise summary of the major theories explaining the social transformation processes caused by information communication technologies. This section is necessary as it builds the theoretical footing upon which the entire study is based. Section III focuses on transformations in the structure of criminal groups engaged in human trafficking. This section is important, as it elaborates on the evolution of criminal groups engaged in human trafficking whose activities are successfully optimized and secured from counter-trafficking effort by the means of enhanced information communication technologies. Section IV evaluates on the transformation of the new forms of human trafficking. The development of technologies made it possible to traffic not only human beings (physical trafficking) but also traffic visuals (trafficking in images). Both of these forms of trafficking equally exploit women and children and should be analyzed. Yet, trafficking in images more than ever enables criminal networks to escape and adjust to toughening legislatures by moving their businesses to other more favorable locations – the Internet. Section V presents a content analysis of ‘marriage agencies’ conducted in order to investigate linkages among trafficking in images for the purpose of sexual exploitation, new information technologies, and the transformation of social attitudes. The visual data generated in the analysis is expected to better measure the likelihood of these images to be implicated in the abuse of women. Section VI summarizes and synthesizes the findings of the paper, while Section VII evaluates on the methodological challenges and suggests a few alternative studies to be conducted in the future.

## **II. Key Definitions**

As the phenomenon of human trafficking has emerged high on international, regional and national agendas as an issue of forced labor, sexual exploitation of women and children, numerous NGOs, governments and academia finally placed an emphasis on the study of trafficking in human beings, the demand-supply factors, and the geographical frontiers. A highly controversial debate over the topic and its societal implications has emerged, and numerous definitions of the concept of human trafficking have been formulated.

In the 1990s, the member-countries of the United Nations Organization reconvened within the United Nations Convention against Transnational Organized Crime. This conference reinforced the debate on human trafficking and led to one of the major documents in the field – Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Conventions against Transnational Organized Crime, which introduced the most widely recognized

definition of human trafficking. The protocol “*provided a shared international framework for trafficking and defined the term in a way that was acceptable to a wide range of people, institutions and countries*”.<sup>6</sup> Three constituent parts can be differentiated in the definition: (1) the criminal action (recruitment, transportation transfer, harboring or receipt of persons); (2) the means through which the acts are committed (threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or giving payments or benefits to a person in control of the victim); and (3) the goals of committed criminal acts (purpose of exploitation, which includes, at a minimum, exploiting the prostitution of others, other forms of sexual exploitation, forced labor or services, slavery or similar practices, and the removal of organs). The protocol has not ended the debate over the activities and processes that constitute trafficking in human beings. Yet, the UN definition has provided a firm common ground shared in policy making, international research, and NGO sector:

Human Trafficking shall mean “*the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation*”.<sup>7</sup>

In the framework of this research, it is also important to develop a better understanding about what the term Information Communication Technology (ICT) implies. The European Commission designates ICT (or ICTs) as an umbrella term “*which is currently used to denote a wide range of services, applications, and technologies, using various types of equipment and software, often running over telecom networks*”.<sup>8</sup> According to the European Commission, the importance of ICTs lies not so much in the technology itself, but in its ability to create greater access to information and communication in world populations. “*The importance of ICTs is not the technology as such but its enabling function in access to knowledge, information and communications: increasingly important elements in today’s economic and social interaction*”.<sup>9</sup> Nevertheless, both the European Commission and UN reports neglect to include in the definition of ICT the

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<sup>6</sup> Maltzahn, Kathleen, *Digital Dangers: Information Communication Technologies and Trafficking in Women*, APS WNSP, 2005, at p. 3. Available online at: [www.genderit.org/en/index.shtml?apc=r90501-e91637-1-21k](http://www.genderit.org/en/index.shtml?apc=r90501-e91637-1-21k).

<sup>7</sup> United Nations, *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, Supplementing the United Nations Convention Against Transnational Organized Crime, 2000, at p. 2. Available online at: [www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_%20traff_eng.pdf).

<sup>8</sup> European Commission, *Communication from the Commission to the Council and the European Parliament, Information and Communication Technologies in Development. The role of ICTs in EC development policy*, Brussels, 14 December 2001, COM(2001)770 final, 2001, p.3;

<sup>9</sup> European Commission, *Communication from the Commission to the Council and the European Parliament; Information and Communication Technologies in Development. The role of ICTs in EC development policy*, Brussels 14. December 2001; COM(2001)770 final, 2001, p.3;

possible negative implications of rapid technological advancement. The inestimable advantage of ICTs for criminal use is only fragmentary covered even by the UNODC.

Another concept fundamental for this study is a criminal group/organization. As defined in the United Nations Convention against Transnational Organized Crime, an organized criminal group “shall mean a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this convention, in order to obtain, directly or indirectly, a financial or other material benefit”.<sup>10</sup> The development of ICTs and the advancement and better availability of global transportation technologies have led to the emergence of a new type of criminal activity. In the context of human trafficking research, a criminal activity would be approached as a transnational offence which implies a crime: “(a) committed in more than one State”; (b) committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State; (c) committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; (d) committed in one State but has substantial effects in another State.”<sup>11</sup> The concept of transnational offence most appropriately reflects the transformation of criminal networks in the new milieu which transcend national borders and require a global counter-effort.

Human trafficking is sometimes equated with the concept of sexual exploitation. Therefore, in the context of this research, the term commercial sexual exploitation is fundamental and shall mean “a practice by which a person achieves sexual gratification, financial gain or advancement through the abuse or exploitation of a person’s sexuality by abrogating that person’s human right to dignity, equality, autonomy, and physical and mental well-being; i.e. trafficking, prostitution, prostitution tourism, mail-order-bride trade, pornography, stripping, battering, incest, rape and sexual harassment”.<sup>12</sup>

As the key concepts are clarified, the research proceeds to the next section where these concepts will be placed within the major theoretical foundations of modern societies.

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<sup>10</sup> United Nations, *United Nations Convention against Transnational Organized Crime*, 2000, Article 2, at p. 6. Available online at:

[www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents\\_2/convention\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf).

<sup>11</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons Global Patterns*, Vienna, 2006, at p. 7. Available online at: [http://www.unodc.org/unodc/trafficking\\_persons\\_report\\_2006-04.html](http://www.unodc.org/unodc/trafficking_persons_report_2006-04.html).

<sup>12</sup> Hughes, Donna, *Pimps and Predators on the Internet Globalizing the Sexual Exploitation of Women and Children*, 1999, at p. 1. Available online at: <http://www.uri.edu/artsci/wms/hughes/pprep.htm>.

### III. Theoretical Foundations

Although there exist a considerable dearth in substantive theoretical literature elaborating the phenomenon of human trafficking, some scholars have succeeded in coming up with several descriptions and explanations of the phenomenon in general terms.

When elaborating on the theoretical foundations for most of the studies related to social transformations and the analysis of human identity in modern societies, the theory developed by Manuel Castells would be the foremost. Manuel Castells is internationally recognized as a pioneer in the field of information societies who initiated the debate over the impact of new communication technologies on modern societies. This social scientist is convinced that the development and wide diffusion of ICTs have transformed the morphology of social structures into ‘a set of interconnected nodes’ or, in other words, a network society<sup>13</sup> which has exerted a far-reaching influence on the most important social changes in the new milieu. The outcomes of the technological revolution transformed the social structure laying down the ground for the emergence of new economic activity, social organization, and social interaction. The shifts in human identity, the transformation of social interaction patterns in the modern society create the essential framework for understanding new forms of human trafficking and the advancement of structures of criminal networks, as well as the new means of communication between traffickers and their victims to be trapped in human trafficking through cyberspace.

Building upon the data from the UN Conference on Transnational Crime, Castells differentiates five types of criminal activities, i.e. weapons trafficking, drug trafficking, trafficking in nuclear materials, smuggling of illegal immigrants, trafficking in body parts, and, finally, trafficking in women and children.

Manuel Castells theory of the network society is taken as the major framework for the study and it explains the rationale and the essence of information communication technologies and the social shifts and repercussions to which they lead. Although the research conducted by Manuel Castells is comprehensive and well-grounded, it is limited to somewhat superficial descriptions of human trafficking. It also excludes such vital aspects of trafficking as trafficking in images.

Ulrich Beck’s theory of *risk society* is closely related to the issues discussed in this study. This social scientist defines the emerging risks in terms of ideal types in three crucial areas: (1) the ‘disenchantment of the disenchanter’ or the ‘civilization volcano’ (the demystification of scientific rationality and heavy criticism of advanced technology and technological progress); (2) the ‘individualization of social inequality’ (**freeing up** of traditional and institutional forms of control of fear and insecurity in the family, mar-

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<sup>13</sup> Castells, Manuel, *The Network Society: A Cross-Cultural Prospective*, Cheltenham, UK, 2004, at p. 3.

riage, sexual roles, class consciousness); (3) the ‘unbounding of science and politics’ (risks related to the labor market and system of production, i.e. microelectronics, flexibility of working times, forms of under-utilization of labor, decentralized salaried employment).<sup>14</sup>

The first group of risks are the most relevant to this research as Beck’s descriptions of the major uncontrollable influences of ICTs explain that along with the convenience of advanced communication technologies, ICTs have carried out many threats such as the violation of confidentiality or the use of ICTs for criminal activities that empower them with better velocity, flexibility, and higher payoffs.

Importantly, Beck argues that the development of modernity has led to “*a risk society in the sense that it is increasingly occupied with debating, preventing and managing risks that it itself has produced*”.<sup>15</sup> This argument makes explicit the demand-supply logic of human trafficking. The sexual exploitation of women is only the result of the increased popularity, proliferation, and availability of such services which have been normalized in modern, liberal market societies.

Moreover, according to Beck, the emerging risks are supra-national. Beck theorizes the new kind of global risks which are characterized by: “*de-localization – its causes and consequences are not limited to one geographical location or space, they are in principle omnipresent; incalculableness – its consequences are in principle incalculable; non-compensatibility – the security dream of first modernity was based on the scientific utopia of making the unsafe consequences and dangers of decisions ever more controllable; accidents could occur, as long as, and because, they were able to be compensated*”.<sup>16</sup> According to this definition and characteristics of global risks, the phenomenon of human trafficking could be classified as a global risk hidden in the shadow of the black market located in both physical and virtual space (de-localization). The statistical evaluation of human trafficking is hardly possible as the data on unrecorded crimes are unfeasible (incalculableness). Human trafficking is hardly controllable due to its heterogeneity, challenging conceptualization, and disguised forms (non-compensatibility).

#### **IV. Transformation Of Criminal Networks**

Due to the fact that ICTs have evolved into a worldwide, publicly accessible series of interconnected networks that store and transmit information, they have become exten-

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<sup>14</sup> Beck, Ulrich, *Risk Society: Towards a New Modernity*, Sage Publications, London, 1992, at pp. 10-37.

<sup>15</sup> Beck, Ulrich, *Living in the World Risk Society*, Lecture at the London School of Economics and Political Science (LSE), 2006, at p. 4. Available online at: [www.lse.ac.uk/collections/sociology/pdf/Beck-LivingintheWorldRiskSociety-Feb2006.pdf](http://www.lse.ac.uk/collections/sociology/pdf/Beck-LivingintheWorldRiskSociety-Feb2006.pdf).

<sup>16</sup> Beck, Ulrich, *Living in the World Risk Society*, Lecture at the London School of Economics and Political Science (LSE), 2006, at p. 5.



sively employed in academia, businesses, government, as well as general public, altogether modernizing the speed and quality of exchanges and coordination of activities.

*“The fact that Internet is a global network presents various advantages, including also the possible use of the technology to better fight organized crime or to help the victims. However, it appears that the new technologies are principally misused. None of them are in and of themselves harmful, but they provide those who wish to harm or exploit women and ways of doing that.”*<sup>17</sup> The growth of shadow economies and transnational criminal networks are facilitated by ICTs. These shadow economies represent themselves as the negative manifestations of globalization, and are increasingly beyond national and international control. It can be said that if the use of new technologies may not have increased the trafficking for the purpose of sexual exploitation of people, it has made the activities easier. I also introduced the new forms of trafficking in human beings for the purpose of sexual exploitation.

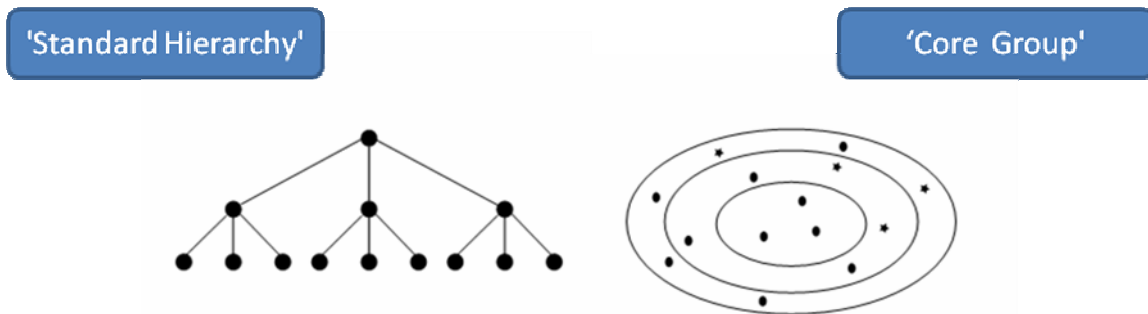
Based on the research conducted by the United Nations Office on Drugs and Crime, it should be pointed out that due to rapid technological advancement, the very structure of the criminal organizations that deal with human trafficking is undergoing significant changes - from a hierarchical group into a more dispersed group of associates. UNODC surveyed 40 organized criminal groups. Ten of the surveyed groups have had trafficking in persons activities: eight of them dealt with human trafficking as well as other crimes, while two criminal groups were exclusively engaged in human trafficking business. Based on the coded survey two types of criminal structured were constructed [Image 1]. One type, standard hierarchical structure, was characteristic of criminal groups where: (1) strong internal lines of control and discipline; (2) single leadership coordination; (3) a strong social or ethnic identity were present.<sup>18</sup> Another type, core structure would be appropriate for a criminal group with: (a) a limited number of individuals forming a relatively tight and structured core group; (b) surrounded by a loose network of ‘associates’ to maintain internal discipline; (c) groups are ‘strictly profit-oriented and opportunistic’.<sup>19</sup>

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<sup>17</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, 2003, at p. 17. Available online at: [http://www.coe.int/T/E/human\\_rights/trafficking/3\\_Documents/Reports/02\\_EG-SNT%282002%2909revE.asp#TopOfPage](http://www.coe.int/T/E/human_rights/trafficking/3_Documents/Reports/02_EG-SNT%282002%2909revE.asp#TopOfPage).

<sup>18</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons Global Patters*, Vienna, 2006, at p. 80. Available online at: [http://www.unodc.org/unodc/trafficking\\_persons\\_report\\_2006-04.html](http://www.unodc.org/unodc/trafficking_persons_report_2006-04.html).

<sup>19</sup> United Nations Office on Drugs and Crime, *Trafficking in Persons Global Patters*, Vienna, 2006, at p. 35. Available online at: [http://www.unodc.org/unodc/trafficking\\_persons\\_report\\_2006-04.html](http://www.unodc.org/unodc/trafficking_persons_report_2006-04.html).



**IMAGE 1**  
Source: UNODC 2006, 69

There is currently limited information about how exactly traffickers misuse ICTs. However, the Council of Europe Group of Specialists has identified some of the likely ways in which ICTs might be attractive and advantageous for criminal use:<sup>20</sup>

- Eased and diffused access to the Internet;
- The price of the services is affordable;
- The users remain anonymous;
- The sale of pornography and other related material through the Internet is a lucrative trade which does not require major investment;
- The lack of appropriate legislation or policy to fight such a phenomenon.

Elaborating on the theses mentioned above, it should be further explained that ICTs allow more effective communication between traffickers. The variety of available technological means improved coordination among criminals and in their communication with potential victims. This makes criminal networks almost invisible and untraceable for law enforcement. *“Criminals in general are using new communication technologies, such as mobile phones, to avoid police being able to trace phone calls. Mobile phone services often offer free or cheap phones for signing up for their services. Criminals use these phones for a weekend or a week then throw them away. Pre-paid phone cards enable anonymous use of land line telephone systems”*.<sup>21</sup>

Furthermore, ICTs invigorate traffickers with higher, faster, and secure profits. Trading, marketing and production of sexually explicit material have been *“moved (...) into the home, where images can be scanned, produced, uploaded and downloaded in privacy*

<sup>20</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, 2003, at p. 17. Available online at: [http://www.coe.int/T/E/human\\_rights/trafficking/3\\_Documents/Reports/02\\_EG-SNT%282002%2909revE.asp#TopOfPage](http://www.coe.int/T/E/human_rights/trafficking/3_Documents/Reports/02_EG-SNT%282002%2909revE.asp#TopOfPage).

<sup>21</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, at p. 24.

(...). *All of these technologies have made it easier to produce, store and distribute image of sexual exploitation*".<sup>22</sup>

Traffickers are also likely to employ ICTs to communicate with their victims in order to improve recruiting. *"There seems to be some evidence that traffickers use the Internet to recruit women from sending regions to traffic them to Western Europe. A report by the Denmark Police notes suspicious advertisements for nannies, waitresses and dancers on Web sites in Latvia and Lithuania. The traffickers used Internet sites to post job advertisements for jobs in Western Europe just as they do in magazines and newspapers"*.<sup>23</sup>

In addition, traffickers can use the Internet for advertising purposes. *"Pimps (...) use the web to advertise the availability of women and children to be used in the making of pornography. Pimps also use web sites to advertise their brothels or escort services directly to men. These sites are often used to attract foreign businessmen or tourists"*.<sup>24</sup>

Summing up, trafficking in human beings for the purpose of sexual exploitation requires a lot of communication and coordination. ICTs facilitate recruiting, planning, and transferring of victims. Criminal groups have largely integrated ICTs, particularly the Internet, into their activities. This step has opened new markets for human trafficking, having transformed the forms of human trafficking to be further elucidated in the next section.

## **V. Transformation of the Forms of Human Trafficking for the Purpose of Sexual Exploitation**

There are some obvious links between physical trafficking in women and dissemination of their images, so to say, traditional and non-traditional forms of trafficking. Recent studies on human trafficking have proved that virtual images may be as detrimental to real people as the physical forms of trafficking. Visual trafficking for the purpose of sexual exploitation only seems to exist exclusively virtually, without physical embodiment. Virtual trafficking is a very real, material existent network that connects images and people. As it has already been mentioned, trafficking in images is becoming easier and more profitable. Moreover, it incorporates forms of exploitation and is closely connected to human trafficking. *"Most people (...) assume all women in pornography are consenting, even when the women are visibly injured. If a woman protests after a pho-*

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<sup>22</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, at p. 22.

<sup>23</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, at p. 24.

<sup>24</sup> Hughes, Donna, *The Use of New Communications and Information Technologies for Sexual Exploitation of Women and Children* *Hastings Women's Law Journal* (Vol. 13, N°. 1), 2002, p. 135.

*tograph has been taken or a video made, people assume she consented at the time, but now is embarrassed by other people seeing it. Or they blame the victim and say she should not have been so naive as to allow such photographs to be taken in the first place”.*<sup>25</sup> The Council of Europe’s Groups of Specialists argues that in the case of child pornography the use of a “*real child is not even necessary when the broadcasting [of] images or virtual images is sufficient to constitute child pornography (...), the victim is denoted by the image of the person thus depicted.*”<sup>26</sup>

The case study brought in the Council of Europe’s Groups of Specialists report confirms that trafficking in images is crucial to the understanding of trafficking patterns and to any project aimed to minimize trafficking in human beings. The case was elucidated in May 2001 in an interview with Omer Poirier, the U.S. Attorney in Honolulu, Hawaii.

In 2000, a case of smuggling/trafficking for the purpose of sexual exploitation was uncovered in (...) which Japanese women were brought into Honolulu to do live performances on the Internet for the audiences in Japan. Due to more restrictive laws concerning pornography in Japan, the men decided to operate their website from Hawaii and broadcast the live shows back to Japan. The Japanese men in Hawaii placed ads in Japan for “nude models.” Upon their arrival in Hawaii, the women were used to make pornography and perform live Internet sex shows (...). The men used wireless keyboards for live sex chat with the men at a rate of \$1/minute.<sup>27</sup>

Another example of trafficking in images connected with physical sexual exploitation of women is reported by Kathleen Maltzahn, the Founding Director of a leading Australian counter-trafficking NGO project called Respect, who has worked in trafficking research since 1992 in both Australia and the Philippines. She refers to Merab Kambam, director of the Movement of Community Action for the Prevention & Protection of Young People Against Poverty, Destitution, Diseases & Exploitation (MAPODE) legally registered in Zambia (1997) and in Uganda (1998) (MAPODE) who uncovered that “*In Zambia, in December 1999, a 34 year old Australian male national was arrested (...) at the Zimbabwean border allegedly trafficking five 14-15 year old girls to Australia. He had along with him a suitcase of pornographic photos and videos he had taken of the girls, which he had also transmitted to his counterparts in Australia via the Internet using his*

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<sup>25</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, at p. 48.

<sup>26</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, at p. 9.

<sup>27</sup> Council of Europe, *Group of Specialists on the Impact of the Use of New Information Technologies on Trafficking in Human Beings for the Purpose of Sexual Exploitation*, at p. 28.

*high tech computer. The police found that with his computer he had created a website and a pornographic magazine on the girls”.*<sup>28</sup>

Trafficking in images is making privacy even more vulnerable to violation. Almost everyone is defenseless. Tiny video cameras can be hidden everywhere - in a changing room, a bathroom, toilets, etc; women engaged in very private activities can be recorded and then taken advantage of. Hughes suggests that anyone can be a trafficker enabled to “*share and sell images and videos on the Internet*”.<sup>29</sup> She cites an example from New Zealand reported by Reuters. “*David Overend, 36, admitted to nine charges of using a miniature video camera to film up the skirts of women. A pin-hole camera was concealed in his shoe with a wire running up his pant leg enabled him to view and video tape thousands of women and girls at public events. He traded the images and videos around the world over the Internet. In his emails he claimed to have filmed up the skirts of 2,000 to 4,000 girls and women since 1995*”.<sup>30</sup>

Hughes also affirms that “*some men (...) have become desensitized by other types of pornography and are seeking new forms of power, violation and stimulation*” easily realized by the means of ICTs. The next section is an attempt to come up with a likely explanation why older forms of sexually explicit material are becoming obsolete, while more eroticized, better available and easier affordable sexual products are becoming a social norm rooted in most societal areas.

## **VI. Transformation of Attitudes: Sexualization and Commodification of Women**

Without a doubt, ‘mail-order-bride agencies’<sup>31</sup> have recently emerged as one of the outcomes of crucial social transformations and rapid technological advancement<sup>32</sup>. This section examines the role of these agencies in trafficking in images in order to investigate the linkages among trafficking for the purpose of sexual exploitation, new information technologies, and the transformation of social attitudes. More precisely, the aim of

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<sup>28</sup> Maltzahn, Kathleen, *Digital Dangers: Information Communication Technologies and Trafficking in Women*, APS Women's Networking Support Programme, 2005, at p. 7. Available online at: [www.genderit.org/en/index.shtml?apc=r90501-e91637-1-21k](http://www.genderit.org/en/index.shtml?apc=r90501-e91637-1-21k).

<sup>29</sup> Hughes, Donna, *Pimps and Predators on the Internet Globalizing the Sexual Exploitation of Women and Children*, 1999, at p. 17. Available online at: <http://www.uri.edu/artsci/wms/hughes/pprep.htm>.

<sup>30</sup> Hughes, Donna, *Pimps and Predators on the Internet Globalizing the Sexual Exploitation of Women and Children*, at p. 18.

<sup>31</sup> Mail-order-bride agency means operating on-line recruiting networks where pictures, body measurements and descriptions of advertised women are provided. The terms ‘mail-order-bride agency’ and ‘marriage agency’ are used interchangeably.

<sup>32</sup> Hughes, Donna, *Globalization, Information Technology, and Sexual Exploitation of Women and Children. Rain and Thunder – A Radical Feminist*, Journal of Discussion and Activism (Number 13, Winter), 2001. Available online at: [www.uri.edu/artsci/wms/hughes/globe.doc](http://www.uri.edu/artsci/wms/hughes/globe.doc).

this section is to analyze the visual content of ‘mail-order-bride’ websites, determine the specificities of this visual information, and reconsider the likelihood that these images are implicated in the abuse of women. The conclusions are based on the content analysis method which includes a sample of 100 images retrieved from 7 ‘mail-order-bride’ websites purposefully. The purposeful sampling was expected to display the major tendencies and affinities. Generalization was not initially anticipated in this study. The coding scheme allowed classifying the images in terms of the degree of sexual explicitness. This measure is taken as an indicator of potential abuse of women. Based on the coding scheme, six final categories of images that cut across a variety of ‘mail-order-bride agencies’ were constructed. The six categories make up a continuum that enables a construction of a simple grading scheme, offering a more differential and consistent approach in categorization. The results suggest that five categories out of six incorporate a certain degree of erotic content. Table 1 presents the typology of the images in the sample:

Table 1. Typology of ‘Mail-order-bride’ Images

<i>Level</i>	<i>Category</i>	<i>Description of picture qualities/indicators</i>
<b>I.</b>	<b>INDICATIVE</b>	Non-erotic and non-sexual pictures from their commercial sources or family albums; Usually portrait shots.
<b>II.</b>	<b>INDICATIVE POSING</b>	Non-erotic and non-sexual pictures showing women posing as if they were advertised. Usually full-length photographs in underwear, swimming costumes, etc.
<b>III.</b>	<b>NUDIST</b>	Pictures of posing naked or semi-naked women.
<b>IV.</b>	<b>EROTIC</b>	Surreptitiously taken photographs of women showing their underwear; varying degrees of nakedness.
<b>V.</b>	<b>EROTIC POSING</b>	Deliberately posed pictures of women fully, partially clothed or naked in sexualized or provocative poses (where the amount, context and organization suggest sexual interest).
<b>VI.</b>	<b>EXPLICIT EROTIC POSING/ACTIVITY</b>	Emphasizing genital areas where the women is either naked, partially or clothed. Images might also involve masturbation.

As soon as the categorization was complete, the further step was to illustrate the *frequency counts*, i.e. the allocation of the images in the sample [Table 2].

Table 2. Numerical Representation of Images in the Sample and Access Policy

<i>Level</i>	<i>Category</i>	<i>Numerical Representation of Images in the Sample (%)</i>	<i>Access Policy</i>
<b>I.</b>	<b>INDICATIVE</b>	65%	free access
<b>II.</b>	<b>NUDIST</b>	15%	partially requires paid access
<b>III.</b>	<b>EROTIC</b>	11%	paid services
<b>IV.</b>	<b>EROTIC POSING</b>	7%	paid services
<b>V.</b>	<b>EXPLICIT EROTIC POSING</b>	4%	paid services

Table 2 suggests that there is a certain coherence of the content of images posted on the ‘marriage agency’ websites. The more sexually explicit the images, the higher financial revenues they have. Furthermore, although 65% of the sample comprises indicative images with a very weak erotic message, the other 35% include nudist and explicitly eroticized material that serves as an indicator of the high proportions (frequency) of explicitly sexual images.

Although the sample size was rather small and the categories constructed were not always mutually exclusive (depending on the interpretation), these deficiencies do not distort the major conclusions that can be driven based on the findings. Therefore, the classification of images, the frequency counts, and the description of the access policy are synthesized to build a ground for essential theoretical considerations.

First of all, the results of the content analysis reinforce Calstells’ theory of the network society. The findings suggest that the Internet, being primarily a linguistic medium, appears to be an important visual medium where high-quality images are posted, transferred and exchanged. It is also the medium generating high economic revenues which profit the producers of information.

Secondly, the results of the content analysis are more likely to support the advocacy literature. Similarly to Donna Hughes, it is argued that ‘marriage agencies’ facilitate the sexual exploitation of women because they enable people to easily buy, sell and exchange millions of eroticized images and videos of women. The findings presented in the study confirm that the visual profiles of ‘mail-order-bride’ images are extremely sexualized. The content analysis of the ‘marriage agency’ websites indicates that many of them engage in practices that sexually exploit women by offering tours for foreign men and escort services. The sexualization of ‘marriage agencies’, particularly in its

visual aspect, brings about crucial social shifts in the expression of sexuality and is closely connected with another theoretical construct derived from feminism - sexual objectification of women. Women are depicted as sexual objects; their sexual attributes and physical attractiveness de-emphasize the existence of women as a human being. Women are presented as easily accessible, compliant and complaisant with exceptional exterior qualities but not necessarily outstanding educational, professional skills or matrimonial capacities as a mother and a house-wife. Women become alienated from their present, past or future. What matters is the image - the main source of meaning, relevance and choice.

The process of sexual objectification of women is strongly connected to the process of consumption, where a woman becomes a subject of commodification also mentioned in the advocacy literature. The findings of this research pointed out that most of the 'mail-order-bride agencies' depend on the fees paid by the customers. Women are merchandised and advertised to men who can evaluate, rate, and discard women. Men pick out women from on-line picture catalogues where they can designate the descriptive parameters of the woman they want: maximum and minimum age, height, weight, the size of her bust, waist and hips, general interests, and geographical location. It becomes obvious that women are placed in a position of subordination in relationship to, so to say, 'consumers-husbands'.

Moreover, the owners of 'marriage agencies' have to follow the rules of the free market - a defining characterization of current neo-liberalism. The growth of 'mail-order-bride' industry on the Internet has also increased the competition for quality new catalogues of women. Fierce competition among 'mail-order-bride' websites has pushed the owners of the industry to advertise and present more and more extreme and attention-grabbing material. Therefore, the likely prediction is that the content of 'mail-order-bride agencies' would become more and more sexualized.

## **VII. Summary: Synopsis of Major Findings**

The Internet has evolved over the past 30 years from a military tool for scientific research and coordination to a commercially-oriented communication network. Although the Internet has been mostly accepted as an 'omnipotent' tool of communication, the consequences of the impact of the Internet as well as other ICTs are rather unpredictable. The capacity of the Internet to store and transmit vast amounts of information within an unregulated market to an uncontrolled audience is too multi-faceted to be easily grasped. Social scientists need to be cautious when assessing the impact of ICTs on society, not because human trafficking is new, but rather because the distribution of human trafficking via computer networks causes important transformations in the structure of criminal networks and criminal activities, as well as paves the way to the emergence of the new forms of sexual exploitation and human abuse.



Apart from that, there is a need for a rigorous re-conceptualization of the term human trafficking in order to determine whether this concept involves physical movement exclusively (trafficking in human beings), or whether the issue of trafficking in images is pertinent too. This research proved that there is a close interrelationship between trafficking in human beings and trafficking images as the both forms have baneful social repercussions. Consequently, there is a challenge to the UN definition of human trafficking as it totally omits the significance of the disguised forms of trafficking.

Although there has been rather successful global effort to raise the awareness of general public about the danger of human trafficking, this crime has not been exterminated. The neglect of the visual aspect of human trafficking, i.e. trafficking in images, might explain why there is still substantive growth in the sexual exploitation of women and why there is still an enormous public demand for pornography and prostitution. This is a misleading approach to counter-trafficking.

Information communication technologies only facilitate human trafficking by fostering a different type of violence that effects social attitudes and normalizes practices previously used to be unacceptable. Trafficking in women is gradually becoming accepted as a social norm. Representation of women in pornography, sex-tourism and marriage sites all work to compound acceptance of violence against women and the treatment of women as commodities.

These transformations are inevitable. Consequently, a re-consideration of human rights and legislations is crucial in the global human rights crisis that is only being escalated by the wide use of new information and communication technologies.

### **VIII. Postscript: Challenges of Methodological Decisions; Suggestions for Further Research**

On the one hand, the overall relevance of the research is very high as this study transcends the boundaries of different disciplines. Due to its multidisciplinary and the wide practical application, this particular research might be relevant to a very heterogeneous audience - i.e. academe, governmental officials, businesses, as well as general public.

On the other hand, because this is a pioneering study on human trafficking, there was an abundant variety of challenges to be addressed. Data scarcity, non-comparability of cases, 'raw' theoretical background can only be mentioned as some of the general problems.<sup>33</sup> These deficiencies undermine the validity of the results and conclusions presented. Moreover, as any other qualitative research, this study was condemned to deal

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<sup>33</sup> Laczko, Frank, *Enhancing Data Collection and Research on Trafficking in Persons: Measuring Human Trafficking: Complexities and Pitfalls*, Springer, New York. Available on-line at: <http://www.springerlink.com/content/j42202/>.

with interpretation and subjectivity challenges. The interpretation of criminal cases and the 'mail-order-bride' image catalogues were highly constrained by subjectivity factors. The interpretation involved complex, lengthy, and, therefore, possibly ambiguous descriptions which had to be substantially downsized when embedded in the research.

Nevertheless, in spite of the dearth of data and the challenges in interpretation, the guiding research questions posed in the introduction of the study were covered. The conclusions do not just address the research questions. They enrich the research with a more comprehensible theoretical framework which contributes to the academic discourse in the field by making the phenomenon of human trafficking, particularly its visual aspect, more explicit, conceivable, and engaging. The far-reaching theoretical potential is one of the strongest parts of the research.

Future studies on human trafficking are welcome, as they would provide the grounds to compare and synthesize a variety of interpretations and approaches. A quantitative study on human trafficking would be recommendable, while an observation of the regulation of internet-based trafficking for the purpose of sexual exploitation would open new areas for future academic enquiry.

## **Empowering Victims of Human Trafficking: the Role of Support, Assistance and Protection Policies.**

*Alline Pedra Jorge-Birol<sup>1</sup>*

*According to the ‘push and pull’ factors of human trafficking, traffickers and recruiters take advantage of the legal vacuum and of socio-economic problems present in post-conflict areas. Unemployment, poverty, lack of education, gender discrimination and family violence are conditions that turn recruitment into an easy task — especially when future victims are often recruited under false pretences and with false promises. Once recruited, these human beings are most frequently turned into traffickers’ commodities and end up as victims of forced labour and sexual exploitation. Besides primary victimization, practice shows that when ‘caught’ by law enforcement officers these human beings, are often identified as illegal migrants and neither recognized nor protected as victims. This paper intends to show the importance of proper help and protection for trafficked victims. ‘Best practices’ such as reflection delay, the permit to stay in the country, psychological and social assistance both before and after repatriation to the country of origin, may help to empower victims and to convince them to contribute to the criminal justice system. Trafficked victims who are sufficiently supported and protected are more likely to report the crime and to contribute to investigations by identifying and testifying against the offenders. If trafficked victims are not recognized as such, criminal justice systems lose important evidence and are unable to enforce criminal law against traffickers. Moreover, the promotion of victims’ needs is essential for the promotion of human security, which should also be a target of the counter-trafficking policies.*

### **I. Introduction**

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The core of the concept of human trafficking is “*exploitation of people against their free will*”<sup>2</sup>. Although different definitions and varieties on this concept exist in academic and legal discourse, it is the definition put forward in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children that is most widely adopted and discussed. According to this definition trafficking of human beings includes different actions such as to “*recruit, transport, transfer, harbour or receive by means of threat or force or other forms of coercion, within the purpose of exploitation.*”<sup>3</sup>

Trafficking, as an international phenomenon, has many causes however three interdependent factors must be named: (1) the differences in wealth between different countries and regions in the world, (2) the strict immigration policies of the more wealthy countries and (3) the relatively ineffective law enforcement. Demand for sexual services and a variety of push factors in the countries of origin are stimuli for potential migrants to leave their home country.<sup>4</sup> Cross-checking the trafficking routes against the GDP indices of the countries included in these routes, it becomes apparent that the countries of origin are mostly the ones with the lowest indexes for GDP per capita (developing countries and post-conflict societies)<sup>5</sup> and that the countries of destination are more likely to be the ones with higher GDPs per capita (developed countries).<sup>6</sup> This reinforces the conclusion that traffickers and recruiters take advantage of the socio-economic problems in the poorer countries and the differences with the more developed countries. In addition, it is also feeds the thesis that the legal vacuum present in developing countries or in post-conflict areas serves the recruitment of victims. High rates of unemployment, poverty, lack of education, gender discrimination and family violence, as well as expectations of employment, improvement in social status and access to Western goods<sup>7</sup> are some of the issues that turn recruitment into an easy task.

<sup>2</sup> Dijck, Maarten van, *Trafficking in Human Beings: a Literature Survey. Report to the 6<sup>th</sup> Framework Programme of the European Commission*, June 2005, at p. 11.

<sup>3</sup> United Nations (UN), *Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime*, Art. 3 (a).

<sup>4</sup> Dijck, Maarten van, *Trafficking in Human Beings: a Literature Survey. Report to the 6<sup>th</sup> Framework Programme of the European Commission*, at p. 11.

<sup>5</sup> United Nations Office on Drugs and Crime (UNODC), *Trafficking in Persons: Global Patterns*, 2006. This correlation was confirmed by Jan van Dijk during his keynote lecture at the XII International Symposium of the World Society of Victimology. For more on trafficking routes, see: Dijck, Maarten van, *Trafficking in human beings: a literature survey. Report to the 6<sup>th</sup> Framework Programme of the European Commission*, June 2005, at pp. 38-46. For more on the profile of countries of origin and destination, see: Kangaspunta, Kristiina, *Mapping the Inhuman Trade: Preliminary Findings of the Database on Trafficking in Human Beings*, in: Forum on Crime and Society (Volume 1, Numbers 1 and 2), UNODC, Vienna, December 2003, pp. 81-103, at pp. 90-94.

<sup>6</sup> Kangaspunta, Kristiina, *Mapping the Inhuman Trade: Preliminary Findings of the Database on Trafficking in Human Beings*, at pp. 90, 96.

<sup>7</sup> Maljevic, Almir, *Trafficking in women in Bosnia and Herzegovina*, in: Duyne, Petrus C. van, Klaus von Lampe, Maarten van Dijck and James L. Newell (eds.), *The Organized Crime Economy: Managing Crime Markets in Europe*, Wolf Legal Publishers, Nijmegen, 2005, pp. 277-290, at p. 287; Klopčič, Alja, *Trafficking in Human Beings in Transition and Post-Conflict Countries*, in: Human Security Perspectives Journal (Volume 1, Issue 1) European Training and Research Centre for Human Rights and Democracy, Graz, 2004, pp. 7-12, at p. 8.

Themes commonly addressed with regard to human trafficking are push and pull factors, forms of trafficking, forms of recruitment, modus operandi, social background and personal characteristics of victims of trafficking, patterns of cooperation between traffickers, role of the government in terms of policies (not necessarily practice) and law enforcement.

In terms of statistics, studies mostly cover country overviews, migration figures and estimates on the number of people involved in the sexual service. The mix of smuggling and trafficking data,<sup>8</sup> lack of common definitions and methods to collect statistics<sup>9</sup> and the great number of cases that go unnoticed<sup>10</sup> turns the quantitative measurement of trafficking in a difficult task. Besides that, statistics on trafficking are not only often difficult to access, but similarly to what had happened with statistics on partner violence until the 1970s-80s, they are almost impossible to be measured because victims are not recognized as such and, therefore, often feel not enough empowered to report offenders. Without victims reporting, it is rather impossible to have reliable statistics which properly reflect reality. Statistics based on law enforcement or other official data merely portrait the cases which came to the attention of the police or of the aid institutions. These are the reasons why we prefer not to refer to trafficking statistics in this paper.

According to the literature reviewed, studies which focus on the support or protection of trafficked victims are exceptional. The main sources of information on this topic are reports of international organizations, international non-governmental organizations (INGOs) and non-governmental organizations (NGOs), and their experience in practice. Certainly, assistance and protection is important for victims of any type of crime but considering that trafficked victims are even more vulnerable, their support and protection becomes essential, if not vital. Trafficked persons are victims – and witnesses – considered as the best source of information for police investigation. Without their collaboration, evidence is often difficult to access and the application of domestic criminal laws against traffickers, read prosecution and punishment, becomes impossible.

Even of more relevance than the outcomes of the criminal lawsuits or the ‘success’ of the criminal justice system is the protection of the fundamental rights of these persons, which shall be observed independently from their collaboration with law enforcement agencies. Unfortunately practice shows that victims are more or less worth protection or support depending on their contribution to the criminal justice system and importance to the criminal lawsuit than as a result of their human condition. Whereas the need for victim’s testimonies in criminal procedure is welcomed as a

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<sup>8</sup> Goodey, Jo, *Migration, crime and victimhood: responses to sex trafficking in the EU*, in: *Punishment & Society* (Volume 5, Number 4), Sage Publications, Thousand Oaks, 2003, pp. 415-431, at p. 420.

<sup>9</sup> Dijck, Maarten van, *Trafficking in Human Beings: a Literature Survey. Report to the 6<sup>th</sup> Framework Programme of the European Commission*, at p. 12.

<sup>10</sup> Friesendorf, Cornelius, *Pathologies of Security Governance: Efforts against Human Trafficking in Europe*, in: *Security Dialogue* (Volume 38, Number 3), Sage Publications, Thousand Oaks, 2007, pp. 379-402, at p. 381.

catalyst for developments towards better arrangements for the victims, the underlying motive should not be in the desire to make law enforcement more effective, but in the protection of human rights and in particularly the dignity of the victims as human beings. In other words, victim empowerment is not merely to be recognized as a means towards better law enforcement, but as an end by itself. In addition, how victims are treated by the authorities may add to or subtract from the trauma of victimization.<sup>11</sup> Bearing this in mind, victim-centred law enforcement policies are needed particularly in the case of trafficking.

The current paper intends to show the importance of the assistance and the protection of trafficked victims. In the first item, to provide a background to the reader, we will present the origin of victim support's policies linking such a movement to the role of the victim in crime reporting and police statistics. Following, we will consider the aspects of the support and the protection of trafficked victims who have special needs and face different difficulties than other crime victims. In this concern, necessary provisions and practices for the well being of trafficked victims will be highlighted. Further, and based on the literature reviewed, we will demonstrate that trafficked victims who are supported and protected are more likely to report the crime and to contribute to the investigation. As a consequence, these criminal lawsuits are more likely to become successful, meaning that traffickers are identified and trafficking networks are dismantled. At the end we will highlight the importance of the victim as a human being independently of his or her contribution to the criminal justice system and the need for a victim-centred anti-trafficking policy in which the human rights related interests are brought in balance with the interests of effective prosecution (and participation of the victim therein) of human traffickers as part of a broader approach oriented on the prevention of human trafficking.

## **II. The Origin of Victim Support's Policies and Programs**

Originally, the criminal justice system was established in order to maintain social control and control crime, sanctioning those who violate the criminal laws of a state and re-establishing order. The crime is therefore seen as an offence to the social order and to the legal system of a state. This is to say, although criminal conflicts involve persons, they are depersonalized the moment they are introduced into the criminal justice system.

With the victims' movement, this vision started to change. After the Second World War, the role of the victim in the criminal conflict became an object of interest of aca-

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<sup>11</sup> For more on secondary victimization see Resick, Patricia A., *Victims of sexual assault*, in: Lurigio, Arthur J., Wesley S. Skogan and Robert C. Davis (eds.), *Victims of Crime. Problems, Policies and Programs*, Sage Publications, Thousand Oaks, 1990, pp. 69-86; Tondonato, Pamela, and Edna Erez, *Crime punishment and victim distress*, in: *International Review of Victimology* (Volume 3, Numbers 1, 2), World Society of Victimology, 1994, pp. 33-55; Wemmers, Jo-Anne, *Victim notification and public support for the criminal justice system*, in: *International Review of Victimology* (Volume 6, Number 3), World Society of Victimology, 1999, pp. 167-178.

demics.<sup>12</sup> But it was only in the sixties that the importance of providing protection to crime victims was highlighted. Among other reasons, such demand was encouraged by the alienation of the victim from the criminal justice system, revealed by the Crime Victims Surveys.<sup>13</sup> Crime rates registered by the police were significantly lower than the victimization rates registered by such surveys. Victims did not prefer to come to the attention of law enforcement authorities because they felt that they had little to gain from reporting, they feared reprisals from the criminal and the authorities would not offer them protection (Shapland, Duff & Willmore, 1985; Waller, 1990). Gradually victim support programs started to appear. Between 1965 and 1975 — the first wave of the victims' movement —<sup>14</sup> special services for categories of victims such as battered children and survivors of concentration camps were established. In addition to victim support programs, in New Zealand and England, authorities concerned with the financial hardship that victims encounter after the crime as a result of insufficient social security, created the first compensation programs.<sup>15</sup>

<sup>12</sup> von Henting, Hans, *The criminal and his victim*, Yale University Press, New Haven, 1948; Mendelsohn, B., *Une nouvelle branche de la science bio-psycho-sociale: victimologie*, in: *Revue Internationale de Criminologie et de Police Technique* (Volume X, Number 2) Geneva, 1956, pp. 95-109; Wolfgang, Marvin E., *Patterns in criminal homicide*, University of Pennsylvania Press, Philadelphia, 1958.

<sup>13</sup> The Crime Victims Surveys (ICVS) were introduced in the United States in the 1960s in order to measure the prevalence of criminal events which went unreported. As the name explains, it aims to identify the number of people who were victimized in a certain period (usually the last five years) and which kind of offenses they had been through. In 1973 the US government decided to run victim surveys every year and those became a permanent source of statistics, together with the Federal Bureau of Investigation statistics. Worldwide, the method was recognized as appropriate to measure crime or "count victims." Thus, with the support of the United Nations Office on Drugs and Crime (UNODC) and the United Nations Interregional Crime and Justice Research (UNICRI) organizations around the world began to conduct ICVS in cooperation. Concerning the interviews, in some countries participating in the ICVS the technique for selection of participants is the Computer Assisted Telephone Interviewing (CATI) through which home telephone numbers are selected and households are interviewed. In other countries, although more costly, interviews are conducted face-to-face. For statistics on trafficking it is not an appropriate tool for counting victims and therefore victims of trafficking because those are frequently sent back to their home towns which are developing countries or post-conflict societies where Victimization Surveys are rarely held. In fact, only some developing countries of origin of trafficked victims, such as Argentina, Brazil, Bulgaria and Cambodia were involved in the last ICVS. Moreover, when trafficked victims are authorized to stay in the country of destination it is only for a short period of time in order to provide sufficient information as victims-witnesses, besides the protective measures which might prevent them to talk about the victimization to any person except law enforcement authorities and victim's support workers dealing with the case. For more on Crime Victims Surveys see Killias, Martin, *Précis de Criminologie*, 2<sup>ème</sup> édition, Stämpfli Editions SA, Berne, 2001, at pp. 64-81. For the latest results of the ICVS, see Dijk, Jan van, Jon van Kesteren and Paul Smit, *Criminal Victimization in International Perspective*, Boom Juridische uitgevers, The Hague, 2007. Available online at:

[http://www.unicri.it/www/analysis/icvs/pdf\\_files/ICVS2004\\_05report.pdf](http://www.unicri.it/www/analysis/icvs/pdf_files/ICVS2004_05report.pdf). All websites used in this essay were last checked on 29 February 2008.

<sup>14</sup> Dijk, Jan van, *Ideological trends within the victims movement: an international perspective*, in: Maguire, Mike and John Pointing (eds.), *Victims of crime: a new deal?*, Open University Press, Philadelphia, 1988, pp. 115-126.

<sup>15</sup> Dijk, Jan van, *Ideological trends within the victims movement: an international perspective*; Maguire, Mike, *The Needs and Rights of Victims of Crime*, in: *Crime and Justice: An Annual Review of Research* (Number 14), The University of Chicago Press, Chicago, 1991, pp. 363-433.

In the early seventies, particularly in the United States, victim-witness assistance programs were established to support and encourage victims to report the crime and to collaborate with the investigation.<sup>16</sup> While the government was more focused on victims of ordinary crimes, such as burglary, robbery and theft committed by strangers, feminist movements were mainly responsible for the creation of shelters for battered women and victims of sexual assault — inaugurating the second wave of the victims' movement.<sup>17</sup> Meanwhile, in civil society, mostly law and order, civil rights and grass-root groups began to draw public attention to the severe psychological, physical and financial damages that crime could inflict on victims. In addition these same groups began to highlight some of the victims' needs which were being neglected by the criminal justice system and the government in general.<sup>18</sup>

Bearing in mind all these different manifestations of pro-victim action, it became clear that civil society was still eager for more. Punishing the offender and re-establishing order was no longer sufficient. The state should give attention to the needs of the victim which were being neglected, particularly to finding a solution for the psychological, financial and physical consequences of a crime. As a result, in the eighties the institutionalization of victims' support and the call for justice inaugurated the third wave of the victims' movement.<sup>19</sup> Most of the victim counselling centres affiliated themselves with pre-existing governmental institutions or started to receive funding from governments. Meanwhile, international and intergovernmental organizations encouraged their Member States to introduce Victim Support Acts, in order to provide to crime victims adequate treatment in the criminal justice system. This is to say, governments were clearly more concerned and were rethinking the services that they could offer in order to empower crime victims and to enhance their recovery, concurrently with controlling crime.

It was the General Assembly of the United Nations (UN) which adopted the first international instrument recommending that victim's rights be recognized by governments: the Resolution n° 40/34, of 29 November 1985, namely UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power.<sup>20</sup>

In Europe, the real thrust of the victim's movement occurred in the 1980s. It was mainly encouraged by intergovernmental documents such as the Council of Europe Committee of Ministers Recommendations N° R (1985) 11 on the position of the victim within the framework of criminal law and procedure; N° R (1987) 21 on assistance to victims and the prevention of victimization; and N. R (77) 27 on Compensation of Victims of Crime, as well as the European Convention on the compensation of victims of violent crimes.<sup>21</sup>

<sup>16</sup> Maguire, Mike, *The Needs and Rights of Victims of Crime*.

<sup>17</sup> Dijk, Jan van, *Ideological trends within the victims movement: an international perspective*.

<sup>18</sup> Maguire, Mike, *The Needs and Rights of Victims of Crime*.

<sup>19</sup> Dijk, Jan van, *Ideological trends within the victims movement: an international perspective*.

<sup>20</sup> United Nations General Assembly, Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, A/RES/40/34, 1985. Available online at:

<http://www.un.org/documents/ga/res/40/a40r034.htm>

<sup>21</sup> Available online at [http://www.coe.int/t/cm/Home\\_en.asp](http://www.coe.int/t/cm/Home_en.asp).



Although not legal bidding, certainly these international and regional instruments contributed to the empowerment of the victim in domestic legislation throughout the world and so far several developments favouring crime victims have occurred. For example, following those recommendations most of the countries in the European Union and Switzerland introduced in their criminal justice systems Acts on victims' rights concerning the improvement of the victims' treatment in the criminal justice system as well as the establishment of victims support centres.<sup>22</sup>

Bearing that in mind, even though not mentioned by the reviewed literature on human trafficking, the concern with crime victims is not of recent date. Nor is the disregard that victims experience in dealing with criminal justice agencies. The disregard for crime victims, in a more general sense and independent from the type of offence, has its origin in the criminal justice system itself since it was established in order to control crime, but not necessarily to support crime victims. As soon as the crime comes to the attention of law enforcement authorities, the victim loses the ownership of<sup>23</sup> and the control over the case. Conflicts are taken away from the original partners and the criminal conflict becomes a symbolic and bilateral formal conflict between the state and the criminal. Although this is something that has changed in most of the Western judicial systems lately, most provisions in criminal procedural codes deal with the role of the defendant and his/her fundamental rights. Relatively few provisions are dedicated to the role and to the rights of the victims.

The portrait is not different for trafficked victims, who likewise other crime victims, go through several inconveniences in the criminal justice system. More than that, as a result of their special needs, trafficked victims are more vulnerable. Particularly, the crime of trafficking has major impacts on the mental health of victims. The continuous aspect of the crime — i.e. trafficking victims stay in the 'hands' of the offender for a long period who has plenty of opportunities for intimidation — provokes in the victims fear of reprisals and for the safety of their families in case of reporting the crime to the police. In addition, the possibility to be sent back to the same environment from which they decided to leave, and without money, decreases the likelihood of trafficking victims to talk to the police.

Without adequate support, it is almost impossible that trafficked victims would come to the attention of law enforcement authorities and contribute to the criminal proceedings.

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<sup>22</sup> In the great majority of countries in Europe, victims' programs are government-run services. For example in France, the services were initiated by the government and now are provided by non-state agencies, although they still receive state support. In Germany, the largest agency is a voluntary organization. In Switzerland the services are run by non-state agencies with financial support of the state. For a review of victim support services and rights in the most of the European countries, see Brienen, M. E. I. and E. H. Hoegen, *Victims of Crime in 22 European Criminal Justice Systems*, Wolf Legal Productions, The Netherlands, 2000.

<sup>23</sup> Christie, Nils, *Conflict as property*, in: *The British Journal of Criminology* (Volume 17, Number 1), Oxford University Press, 1977, pp. 1-15; Hulsman, Louk and Jacqueline Bernat Célis, *Penas perdidas – o sistema penal em questão*, 2. ed. (Translated by Maria Lúcia Karam), Luam, Rio de Janeiro, 1997.

### **III. Necessary Provisions (and Practices) for the Support of Trafficked Victims and for the Success of the Criminal Justice System against Traffickers**

Support is therefore important not only to enhance victim's recovery but also to increase the likelihood of trafficked victims to report crimes and contribute to the criminal lawsuit. Bearing this in mind, Victims Support Centres were established as a claim of the victims' movement. Such services have the aim to offer the victim certain basic needs which emerge with the crime, such as medical care, psychological and social assistance and financial aid. In addition, they have the task to inform the victim about his/her rights, offer legal advice and sometimes represent the victim in the criminal and civil lawsuit.

Besides these kinds of support, trafficked victims require specific protective and urgent measures that should be taken into account by service providers and law enforcement authorities. These are recovery and reflection delay, residence permit and protection. These measures are laid down by the Council of Europe Convention on Action Against Trafficking in Human Beings and they cover the so called three P's of a counter-trafficking policy: prevention, protection and prosecution.<sup>24</sup>

**The reflection delay** allows persons who were trafficked to remain legally in the country whilst they recover from their situation and consider their options. During this time they have access to shelter, legal advice, counselling and medical care. It is a period that enables the victim to recover from the trauma and to reflect on whether to contribute with criminal justice, to pursue a civil action against the trafficker, or to return to her or his country of origin.

One of the objectives of counselling during this period is to introduce to the victim his/her options and rights and to empower the victim through counselling and psychological support. Moreover, sharing experiences with other trafficked victims is proved to help in the victims' healing process and to contribute to victims' empowerment. These are necessary tools for a victim to make an informed decision whether he/she wants to contribute to the investigation and testify against the trafficker. Besides, if psychological needs are neglected it becomes more difficult for trafficked victims to contribute to criminal proceedings because they do not remember everything at once, lack trust against others and experience confusion and inconsistency in their discourses as a consequence of the trauma.<sup>25</sup>

As an example of practice, in Belgium and The Netherlands, victims who are granted the reflection delay were more likely to press charges against their traffickers. How-

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<sup>24</sup> These are the three pillar of the counter-trafficking policy of the European Commission: prevention of human trafficking, the protection of victims and the effective prosecution of traffickers.

<sup>25</sup> Cathy Zimmerman, Researcher from the London School of Hygiene and Tropical Medicine during the High-Level Conference of the Alliance against Trafficking in Persons, Vienna, 17 March 2006.

ever law enforcement officials seem unwilling to inform possible victims about their right to a reflection delay, because they fear it will prolong the investigations or they simply do not recognize those people as trafficked victims. As a result, most of the victims prefer to return to their countries of origin as opposed to immediate—and, to them, premature— participation in criminal proceedings.<sup>26</sup>

Trafficked victims may also be granted a **residence permit for temporary stay** under the condition that they will contribute to the criminal proceedings. Countries such as Belgium, the Netherlands, Poland and United Kingdom allow those victims who are willing to assist with investigations and prosecutions the right to temporary stay.<sup>27</sup> In extreme cases, this right is even extended to his/her family which is allowed to travel and join the victim in the country of destination.

However, practice shows that this measure is only taken in extreme cases: for example, in Germany, because victims violated the Aliens Law, deportation measures were commenced against 55% of them; only 13% were given temporary residence permits and 5% appeared as witnesses in court proceedings.<sup>28</sup>

Moreover, the residence permit is limited to the length of investigations or judicial proceedings.<sup>29</sup> In this regard, victims may face increased risk of reprisals (or at least think so) if, after the proceedings, they return to the home country. This has a negative influence on the decision by victims to testify.

Another measure which favours trafficking victims is granting **permanent residence**. Once again, practice shows that victims are only allowed to stay, thus protected, while their collaboration is of relevance. In case victims are granted permission to stay it is temporary or in the interest of the justice which needs the victim as a witness. This shows that victims are mere tools of the investigation and prosecution of the traffickers, and in case they are not anymore useful to the criminal justice system of a country, they are sent back to their countries of origin, even under the risk of reprisals.

The last but not the least important measure for trafficked victims is protection which is even more important in case of repatriation of the victim. It is known that the risk of reprisal is higher in the countries of origin<sup>30</sup> and victims may not be willing to report or contribute to the investigations since protection will only be available during their temporary stay in the foreign country. Moreover, often protection means repression of victims' rights. According to personal professional experience, in most of the protec-

<sup>26</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection (research report)*, 2002, at p. 42. Available online at: <http://www.antislavery.org/homepage/resources/humantraffic/Hum%20Traff%20Hum%20Rights,%20edef%20vic%20protec%20final%20full.pdf>.

<sup>27</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, at p. 3.

<sup>28</sup> Herz, Annette Louise, *Trafficking in Human Beings. An Empirical Study in Criminal Prosecution in Germany*, Research in Brief, Max Planck Institute for Foreign and International Criminal Law, Freiburg, 2006, at p. 18-19.

<sup>29</sup> United Nations Office on Drugs and Crime, *Toolkit to Combat Trafficking in Persons*, UNODC, New York, 2006, at p. 120.

<sup>30</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*.

tion programs victims have to change their life styles in order to avoid exposition to risk and are not allowed to communicate with their friends or family, in case they do not move together, meaning that victims seem to be the ones who are being somehow punished.

In sum, studies suggest that although legislation was amended, practice does not necessarily consider the needs of the trafficked victims. This is to say, among the three P's, prosecution has taken all the attention whereas prevention and protection are of secondary importance or even neglected. For example, in destination countries, provision of state-funded services for trafficked persons was generally dependant on their having already been formally identified as trafficked. To be formally identified, it requires a bureaucratic process that can take some time and delays the provision of support.<sup>31</sup> Meanwhile, the victim's basic needs such as housing, counselling, legal advice are neglected, as well as other special needs such as recovery or reflection period, non punishment provisions and protection.

#### **IV. Law Enforcement and the Collaboration of Trafficked Victims**

It is of common sense in the literature that victims' participation in criminal justice is essential for crime reporting and the success of prosecution.<sup>32</sup> The conviction of criminals for human trafficking often depends on the number and of reliable victim testimonies. "*Many data stem from victims accounts, obtained during police investigations (testimonies, informal talks, trafficking intelligence), obtained by organizations such as those which provide shelter or obtained by researcher and journalist conducting interviews with (former) victims.*"<sup>33</sup>

Research shows that some countries which fared better in prosecuting and convicting traffickers from various crimes were the ones (e.g. Belgium, Italy, the Netherlands, United States,<sup>34</sup> Germany<sup>35</sup>) which also had the most comprehensive measures for assisting victims, including temporary residency permits for those prepared to testify against their traffickers. For example, in Germany, of victims who were taken care of by specialized relief organizations, the frequency of convictions for charges of trafficking proved to be higher.<sup>36</sup>

<sup>31</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*.

<sup>32</sup> Waller, Irvin, *The police: First in Aid?* in: Lurigio, Arthur J., Wesley S. Skogan and Robert C. Davis (eds.), *Victims of Crime: Problems, Policies and Programs*, Sage Criminal Justice System Annuals (Number 25), Sage Publications, USA, pp. 138-155; Killias, Martin and Thierry Berrueux, *La Dénonciation a la Police: Une Décision qui n'est pas Laissée au Hasard*, in: Crimiscope (Number 3), Université de Lausanne, Lausanne, 1999.

<sup>33</sup> Dijck, Maarten van, *Trafficking in Human Beings: a Literature Survey. Report to the 6<sup>th</sup> Framework Programme of the European Commission*, at pp. 19, 25; International Organization for Migration, *The IOM Handbook on Direct Assistance for Victims of Trafficking*, 2007, at p. 274.

<sup>34</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, at p. 2.

<sup>35</sup> Herz, Annette Louise, *Trafficking in Human Beings. An Empirical Study in Criminal Prosecution in Germany*, at p. 21

<sup>36</sup> Herz, Annette Louise, *Trafficking in Human Beings. An Empirical Study in Criminal Prosecution in Germany*, at p. 21.

Because of poor implementation of counter-trafficking protection measures very few victims have been willing to collaborate with the criminal justice system and testify against traffickers. *“In far too many cases, victims are not only exploited by their traffickers, they are then subsequently discriminated against and disenfranchised by the civil and criminal justice systems that are supposed to exist to help them as vulnerable victims of crime”*.<sup>37</sup> Also in the case of Germany, victims often refuse to make statements as they are afraid to be deported for illegal prostitution.<sup>38</sup> As a consequence, *“public prosecutor regularly stopped trafficking proceedings on the grounds that the victim was not ready to testify, the testimony was not credible, the victim’s testimony was insufficient evidence.”*<sup>39</sup>

Following, we will highlight some of the victims’ reasons for not trusting in the authorities.

#### **A. Victims’ Identification by the Police**

First of all, trafficked persons *“are rarely treated or identified as victims of crime.”*<sup>40</sup> Usually, they are classified as illegal migrants, read criminals, because of their irregular residence or employment status, or in view of the fact of being sex workers. Thus police who is neither sensitive nor trained enough to realize that those are victims of trafficking, put them in detention centres. It is the migration-crime-security continuum in which *“migrants themselves become criminalized and their experiences of victimization are overlooked.”*<sup>41</sup> For example, in the Netherlands, law enforcement officials have guidelines concerning the information that they should give to alleged trafficked persons about their rights. In practice, these guidelines are not or not always followed because law enforcement officials do not recognize such persons as possible victims, but as undocumented migrants.<sup>42</sup> This increases the fear to report: from the private properties, rooms or brothels of traffickers to the raids of police stations. Unfortunately, misidentifications based on the subjectivity, sometimes discrimination, of law enforcement officers leads to the mistrust of the victim in the criminal justice system.

After detention, some are deported to their home countries<sup>43</sup>, named to be ‘the cheapest choice’ for governments.

Increasingly, governments have responded to trafficking through restrictive immigration policies. These not only render migrants more vulnerable to traffickers but often lead to trafficked persons being swiftly returned to their home

<sup>37</sup> International Organization for Migration, *The IOM Handbook on Direct Assistance for Victims of Trafficking*, at p. 277.

<sup>38</sup> Herz, Annette Louise, *Trafficking in Human Beings. An Empirical Study in Criminal Prosecution in Germany*, at p. 18-19.

<sup>39</sup> Herz, Annette Louise, *Trafficking in Human Beings. An Empirical Study in Criminal Prosecution in Germany*, at p. 17-18.

<sup>40</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, at p. 33.

<sup>41</sup> Goodey, Jo, *Migration, Crime and Victimhood: Responses to Sex Trafficking in the EU*, at p. 416.

<sup>42</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, at p. 40.

<sup>43</sup> Klopčic, Alja, *Trafficking in Human Beings in Transition and Post-Conflict Countries*, at p. 10.

countries as undocumented migrants, returned to the very same conditions from which they left, rather than being identified as victims of crime.<sup>44</sup>

“*Out of sight, out of mind*”<sup>45</sup>. The fear of deportation leads to other reasons for not reporting: some trafficked victims do not want to turn back to their countries of origin because they fear reprisals<sup>46</sup>, they are ashamed of the family<sup>47</sup>, they fear stigmatization<sup>48</sup>, apart from all the other push factors such as unemployment and poverty that had already influenced them to live their country.

### **B. Grating the Victim Status**

Second, if they are ‘lucky’, they are recognized as trafficking victims but for them to be granted the status of victim, there are other conditions which shall be fulfilled. Victims must be ‘reliable’. However, people involved in human trafficking are part of a group which is not very commonly addressed as ‘reliable’ by law enforcement authorities. They are usually illegal migrants and criminalized by default because of their illegal status, they are over-represented in police statistics.<sup>49</sup> Their statements are frequently subject of doubt. They simply do not fit to the expected profile or the usual image of a ‘victim’; they are not even close to the label of ‘innocent victim’; in fact they fit more to the label of ‘voluntary victim’.<sup>50</sup> The literature on human trafficking is rich of stories of women who joined trafficking knowing that they would work as sex workers. These women were recruited and accepted the condition of becoming sex workers in another country in order to ‘make some money’ and to start a ‘new life’ in a developed country, making an informed choice in this regard. However, they were not aware (and would have never learned in advance) that they were engaging in sexual exploitation. This is to say, they volunteered to work although this might be interpreted as contribution to the criminal act.

<sup>44</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, at p. 2.

<sup>45</sup> Sembacher, Anke, *The Council of Europe Convention on Action Against Trafficking in Human Beings*, in: *Tulane Journal of International and Comparative Law* (Volume 14, Issue 2), Tulane University Law School, New Orleans, Spring 2006, pp. 435-454, at p. 443.

<sup>46</sup> Goodey, Jo, *Migration, Crime and Victimhood: Responses to Sex Trafficking in the EU*, at p. 424. For victims’ statements on this topic, see Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*.

<sup>47</sup> UNODC, *Toolkit to combat trafficking in persons*, at p. 132.

<sup>48</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*.

<sup>49</sup> Goodey, Jo, *Migration, Crime and Victimhood: Responses to Sex Trafficking in the EU*, at p. 418.

<sup>50</sup> For more on this issue see Mendelsohn’s Typology of Criminal Victims, according to which victims may be classified in completely innocent, victim with minor guilt, voluntary victim, victim guiltier than the offender, victim who alone is guilty, and the imaginary victim (Mendelsohn, B. *Une nouvelle branche de la science bio-psycho-sociale: victimologie*, in: *Revue Internationale de Criminologie et de Police Technique* (Volume X, Number 2), Geneva, 1956, pp. 95-109; Wolfgang, M., *Patterns in criminal homicide*, University of Pennsylvania Press, Philadelphia, 1958). Another suggested bibliography would be Audet, J. & J. – F. Katz, *Précis de victimologie générale*, DUNOD, Paris, 1999. For the record, the author does not agree with this typology and its moralistic overtones. Besides being discriminative, it may cause secondary victimization.

Besides their consent, which is not relevant for the characterization of a person as victim of trafficking<sup>51</sup>, they are at first sight labelled as prostitutes<sup>52</sup>. Therefore and depending on the criminal code of the country where they were caught, they receive an extra label of criminals due to law laying down the act of prostitution as unlawful. The fact that these are 'victims' before being 'criminals' is not even perceived by law enforcement officers for the simply reason that those women are neither 'naïve' nor 'reliable'. Thus personal characteristics dictate whether a trafficked victim will be entitled to receive or not aid, protection and access to justice. It is not what he/she had been through that is more important, but what he/she is.

### C. *Secondary Victimization in Court*

If granted the victim's status and decided to collaborate with the criminal justice system, the trafficked person will face another battle: the possibility of secondary victimization or trauma in court room. Trafficked victims are seen as potential witnesses for the prosecution thus tools for the law enforcement. They are pressed to give their testimonies, they are obliged to testify in the presence of the defendant, they have to repeat their history several times in detail, they may be asked intimidating questions, they are discredited by defence lawyers and anonymity is not guaranteed.<sup>53</sup>

## V. **In Other Words, a Victim-Centred Anti-Trafficking Policy Would Be a Better Alternative...**

Jo Goodey suggests "*a victim-centred criminal justice intervention that marries the desired goals of policing and punishment of traffickers with the needs and rights of trafficking victims*". We would rather be modest and suggest a victim-centred counter-trafficking policy. The victims' movement has aimed for a victim-centred criminal justice's intervention for a long time. However, this aim was never reached and may never be reached. Because originally, the criminal justice system was established in order to maintain social control and control crime, sanctioning those who violate the criminal laws of a state and re-establishing order, it does not focus on victims' support. The disregard of the victim is therefore inevitable. This means that the criminal justice system in its actual model is unable to provide the victims with an intervention centred in their needs.

Bearing this in mind, the intervention has to be placed in a broader perspective, one that is larger than the ratio of action of the criminal justice system. An effective way

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<sup>51</sup> According to Art. 3 (b) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons.

<sup>52</sup> The author apologizes for the use of this expression which is not politically correct, but this is how some law enforcement officers refer to sex workers. See Klopčič, Alja, *Trafficking in Human Beings in Transition and Post-Conflict Countries*, at p. 10; Goodey, Jo, *Migration, Crime and Victimhood: Responses to Sex Trafficking in the EU*, at p. 427.

<sup>53</sup> For more on secondary victimization in the court rooms, see Herman, Judith Lewis, *Justice From the Victim's Perspective*, in: *Violence Against Women* (Volume 11, Number 5), Sage Publications, 2005, pp. 571-602.

of combating trafficking is to ensure that trafficked persons are provided with support that is to say with the necessary help to recover from trauma and to be empowered to make informed decisions. In this regard, at the first place would be the needs of the human being or of the victim, and at a second stage would be the requirements of law enforcement.

*“Law enforcement agencies cannot fight trafficking effectively by simply moving trafficked persons from one system of control into another – that is, from being controlled by traffickers to being controlled by law enforcement officials”<sup>54</sup>. Victims have to be empowered and thereof to take back the control over their lives. They have to be freed from all the labels that they had received as a result of the victimization, labels such as illegal migrants, sex workers, victims or witnesses. Freed from those labels, people would recover their status of human beings to whom rights are entitled and would collaborate more effectively with the criminal justice system. We acknowledge that the criminal justice system may distinguish between these different roles. However, we believe that recognizing roles or attributing labels, whether there is a clear distinction of roles or not, do not avoid stereotypes. Indeed, it reinforces. In addition, the recognition of one of the roles – e.g. the role of illegal migrant – may have an impact in the recognition of other roles – e.g. victim – and sometimes even provoke the denial of another role – e.g. reliable witness.*

Therefore, Prosecution is necessary however it shall not be the ultimate goal because the cycle of trafficking in human beings can only be disrupted with effective support and protection of the victims involved in trafficking.

The implementation of a human rights based approach in which the status and protection of the victims are at the very centre (e.g. granting of reflection period and temporary residence permit irrespective of the victim’s ability or willingness to testify in criminal proceedings).<sup>55</sup>

In this regard, the Protocol to Prevent, Suppress and Punish Trafficking in Persons and the Council of Europe Convention on Action against Trafficking in Human Beings are important documents because they both recommend states to provide special and particular protection and support to victims of human trafficking. However, for their implementation, certain changes in the criminal justice systems should be implemented. This means that victims’ empowerment depends not only on changing provisions and providing support but also on changing the current criminal justice system to a system which would provide the victims with an intervention centred in their needs.

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<sup>54</sup> Anti-Slavery International, *Human Traffic, Human Rights: Redefining Victim Protection*, at p. 34.

<sup>55</sup> Helga Konrad, Special Representative on Combating Trafficking in Human Beings, during the High-Level Conference of the Alliance against Trafficking in Persons, Vienna, 17 March 2006.