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The Search of the Legal Validity of Short and Medium Term Human Security

Abstract

Taking into account the number of arguments raised by different states and groups, responsible for contributing with elements that have permitted the adoption of urgent reforms by the United Nations Organisation (UNO), the predominance of a series of discrepancies is still perceived, ranging from determined defence of the national objectives and interests, by both powers and less developed countries, to the lack of a clear and agreed definition of different types of security to be included in this reform.

Considering the recent events which have arisen in several countries of the Middle East and Africa, it is convenient to briefly review the evolution of different concepts which have emerged on "human security", especially as this principle, that in its evolution has become "The Responsibility to Protect" (R2P,) has not yet been universally accepted, much less recognised as a part of the International Law. Nevertheless it could go as far as considerably affecting the National Sovereignty of States.

Key words: *human security, responsability to protect, national sovereignty, International Law.*

Poszukiwanie prawnej zasadności w zakresie krótko- i średnioterminowego bezpieczeństwa człowieka

Streszczenie

Biorąc pod uwagę liczne argumenty podnoszone przez różne państwa i podmioty odpowiedzialne za przyjęcie pilnych reform Organizacji Narodów Zjednoczonych (ONZ), jest nadal widoczna przewaga serii pewnych rozbieżności, wahających się od zdecydowanej obrony narodowych celów i interesów, przez zarówno potężne, jak i słabiej rozwinięte państwa, aż po brak jasnej i uznanej definicji różnych typów bezpieczeństwa, które mają być zawarte w tej reformie.

Mając na uwadze ostatnie wydarzenia na Bliskim Wschodzie i w Afryce, warto dokonać krótkiego przeglądu ewolucji różnych koncepcji, które pojawiły się na temat "bezpieczeństwa człowieka", zwłaszcza jako że ta zasada, która w swojej ewolucji stała się "Odpowiedzialnością do ochrony" (R2P), nie została jeszcze powszechnie przyjęta i znacznie mniejszym stopniu uznawana jest za część prawa międzynarodowego. Jednakże może w znacznym stopniu wpływać na suwerenność narodową państw.

Słowa kluczowe: *bezpieczeństwo człowieka, odpowiedzialność za ochronę, suwerenność narodowa, prawo międzynarodowe.*

When referring to human security, there is an expanding tendency[1] that allows coining this concept, by embedding it into the security area where new players enter: individuals and non-governmental organisations (NGO-s), together with new issues, such as poverty, undocumented migration, drug trafficking, human rights violation, authoritarian regimes, proliferation of weapons of mass destruction, terrorism, infectious diseases and environmental degradation.

This is how the concept of human security bursts onto the world stage in the mid-nineties, in the context of the search for new paradigms in order to explain the changes in the global system. Yet, at the same time, it initiates an increasing theoretical and political discussion regarding the traditional concepts of security that have inspired the actions of countries throughout much of the last century.

In order to address the identified issues, ever since 1990 – under pressure from developed countries – the UN has adopted the idea of "development" in its security agenda by means of the annual reports on human development of the United Nations Development Programme (UNDP)[2]. In its turn, trying to contribute to this undertaking (without really succeeding), the World Bank and the International Monetary Fund have also focused their policies on combating poverty. Thus, in the Human Development Report (1993), for the first time, the UNDP designed and integrated human security as a need to defend people's safety rather than national security. It is also a need to give greater emphasis to security based on

[1] This includes military, political, economic, social and environmental aspects with an anthropocentric approach (doctrine that regards man as the centre of the universe). *Pequeño Larousse Ilustrado*, p. 76.

[2] M. C. Rosas, *Terrorismo, democracia y seguridad*, México, UNAM-Australian National University, Editorial Quimera 2002, p. 134.

human development, instead of security through arms; moreover, it is a need to ensure food, employment and environmental security rather than territorial security.

Subsequently, in its 1994 report, the UNDP, in order to expand its coverage, changes the term "human security", as the report indicates that human security also involves a universal concern for human life and dignity, that its components are interdependent and that the best way to make it effective is by preventing threats[3]. Similarly, it states that human security is based on the protection and development of the individual and it identifies seven categories to ensure human security from a global perspective: economic, food, health, environmental, personal, community and political security.

This term was also discussed during the Millennium Summit (2000)[4], as two major initiatives of this forum arose: The Commission on Human Security, which designed the document: "Human Security Now", and the Commission on Intervention and State Sovereignty, which issued the report "Responsibility to Protect".

The former develops the concept of human security from the perspective of the protection of vital freedoms of people, by proposing a set of instruments and action programmes to implement policies based on protecting and empowering the individuals. The report, on the other hand, focuses mainly on the issue of humanitarian intervention, emphasizing the responsibility the international community has towards peoples who are suffering severe damage of their human rights.

In September 2000, the UN Secretary General, Kofi Annan, created the International Commission on Intervention and State Sovereignty with the purpose of developing human security policies and debating the existing relationship between the intervention for humanitarian reasons and the sovereignty of states. Another instance created within the UN was the Commission on Human Security (January 2001), based on the Millennium Report of the Secretary General.

[3] *Human Development Report 1994*, UNDP, Oxford University Press, p. 22-33.

[4] In September 2000, the main world leaders met, having committed to intensify the efforts for peace, human rights, governance, environmental sustainability and poverty eradication, as well as promoting the principles of human dignity, equality and equity, setting eight goals and 18 specific targets in order to advance in the following areas: eradicate extreme poverty and hunger, achieve universal primary education, promote gender equality and empower women, reduce child mortality, improve maternal health, combat HIV/AIDS, malaria and other diseases, ensure environmental sustainability, develop global partnership for development. These objectives, as well as the commitments undertaken by the states, were ratified during the Monterrey (Mexico) Conference on Financing for development, in March 2002. *Human Development Report*, UNDP, 2003. Refer to Fuentes, Claudia F., *Cumbre del Milenio y Seguridad Humana*, FLACSO Chile.

The Commission considered that human security means to protect the vital essence of all human lives in a way that enhances human freedoms and the full realisation of the human being; moreover, it means to protect fundamental freedoms, freedoms that are the very essence of life, to protect the human being against all critical and omnipresent situations and threats and to use processes that are based on the strengths and aspirations of human beings. All in all, it means the creation of political, social, environmental, economic, military and cultural systems that should provide to humans the cornerstones for survival, livelihood and dignity[5].

Finally, in 2005, the World Summit takes place, where 170 Heads of State and Government "crystallised" the principle of "Responsibility to Protect[6]" (RtoP or R2P), during the High Level Plenary Meeting of the 60th Session Period of the UN General Assembly (September, 14-16). On this occasion there was an attempt to ensure an effective response of the international community to the imminent threat of genocide and other heinous crimes.

The R2P stipulates that States must protect, individually and collectively, their peoples against genocide, war crimes, crimes against humanity and ethnic cleansing. According to its proponents, it is a principle not inconsistent with sovereignty and with equality between states. Thus, when a state clearly breaks its obligations, the international community must take charge to prevent or stop the atrocities.

[5] On May 1 2003, the Commission presented a report on this topic. It states that human security means freedom from want, freedom from fear and freedom to act on one's behalf. In the pursuit of these freedoms, it offers two general strategies: protection and empowerment, understanding that it considers as a premise that protection shields people from dangers and empowerment enables people to develop their potential and fully participate in decision-making. Similarly, the report concludes with a list of human security priorities, among which: to protect people in violent conflicts and against weapon proliferation, to support people who are moving (migration), to enhance fair trade for the benefit of people living in extreme poverty, to give greater priority to ensuring universal access to basic health care, to empower people by means of universal basic education, to clarify the need for a world human identity. It proposes the official inclusion of human security on the agenda of the organisations dealing with security issues at all levels.

[6] It was issued by the International Commission on Intervention and State Sovereignty (December, 2001). It is the response to the call that the UN Secretary General (Kofi Annan) made to the International community in 1999. As additional data, it is noted that the Government of Canada, together with a group of important foundations, announced during the General Assembly (September, 2000), the creation of the International Commission on Intervention and State Sovereignty (ICISS). Its purpose was to clarify various legal, moral, operational and political issues included in the debate so as to assist the Secretary General and the other interested parties in finding new common ground in this matter.

The critics to this principle assert that the ideologists (and the countries) that support its adoption seem willing to use it in order to justify military interventions or, in other words, to include into the International Law the so-called "right to humanitarian interference" (humanitarian intervention). Obviously, they defend the concept of national sovereignty.

Given the aforementioned, it is necessary to clarify the ambiguities, difficulties and achievements of human security. In principle, even if it is true that human security is a concept that favours the safety of people, it is also known that, based on the set of instruments and elements outlined above, one can consider that the notion of human security means different things to different entities and States. Moreover, there is a series of variations and articulations that tend to undermine the consensus as there is no clear definition of the real threats that affect the security of people and societies. Since there are numerous alternative definitions, the proposals of the different players through different agendas often become unintelligible, leading to a poor definition that in the best of cases has only reached a universally consistent term[7].

Another aspect, perhaps the fundamental one, regarding human security, is that, given the lack of consensus towards a universally acceptable conception, there will be difficult to reach the result that the promoters seek, not to mention that if this polarity continues, all programs and suggestions regarding this security tend to be obstructed by lack of funds that could otherwise be obtained through bilateral and multilateral cooperation.

Furthermore, it will be a cause for resources failing to reach their final destination, to reach peoples, when States realize that they cannot make commitments arising from vaguely defined approaches. Likewise, it is also necessary to note that the concept promoted by the UNDP (1994), that established the need to liberate people and societies from fear of their fears and the need to meet their necessities (freedom from fear and freedom from wanting), would only seem an expression (full of excellent intentions, if you wish), but that, unfortunately, as it has already happened in other occasions, could only remain a simple temporary political discourse, especially taking into consideration that projects are not aimed at powers, but countries charged with more responsibility in relation to new topics, countries which supposedly are a threat to international security, i.e. developing countries.

[7] G. King, J. L. C. Murria, *Rethinking Human Security*, "Political Science Quarterly", Volume 116, 2001-2001, p. 585-610.

That is precisely why this concept is seen as extremely difficult to implement, as it does not bring a lot to the decision-making process in areas so sensitive to humanity[8]. Similarly, this concept becomes dangerous if powerful States try to implement it unilaterally, particularly taking into account that internationally there is a polarisation (diaspora) of opinions as to different topics surrounding collective security. Also, it has to be taken into consideration that the agenda of the powerful countries tends to satisfy their own requirements, prioritising their own national interests, or it might serve to gain conditional support that in no way could meet the basic needs of objective and disinterested human security.

Of course there are positive situations that emerge from the different existing concepts of human security. Nevertheless, they fade and fail to reach the optimum given the aforementioned factors and other factors that are directly or indirectly involved in their actions. For example, one has to admit there is an increasing debate at an international level, over the configuration of the concept. Moreover there is an emergence of a great number of instances that have occasioned documents with proposals that aim at achieving a consensual agenda, which could surely serve as coordinating elements for the countless challenges human security has to face[9].

Another positive aspect emerging from the series of documents referred to throughout this work is that human security, unlike the traditional concepts of security, becomes a valid attempt that definitely tends to protect individuals and their communities, even beyond the concern for territory defence and military power.

That is why States should be involved in the integration of policies and actions that strengthen the security of people[10]. However, that should not imply direct intervention in their internal affairs (much less military action), except for events that would justify it. In any case, it is necessary that, within the reforms of the Security Council of the United Nations, appropriate, credible and reliable mechanisms be established (legal mechanisms, of course).

They should be in accordance with International Law, thus impossible to "be interpreted" according to the interests of the powers. Instead, they should be integrated in a multidimensional framework, where all parties have fully identified rights and responsibilities, planned in a multilateral framework. This is what the new international order

[8] M. C. Rosas, *op. cit.*, refer to footnote 2.

[9] C. F. Fuentes, *Cumbre del Milenio y Seguridad Humana*, FLACSO, Chile.

[10] *Ibidem*.

needs, in which joint action of States acquires a system that meets requirements at all levels, i.e. within each country, as well as at regional and international levels, through cooperation[11].

Therefore, currently, the challenge is to undertake a gradual demilitarization of security in order to bring it closer to the authentic values that cause insecurity and violence and to deal with them through new, non-military means[12]. For that reason, within the above mentioned framework, one can notice certain awareness regarding the evolution of a rigid system of national sovereignty, passing through a system of transnational sovereignty (including all sectors of society) towards a system of personal sovereignty. Therefore, individuals must be recognised the legal and political possibility to challenge their rights in those fields where failure affects them directly. The relationship between disarmament and human security gains, in this context, increased relevance and a clear and determined political will to bring it into full force[13].

Conclusions

The truth is that states are facing a dilemma of either decisively addressing the issue of human security or "ensuring" their internal and international security. For instance, "humanitarian interventions" are developing in the Middle East and Africa that, just in case, have been rated within normal parameters given the popular mobilisation that grew into a national outcry (Egypt and Tunisia), with multiple casualties as a result of the reaction of police forces in both cases, going to the situation in Libya, that began in a similar way in all respects, but later became an armed uprising, so that military forces of the country had to intervene. In other words, the masses of civilians have become armed rebel groups.

Although the intention of the humanitarian intervention in Libya was to avoid bloodshed among the civilian population, it has not met this goal. On the contrary, it seems to have been the initiator of a civil war and it is responsible for the possible division of the country into two or more parts, with strong geopolitical implications in a region that did not need increased tensions.

Thus, all seems to indicate that the use of the concept of human security or R2P has turned into "directed safety", therefore remote from the protection of the affected

[11] *Ibidem*.

[12] Alerta 2002, *Informe sobre Derechos Humanos, Conflictos Armados y Transferencia de Armas,* Cátedra UNESCO, Escuela de Cultura de Paul, p. 27.

[13] A. González Aninat, *Desarme y Seguridad Humana*, "Estudios Internacionales y Estratégicos", FLACSO Chile.

communities. Just as troubling is that the North Atlantic Treaty Organisation (NATO), under U.S. leadership, once again becomes the armed wing of the Security Council of the UN. There are some questions to be answered:

What are the European countries doing by joining the United States of America in their warlike plans?

Why is there a Western double moral (U.S. and European) in terms of democracy and human rights?

Are there good autocracies and bad dictators (or vice versa)?

All seems to point out that the ultimate goal of humanitarian interventions is the national interests of powerful countries.

As a final conclusion, human security is, therefore, a broad and comprehensive paradigm that integrates a matrix including all aspects of life and ensuring a dignified existence[14]. Nevertheless, at the same time, it also appears as a complementary approach to the notion of State territorial security and, consequently, it emerges as a concept confronted with the "doctrine of national security", by placing the individual in the centre. Should it, therefore, be understood that the human security perspective includes a multilateral dimension that emphasizes, unlike classical State security, military issues rather than cooperation?

[14] *The Concept of Human Dignity in Human Rights Discourse*, Kluwer Law Internacional, p. 114.