

HUMAN SECURITY AND THE “RIGHTFUL STATE” C. Leucea

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Abstract

The article is based on the idea that human security concept should be understood as an open one, accepted in its broad definition and definitely not in its narrow terms because the variety and multilevel forms of threats to human security can manifest in manners hard to anticipate. The main challenge in promoting human security concept internationally lies in its power to deconstruct the principle of state sovereignty which is the key-stone of the contemporary international system and of international law and that's the reluctance to accepting it. But if there weren't bad states, the human security concept wouldn't have emerged. The point we intend to advance is that defining human security restrictively might imply legitimating sovereignty for “bad” countries in which corruption is endemic and where groups of people who achieved power by “negative selection mechanisms” perpetrates human insecurity rather than security.

Keywords: *human security, sovereignty, state system, non-intervention*

Introduction

Supporters of human security concept have not excluded the importance of state as a provider of safety and public goods for the population, yet in many countries human security is threatened by the actions of its own government. In many cases the state had become a source of threat for its own people. From this point of view, when the state is the perpetrator of violence, understood as well as structural violence, human security is hard to be promoted as long as the state remains the main and legitimate sovereign actor in international relations.¹

The international law is based on the concept of state. The state has its fundament in its sovereignty which involves the supremacy of governmental institutions in domestic sphere and in juridical relations with other international actors. Yet, there are situations in which, for some historical reasons, there have been developed during time negative mechanisms selection of political elite that succeeded to have power to legitimately oppress the population. The principal argument they possess to remain in power and to claim international reconnaissance of state sovereignty is appealing the “rightful state” concept in order to deter foreign intervention.

Still, humanitarian intervention is placed under the question mark regarding its compatibility with predominant norms in international society, sovereignty, territorial integrity and non-interference in domestic state-affairs. Up to now humanitarian intervention was justified in cases of direct and violent conflicts and the narrow definitions of human security was related to conflict management necessity.

Human Development Report (1994) sought to broaden the traditional notion of security focused on military balances and capabilities to a concept that included ‘safety from such chronic threats as hunger, disease, and repression’ as well as ‘protection from sudden and hurtful

¹ KERR, Pauline, ‘Human Security’, in COLLINS, Alan, *Contemporary Security Studies*, Oxford University Press, 2007.

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disruptions in the patterns of daily life.' Human security thus implied economic security, food security, health security, environmental security, personal security, community security, and political security.²

From another point of view, related to historical context, some authors have remarked that the human security concept evolved at a time of great international shifts when the disintegration of the Soviet Union ended the Cold War, when the shadow of bipolar politics that clouded relations between countries had been lifted and the political context gave way to the recognition of new threats and conflicts in addition to the many unresolved ones.³

In our view defining human security in a narrow manner is like bringing an obstacle on a road map of solving problems but having in mind the sovereignty concept to be protected. We agree with many analysts who consider sovereignty to be an outdated principle and an obstacle in promoting human security in different parts of the world.

Yet, "some analysts have argued that sovereignty is being eroded by one aspect of the contemporary international system, globalization, and others that it is being sustained, even in states whose governments have only the most limited resources, by another aspect of the system, the mutual recognition and shared expectations generated by international society. Some have pointed out that the scope of state authority has increased over time, and others that the ability of the state to exercise effective control is eroding. Some have suggested that new norms, such as universal human rights, represent a fundamental break with the past, while others see these values as merely a manifestation of the preferences of the powerful. Some students of international politics take sovereignty as an analytic assumption, others as a description of the practice of actors, and still others as a generative grammar".⁴

The analysis of human security needs anyway a perspective which allows the reinterpretation of sovereignty and to posit the state and the international system in a mutual constitutive relation. The states are partially constituted by an internal dynamic and partially are constituted by international actors, by norms, by inter-subjective meanings. A state is a state as long as other actors recognize it as being a state and posses sovereignty as long as people involved recognize and behave accordingly.

United Nations have been involved in many intrastate conflicts and the intervention has been motivated by humanitarian reasons and peacekeeping missions. Yet many of these operations had been based by chapter VI of UN Charter and depended on the agreement of the parties involved in the conflict, therefore can not be named humanitarian interventions per se.

The challenge for promoting the concept of human security in many cases relies in legitimating the "intervention". There has to be overcome a juridical void as the humanitarian reason is opposable to state reason but up to now the right to interfere in a "rightful" state is considered an offence.⁵

Although different authors, e.g. Stephen Krasner, have remarked, that the principle of sovereignty consolidates "the organized hypocrisy" at the international level, the fact that the term "sovereignty" has been used in different ways reveals "the failure to recognize that the norms and rules of any international institutional system, including the sovereign state system, will have limited influence and always be subject to challenge because of logical contradictions (nonintervention versus promoting democracy, for instance), the absence of any institutional arrangement for authoritatively resolving conflicts (the definition of an international system), power asymmetries among principal actors, notably states, and the differing incentives confronting individual rulers. In the international environment actions will not tightly conform

² TADJBAKSH, Shahrbanou, and Anuradha M. CHENOY, *Human Security. Concepts and Implications*, New York and London, Routledge, 2007, p. 1.

³ *Ibidem*, p. 1.

⁴ KRASNER, Stephen, *Sovereignty: Organized Hypocrisy*, Princeton University Press, 1999, p. 3.

⁵ RUSSBACH, Oliver, *ONU contra ONU*, Editura CNI „Coresi", București, 1999, pp. 20-22;

with any given set of norms regardless of which set is chosen. The justification for challenging specific norms may change over time but the challenge will be persistent.”⁶

As Stephen Krasner shows, the term sovereignty has been used in four different ways - international legal sovereignty, Westphalian sovereignty, domestic sovereignty, and interdependence sovereignty:

- international legal sovereignty refers to the practices associated with mutual recognition, usually between territorial entities that have formal juridical independence;
- Westphalian sovereignty refers to political organization based on the exclusion of external actors from authority structures within a given territory;
- domestic sovereignty refers to the formal organization of political authority within the state and the ability of public authorities to exercise effective control within the borders of their own polity;
- interdependence sovereignty refers to the ability of public authorities to regulate the flow of information, ideas, goods, people, pollutants, or capital across the borders of their state.⁷

There are many situations in which sovereignty exists *de jure* and not *de facto*, or vice versa. A state can have international legal sovereignty, be recognized by other states, but have only the most limited domestic sovereignty either in the sense of an established structure of authority or the ability of its rulers to exercise control over what is going on within their own territory.

From the human security perspective, the domestic sovereignty might be understood as absent in case the state has no capacity to provide safety and other public goods identified as security problems by UNDP, such as economic security, food security, health security, environmental security, personal security, community security, and political security. In the 1990s some failed states in Africa, such as Somalia, served as unfortunate examples. A state can have international legal, Westphalian, and established domestic authority structures and still have very limited ability to provide human security conditions.

There are many challenges involved by promoting human security internationally and we may add that conceiving human security concept in its broad meaning it has revolutionary potential as it is seen as restructuring the international order although everybody knows that on the global arena power speaks security and law.

As it was explained in the book entitled *Constructivism and human security*⁸, the state system can be seen as a constitutive factor of human insecurity and the principles of sovereignty and independence as ideas that prevent legitimate intervention of international community in countries where there are many evidences that people do confront situations of human insecurity generated by corrupt regimes. Blaming the communist regimes and in the same time recognizing and cooperating economically with them implies at least the concept of organized hypocrisy or the double standard behavior, a disjunction between discourse and action.

The community of democratic states who share the values of democracy and human rights should make a choice and assume a single position. Universality of human rights implies renouncing to the idea of “private zones of security” and replacing it with the idea of multilateral cooperation. The principle of sovereignty should be reinterpreted (maybe) in terms of suzerainty or limited sovereignty. The responsibility must be shared by international democratic community of states in cases when we speak of failed states, endemic corruption, structural violence, bad governance or abuses of the rule of law.

A good example for what may be named constitutive causes for human insecurity or structural violence would be the “attack” of the persons composing the Romanian Parliament by voting a set of laws that would enable more corruption and eluding the rule of law. What was

⁶ KRASNER, Stephen, *Op. Cit.* p. 3.

⁷ KRASNER, Stephen, *Op. Cit.* pp. 3-4.

⁸ LEUCEA, Ioana, *Constructivism și securitate umană*, Editura Institutul European, Iași, 2012.

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named in Romania “Black Tuesday” can be seen as an example of threat to human security generated by the “dead-point” from a legal system. As Immanuel Kant wrote, the monarch has no juridical duty as being the source of law. Yet, in cases of democratic regimes the idea is not applicable as it involves the prevalence and hierarchy between the principles of democracy and the rule of law. Iulia Motoc has approached the subject in her study dedicated to the issues of democracy, the rule of law and development, the case of Romania.⁹

What the Romanian members of the Parliament tried to do on Black Tuesday was to use the legislative sovereignty of the Parliament in order to protect some group interests by using the dead-point from a juridical system where the state can no be forced to subsume to its own regulations.¹⁰ Victor Duculescu noticed the dead-point of law-generation and proposed a parliamentary code of behavior as the political contest can not be restrained not to play even in the arena of the Parliament.

This type of mechanisms of governing that allow a minority to promote laws for specific group interests presupposes the relation between democracy and the rule of law. That’s why the criteria proposed by Arend Lijphart¹¹ are of great necessity for consociate democracy to function.

Some theories of international relation assume that as long as there is no international state, there will be an essential difference between internal and external politics.¹² In our opinion the assumption is no longer valid as the anarchy and the principle of non-intervention can no longer justify any type of political conduct and the principles of human rights and democracy adopted by some actors within the international community determine them, as a consequence, to intervene in cases and in states where the human security is threatened.

One relevant speech delivered by the of Romanian President of the Chamber of Deputies, Valeriu Zgonea, when trying to defend the illegitimate vote given by the majority of parliamentary in December 2013, on Black Tuesday, when officials from other countries had taken the position of condemning the vote, had made reference to legality and sovereignty of the Romania Parliament to decide what laws to promote. The argument would be accepted as valid in other historical context, probably during the Cold War period, but nowadays invoking sovereignty and legality without questioning the constitutional norms and social mechanism that might afford a small group of people coming to power and persecute the rest of the population or inhibit the democratic development of the society would involve ignoring the international context that generated heated discussions on the issue of human security. The concept of human security wouldn’t have been developed if the tension between the government apparatus of a state and its population would have existed.

In conclusion, if there weren’t bad states, the human security concept wouldn’t have emerged. Defining human security restrictively might imply legitimating sovereignty for “bad” countries in which corruption is endemic and where groups of people who achieved power by “negative selection mechanisms” perpetrate human insecurity rather than security. In this respect the democratic international community must have a word and find ways to reduce the importance of the principle of sovereignty at the global level.

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⁹MOTOC, Iulia, “Democrație, stat de drept, dezvoltare: Cazul României” la <http://193.226.121.81/publications/buletin/10/motoc.pdf>, 02.02.2014, 20:48.

¹⁰ DEL VECCHIO, Giorgio, *Lecții de filosofie juridică*, Editura Europa Nova, 1998, p. 196 – 203;

¹¹ LIJPHART, Arend, *Modele ale democrației*, Editura Polirom, Iași, 2006.

¹² GUZZINI, Stefano, *Realism și relații internaționale*, Editura Institutul European, Iași, 2000, p.32.

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