THE RIGHT TO LIBERTY AND SECURITY: A PRECONDITION FOR ESTABLISHING AND GUARANTEEING THE HUMAN SECURITY

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Abstract

In most democratic countries public order is a constitutional category, within which the state has the power for the rule of law, justice, intelligence agency, civil emergency agencies and border control. In this context security institutions protect the public security and the rights of all citizens. The right to liberty and security is a precondition for establishing and guaranteeing the human security. If by 'Public Order' we mean respect for law and for the public institutions by the citizens, then within public peace and order we should mean also the protection of legal interest and liberty of citizens. According to this definition, the object of public order would encompass the respect for laws by the citizens; respect for public institutions by the citizens; protection of legal interest by the state institutions; protection of the rights of citizens by the state institutions. Public order is also the biggest legal guarantee for human security since public order includes all legal norms which are consumed by the people in order to make them feel that the human security they have been searching for all their life, lies in their homes, workplace and in public. All issues related to the dynamics of the communities enter the area of human security, but this is applicable for the entire community and not just for an individual. Thus, the public order balances the needs and wishes of individuals for a bigger area for movement and activities, which results in guaranteeing the individual security within the security in the community.

Keywords: Citizens, Human Security, Community

Introduction

The "first generation" of human rights, respectively the classical rights of people appeared during the process of liberation of the society from the feudal regime. This relates to those rights and liberties which were important for limiting the misuse of state power, which was specific for the medieval period. The "first generation" of human rights is best presented

within the Declaration of Human Rights of 1789, from the French Revolution which emphasized the importance and the main specifics of the position of the individual in the state which was being established on the medieval foundation. Human rights contained in the Declaration of 1789 are the most important ones and are qualified as "natural and inalienable rights" of individuals such as: liberty, property, security, rebellion…to oppression" (Sadikovic: 2006).

The right to liberty and security: a precondition for establishing and guaranteeing the human security

What does the deprivation of liberty encompass? "Arrest" and "detention"! Terms *arrest* and *detention* are interrelated almost in all clauses of Article 5 and they should be considered as an outcome, since they are mainly tied to a measure- for whatever purpose they are used by the domestic laws with the effect of deprivation of liberty of an individual. The guarantee given by the condition of legal safeguard by Article 5 is considered by the Court that it is revealed once a deprivation of liberty has occurred which in a way would also mean a violation of the Convention. The main criterion is to focus on accomplishing the processes and not the manner by which they are named (Macovei: 2002).

The Universal Declaration of Human Rights except for a number of classic political rights has also proclaimed a considerable number of so-called social and economical rights. This way, the Universal Declaration has expressed the efforts of the people of the New Age, that except for the political position, they ensure also a respective economic position. This was the period when the liberal state vanished from the political stage; a state with a specific slogan "*Lasser faire, lasser passer*". This was at the time when the "modern intervening country" had more and more importance and had expanded its activity in economic and social life. Nevertheless, it has been observed that the European Convention on Human Rights included mainly political and classical political rights, while in practice it excluded all those human rights and liberties proclaimed by the Declaration of 1948, of a socio-economic character. Such approach of the authors of the Convention results from their orientation that through the European Convention they include only those rights and liberties which are possible to protect and realize (Macovei:2002).

"The third generation" of human rights, which mainly include various collective rights, are not included at all within the European Convention on Human Rights, although it is undisputable that the European Continent is a continent of multiethnic states comprised of all European citizens and certain national minorities. The European Convention on Human Rights is strong on the issue that the individual is the only beneficiary of the human rights. In

other words, it means that ethnic, religious and other communities cannot be the sources of human rights; on the contrary, the individuals are authorized to use all their rights and liberties, including the liberty to association to any ethnic, religious or racial groups. The Convention, among others, has provided for protection from any discrimination which may take place due to ethnic, religious or any other basis within a state. In order for the ethnic and other rights to be aligned within the human rights system of the European Convention, the Convention must be appropriately protected by the state, such as the case with all the human rights included in the European Convention (Sadikovic:2006).

The human security

Compared to the past, today the concept of human security is understood as a situation in which individuals are coping with the trauma surrounding the human development or where there are no such trauma, (UNDP: 2009) it has changed towards his development always in favour of the individual and the citizen. Yet, such treatment requires a reassessment of many elements, among which there is a need to strengthen the elements of human security and not those of traditional security (Mejdani: 2007). During most of the 20th century, security was understood exclusively as national security and was focused in problems stemming from threats, use and control of military power in the context of international state-centric competition (Hank: 2005). After the Cold War the concept of "national interest" has seen a visible transformation by moving from state security to individual security and welfare (Wolfers: 1952). The priority of the analysis of the security concept during this period shifted towards the so called *Human Security* (Myrray: 2002). Human security plays the role of a conceptual instrument that tries to give a full answer to the questions in the contemporary age: What does being secure means? What about insecurity? Need security from what? How much security?

The concept of human security reveals the fact that the state-centric realism no longer presents a sufficient security argument, as it does not refer appropriately to human security from political violence within states. Human security, which often in academic analysis is referred to as "**anthropocentric security**", or as "human face security", is focused on being free from fear and free from human poverty (Thakur : 2004), distancing itself from the analysis in state level and focusing on the individual level of analysis in international relations. **Anthropocentrism means that the human beings are the central or most significant species (more so than animal species), or the assessment of reality through an exclusively human perspective. The term can be used interchangeably with human centrism, while the first concept can also be referred to as human supremacy.**

Anthropocentrism is a major concept in the field of environmental ethics and environmental philosophy, where it is often considered to be the founding root cause of problems created by human interaction with the environment; however, it is profoundly embedded in many modern human cultures and conscious acts.

Security in today's age is more linked with the individual than with the state, confirming as such that it is to be considered a priority orienting the analysis of academics towards a human-centric goal of security. But, such an articulation would be incomplete if we fail to mention that the human security analysis shall not be done as part of the state security analysis, but only as an annex of the same. Human security, as a study field within international relations, has brought to light the expansion of the security concept, to include within the same not only the interstate and international dimensions of human security, but also within the state itself.

State security or human security

Contrary to the state security, which has to do with the defending the territory, rights and functions of the state, its political structures, inside and outside the country; human security places at its centre the human, life, welfare, respect for dignity, human rights and liberty. The latter cannot be measured directly as economic development indicators, but considering the loss of human lives in traffic, conflicts and tragedies within the family and community, increased economic difficulties, high pollution of the environment, many flaws of health care etc., it results in a serious aggravation, independently from what it may be stated or presumed (Mejdani : 2007).

The lack of attention for basic security and the security standards by the humanitarian community is endemic. The loss of life is only one of many unfortunate examples. Such incidents are increasing and are creating insecurity. The tools for establishing an organizational security framework are readily available. Capacity to implement this framework requires understanding the culture of safety and security and individual and organizational leadership (Burkle: 2013).

Invisible victims

Homeless people and the increased security mistakes seem promising. It seems that the security has been denied to the homeless. It has been denied not only because the situation of the homeless means de facto insecurity (based on the fact that it presents a lack of shelter and economic security), not only because the homeless are exposed to violence and other forms of victimization, but also because the basic protection by the state and the police in particular- is denied to them, because security is unevenly

shared. Freedom of speech and expression, freedom of worship, freedom from want and freedom from fear (Roosevel: 1941), are the rights and liberties for which every individual needs to be guaranteed. A relatively narrow definition of security means 'relative', free from insecurity, since all the people are prone to follow their own interests and are concerned with their aspirations (Huey: 2012). Except for the homeless, which is a very minor segment, problems related to human security touch upon many other fields such as:

- e*conomic security,* understood as the guaranteeing of a minimum individual living;
- *food security* understood as the guarantee of physical and economic access to basic food elements;
- *health security*, meaning the guaranteeing of the protection from the diseases and unhealthy manner of living;
- *environmental security*, understood as the short and long term protection of the individuals from natural destruction, threats of humans towards the nature and the damage to the environment;
- *individual security* understood as the protection of individuals from physical violence, whether by the state itself or from other states, from violent individuals and/or non-state actors, from various internal abuse, from political attacks etc.;
- *community security*, understood as the protection of individuals from the loss of relation of the traditional values and/or their protection from ethnic and religious violence; and
- *political security*, understood as providing guarantees that humans "live in a society that respects their basic human needs".

This conceptual concept, is valuable and useful to give us the necessary analytical lent to dissolve the current human security status, not only in general in the field of international relations, but also by more specific projections in the developing countries and/or countries in transition, among which Kosovo and Albania (Hidi: 2012).

In the current worldwide environment, of macroeconomic and political instability and the numerous manifestations, inequity of incomes and the socio-economic exclusion, the six basic values mentioned in the Millennium 2000 are much important for the future global agenda. These values, adopted by 180 governments are: liberty in the sense of being able to live in peace, dignity from hunger, liberty from oppression, violence or injustice and in the sense of democratic and participatory governance; equality between the individuals and nations and the equal rights and opportunities for women and men; solidarity to manage global challenges, based on social justice and equality; tolerance for cultural, religious and language diversity; respect for the nature and sustainable development; and

sharing responsibility for managing economic and social development in the entire world.

Guaranteeing human security requires a step by step and integrated approach in order to address individual, community, economic, health, environmental and political security. Security does not always exclude the risk, thus in certain cases, security measures whether high and professional, may fail in cases when struck by thunder, meteors, etc.

Human security in the Community

The security of the group, is widely linked with the minority groups, such as the ethnic, national and religious groups, but it is also linked with the groups of joint interest of the neighbourhood, profession, business, that may be discriminated by the majority group. This type of security is directly tied to the human rights and liberties, in particular for the protection and development of their identity and in what they believe in.

Communities are characterized by some specifics. Some of the most important specifics are:

- That the members of the community have joint identity, values and understanding;
- That community members have direct and mutual relations;
- That community displays reciprocity which is expressed by several forms of long-term interest, even altruism on the members of this community.

Safe communities are directly linked with the protection of human rights and liberties. Considering that all citizens have the right to live safely, with freedom of movement and live a quality life. On the issue of security of the citizens, the law guarantees the right to security and freedom of movement. Yet, this should not remain only within the limits of users of these guarantees, but simultaneously, they need to contribute to the building of capacities of local citizens to address their concerns and to solve problems faced by the community where they live.

Based on the above, in 2003 the International Criminal Investigative Training Assistance Program (ICITAP)in Kosovo commenced with the training of groups of citizens from the municipalities of Gjakova, Fushe Kosova, Vushtrri and Artana. These participants were trained on problem solving issues and its phases. This knowledge was used to establish, within the respective municipalities, the Community Safety Action Teams (CSATs). The training focused mainly on identifying, analyzing and assessing problems and how to solve these problems in their respective communities. The trainings took place at the Police School in Vushtrri, Kosovo. Every municipality delegated a minimum of 30 members selected by the respective Municipal leadership and the Police Station Command. Members of the four

mentioned municipalities in 2003, for two weeks attended community safety training. The training with the second group of trainees took place in 2004. Participants were selected from municipalities of Dragas, Kacanik, Leposaviq and Rahovec. It is worth mentioning that some of the graduates from the first round of participants were selected to serve as speakers for the second group.

The establishment of other CSATs continued with the following chronology:
- During 2004, CSATs established in the municipalities of Istog, Lipjan, Kamenica and Sterpce.
- During 2007, CSATSs established in the municipalities of Klina, Obiliq, Prizren and Viti.
- During 2008 CSATs established in the municipalities of Peja, Skenderaj, Gjilan and Podujeva.
- During 2010 CSATs established in the municipalities of Pristina, Drenas, Theranda, Malishevo and Graqanica.
- During 2011 CSATs established in the municipalities of Decani, Kllokot and Ranilug.
- During 2012 CSATs established in the municipalities of Mamusha and Partesh.

This way by 2012 a total of 34 CSATs were established in the territory of Republic of Kosovo. Simultaneously, all the CASTs in the respective municipality level are also represented in the CSAT national level. Each of these municipalities assigned two coordinators who were assigned as the leaders of the teams and focal points for contact with ICITAP.

Seeing the increase in numbers CSATs and their expansion Kosovo wide, led to the question- What is the activity of these teams and what do they do?

The activities of these teams are focused in the various issues, negative behaviour in schools, prostitution, health education and issue of the homeless. CSATs have identified and addressed many security concerns and concerns of the public order in the community where they work. Thus, in this aspect the conclusion is that these teams are engaged in maintaining human security in the area where they perform their activity. These teams contribute to the maintaining the security in the community and preserve public safety.
- The definition 'Community safety' includes, but is not limited to, a concept which observes the appearance of physical and social changes in line with priorities of the local communities as a way of preventing the crime and other disorders. This allows the citizens to monitor and take full advantage from their social and economic life without any fear from crime, disorders and accidents; while

- The definition of 'Public safety' means prevention and protection from occurrences which may threaten overall public safety from a considerable risk, such as crime, natural disasters and man created disasters.

Building capacities of local people to address their concerns in this manner, presents a valuable opportunity for sustainable development. The motive behind community policing, and of the CSAT programs, is to facilitate cooperative and trusted relations between police officials, municipality officials and community representatives/leaders. Based on the philosophy "*the people are the police and police are the people*", police actions in the community in Kosovo aim to bring together various actors so that they address the problems of crime, security, order and life. This way, the citizens are directly involved and play an important role in treating these issues in partnership with the local authorities.

CSAT representatives regularly participate also in the regular meetings of the Municipal Council for Safety in the Community (MCSC). MCSC was established in accordance with the Law on Police and it operates in accordance with the principles addressed in the Administrative Directive no. 27/2012 MIA – 03/2012 MALG.

According to this Directive, MCSC are comprised of mayor of the respective municipality, police commander, religious leaders, ethnic communities, gender equality officials, director of municipal director of education, chair of the parent Council of Education, KSF representative, CSAT chair, representative of emergency services in the municipality, a representative from the local NGOs, local media, business communities and communities of people with disabilities.

The goal of this forum is to address issues/problems of crime and security such as:
- Increased awareness towards current issues and concerns on the community safety,
- Increased awareness towards joint activities which include the community, police and municipality.
- Clearer roles of members of the society in reference to crime reduction, increase of the security level and improving the live-ability,
- Improved communication between the community, police and municipality.
- Better problem solving skills.

Conclusion

If human security does not exclude the risk and is so vulnerable, then how is security achieved? It is best if our conclusion to this question would be that the security is best achieved by drafting and implementing security

plans, taking specific security measures which are successful only when unforeseen and sudden threats and risks are avoided. Based on the above we may conclude that security and liberty often have conflicting relations with one another. This is best described through the comparative example of the physical and economic security: physical security means the feeling of security, maintaining body integrity, lack of physical threats etc. Economic security is permanent security as its existence ensures biological security of the individual.

One of the biggest challenges faced by the CSAT members (as referred by them), is related to the financial and logistic support for them. Although, each CSAT member has attended full and intensive training supported by the donors (including some IT equipment, offices and training equipment), yet the OSCE mission nor ICITAP do not provide continuous financial support for CSATs. The goal is for those to make them self-sustaining and more stable, always having the skills to provide necessary support by the third parties. Except for the challenge of financing, another aspect was the principle of being unbiased in the sense that CSATs should refrain from dependence from the municipalities and the police and in this aspect also to be independent on issues under review. Considering these two issues, the financing and the independence of CSATs, these teams remained in the hands of the local government who would decide whether any funds are allocated to them. Another challenge of the CSATs was and it still remains their legal status. CSATs are not officially registered and in this constellation they are not legitimate and have no account of their own in which regularly and through foreseen procedures they would be able to obtain financial support based on which they would implement their projects.

All the communities should initiate and/or take part in the activities and events with the purpose of improving their wellbeing in the area where they live. The involvement of the community would be in the form of:
- Organizing community meetings which are focused on a number of security issues.
- Organizing campaigns for increasing the awareness on the issues such as drunk driving, domestic violence, trafficking in human beings and hooliganism.
- Bringing health and police officials at one table with the purpose of addressing the issue of stray dogs,
- Addressing the security issues for the returnees,
- Participating in the MCSC meetings to talk about the needs and the security issues in the community,
- Engaging in voluntary activities in support of emergency situations and cleaning the environment,
- Addressing the woodcutting and the illegal throwing of the garbage,

- Engaging through presentations and coordinating various activities organized by security partners in the community,
- Engaging in placing security cameras in schools,
- Giving presentations in schools together with the police and local officials, about safety in the community,
- Researching for grant opportunities whenever a challenge is presented due to finances.

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