



O C C A S I O N A L P A P E R S E R I E S

ISSUE NO. 8, June 2002

GERD OBERLEITNER

**HUMAN SECURITY AND HUMAN
RIGHTS**

European Training- and Research Centre for Human Rights and Democracy

Schubertstrasse 29
8010 Graz
Austria
Tel +43 316 322 888 1
Fax +43 316 322 888 4
e-mail: office@etc-graz.at
web: <http://www.etc-graz.at>

HUMAN SECURITY AND HUMAN RIGHTS

Gerd Oberleitner¹

I. Human security as a new concept

'Human security' has become a catchword in a global debate on the changing meaning of security. While the idea of human security has been preceded by similar concepts laid down in reports of global commissions in the seventies and eighties - the Brandt Commission, the Brundtland Commission and the Commission on Global Governance - 'human security' as a distinctive new concept has largely been created and shaped by Mahbub ul Haq in the 1994 UNDP Development Report. At the same time, Canada has taken up the idea of human security and has started to formulate it as a foreign policy priority.² On the initiative of Canada and other countries, the Human Security Network has been created as a coalition of the like-minded with the aim of advancing human security globally.³ A high level Commission on Human Security, co-chaired by Amartya Sen and Sadako Ogato has taken up its work.⁴ These initiatives have attracted academic interest and the concept has since been further elaborated and discussed in the academic community. Institutes, centres, programmes and certificates on human security have been established.⁵ Publications on human security⁶ make their way into libraries, newsletters⁷ appear and conferences,

¹ Lecturer, Institute of International Law and International Relations, University of Graz, and Executive Secretary, European Training and Research Centre for Human Rights, Graz. The text is the revised version of a paper presented at the 2002 Annual Meeting of the Academic Council on the United Nations System (ACUNS) "New Threats to Global Security: Challenges for the United Nations and Multilateralism", Lisbon, 21-23 June 2002.

² See for the history of the concept as well as for a comparison between the UNDP and the Canadian approach in greater detail Kanti Bajpai, Human Security: Concept and Measurement, Kroc Institute Occasional Paper #19:OP:1, 2000, http://www.nd.edu/~krocinst/report/report19/abs_19_1.html. For the Canadian concept see <http://www.humansecurity.gc.ca>.

³ For information on the Human Security Network see <http://www.humansecuritynetwork.org/network-e.asp>.

⁴ See <http://www.humansecurity-chs.org>.

⁵ A first attempt to list existing institutions and persons dealing with human security has been made by the Harvard Program on Humanitarian Policy and Conflict Research, see http://www.hsph.harvard.edu/hpcr/events/hsworkshop/related_research.pdf.

⁶ Publications include Rob McRae (ed.): Human Security and the New Diplomacy: Protecting People, Promoting Peace, Montreal (McGill-Queen's University Press) 2001; Edward Newman and Oliver P. Richmond (eds.): The United Nations and Human Security, Basingstoke (Palgrave) 2001; Fen Osler Hampson et al.: Madness in the Multitude: Human Security and World Disorder, Oxford (University of Oxford Press) 2001; P. Stoett: Human and Global Security. An Exploration of Terms, Toronto (University of Toronto Press) 1999.

⁷ Human Security Network News Bulletin, http://www.hsph.harvard.edu/hpcr/human_security.htm.

seminars and workshops are being held, from which a bulk of academic papers on human security have emanated over the last years.⁸ The drafting of a Human Security Report is under discussion.⁹

The concept has attracted interest, approval and critique from the scientific community. Definitions are being proposed and discussed¹⁰ and various disciplines have contributed to the debate.¹¹ Yet, human security is a contested concept as for its definition, scope and utility. Proponents see it as a timely, necessary and helpful expansion of traditional security concerns and as a useful tool for shaping foreign policy. In this respect, Lloyd Axworthy has set the stage when he outlined the Canadian answer to the changing meaning of security.¹² Some view it as shifting a paradigm or as a dramatic departure of traditional foreign policy concepts. While criticizing the conceptual shortcomings and the lack of utility as a foreign policy tool, some authors have at least assigned to human security the role to conveniently group together and collectively push a wide range of initiatives centred on the people rather than on the State or, as the very least, as being a useful *chapeau*, which covers a new field of academic debate on security issues in the light of various disciplines.¹³

Critics have accused the concept of being far too universalistic. They have pointed at conceptual flaws and have argued that "securitising" issues (and the human being itself) does not serve the victims of insecurity, but rather creates false priorities and hopes.¹⁴ Human security has been considered a concept which cannot meaningfully be reflected in practice. It has been argued that none of the

⁸ For an overview see the bibliography on human security compiled by the Harvard Program on Humanitarian Policy and Conflict Research in 2001, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/bibliography.pdf>.

⁹ See the report of the Expert Workshop on the Feasibility of a Human Security Report, December 2002, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop>.

¹⁰ For an overview of the definitions of human security see http://www.hsph.harvard.edu/hpcr/events/hsworkshop/list_definitions.pdf, and Sabina Alkire, Conceptual Framework for Human Security paper presented at Kennedy School, Harvard University, 2002, in particular footnotes 2 and 3, www.humansecurity-chs.org/doc/0206harvard.html.

¹¹ Fen Osler Hampson and John B. Hay have prepared an essay on this issue: Human Security. A Review of the Scholarly Literature, 2002, http://www.liucentre.ubc.ca/hsq/_articles/Fen_fulldocument.pdf.

¹² Lloyd Axworthy: Human Security and Global Governance: Putting People First, in *Global Governance* 7 (2001) pp.19-23.

¹³ See Roland Paris: Human Security: Paradigm Shift of Hot Air?, *International Security* 26 (2001) 2, pp.87-102.

¹⁴ See e.g. Yuen Foong Khong: Human Security: A Shotgun Approach to Alleviating Human Misery?, in *Global Governance* 7 (2001), pp.231-236.

initiatives on the human security agenda are new. On a more general level, human security has been viewed as contrary to national interest and weakening foreign policy choices, because it opens the way to justifying humanitarian intervention or – on the contrary – to forcing States into undertaking actions abroad which are against their national interests.¹⁵ Some authors have also echoed the fear that human security might become an ideological instrument.¹⁶

Two sets of definitions can be distinguished: academic analysis on the one hand and governmental policy papers on the other hand. Academic papers, mostly from the social sciences, international relations theory, security and peace studies dwell on conceptual issues and struggle with placing the concept in the framework of the respective disciplines or analysing human security from a foreign-policy oriented perspective.¹⁷

Academic definitions of human security range from narrow concepts focusing on physical integrity or a limited number of threats to be addressed by human security to a broad understanding, which encompasses also psychological and emotional aspects of security. Three basic conceptions have been identified:¹⁸ A narrow approach relying on natural rights and the rule of law anchored in basic human rights; a 'humanitarian' approach, understanding human security as a tool for deepening and strengthening efforts to tackle issues such as war crimes or genocide and finally preparing the ground for humanitarian intervention; and a third and broad view, linking human security with the state of the global economy and globalisation. Furthermore, in the definition of human security negative and positive approaches are applied, i.e. the enumeration of threats vs. describing the objective of human security. Different regional approaches seem to emerge, emphasising selected aspects of human security and challenging or further developing the initial approach taken by the UNDP and Canada.¹⁹

¹⁵ See on this discussion: Walter Dorn, Human Security: An Overview, http://www.rmc.ca/academic/gradrech/dorn24_e.html.

¹⁶ Amitav Acharya: Debating Human Security: East Versus the West, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/acharya.pdf>.

¹⁷ E.g. Kimberly Banks: Human Security and Canadian Foreign Policy, http://af.3dgw.com/smss/pdf/banks_smss2001.pdf.

¹⁸ Fen Osler Hampson and John B. Hay: Human Security. A Review of the Scholarly Literature, draft manuscript, 2002, http://www.liucentre.ubc.ca/hsq/_articles/Fen_fulldocument.pdf, at p.4 et seq.

¹⁹ For two papers explicitly referring to regional views see Francisco Rojas-Aravena: Human Security: An Academic Perspective from Latin America, Discussion paper for the Round Table

Increasingly sub-regional and intra-State security situations are also being analysed from a human security perspective.²⁰

Governmental sources,²¹ in contrast, generally put the emphasis on policy-oriented and operational aspects of human security. To give an example for this approach:

“(Human security) is, in essence, an effort to construct a global society where the safety of the individual is at the centre of the international priorities and a motivating force for international action; where international human rights standards and the rule of law are advanced and woven into a coherent web protecting the individual; where those who violate these standards are held fully accountable; and where our global, regional and bilateral institutions – present and future – are built and equipped to enhance and enforce these standards.”²²

Even though the concept still suffers from theoretical incoherence and questions of definition are far from being solved, human security is on the way to change institutions as well as the practice of global governance. As for UN agencies and regional organisations, human security so far seems to be reflected more in the pamphlets and web-sites as in concrete action. Yet, owing to the involvement of international civil society, the adoption of the land-mine convention, the UN Conference on Small Arms and the creation of the International Criminal Court are repeatedly being attributed to human security as a concept influencing decision-making and action.

Thus, as Roland Paris has pointed out,²³ human security can be understood in different ways: as an academic problem, as a political agenda or campaign, as a

Consultation, Santiago, 4 May 2002, <http://www.web.gc.cuny.edu/icissresearch/Reports/Santiago.discussion>; and Amitav Acharya: Debating Human Security: East Versus the West, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/acharya.pdf>

²⁰ For two randomly selected examples see UNDP: Human Security in South-East Europe, Special Report commissioned by UNDP, 1999, <http://www.undp.org.mk/nivogore/Security7.pdf>; or UNDP: Human Security in Bulgaria 1998, http://www.undp.bg/publications/special/1998_hs.htm.

²¹ First and foremost see the website of the Canadian (http://www.humansecurity.gc.ca) and Japanese foreign ministries' (http://www.mofa.go.jp/policy/human_secu/index.htm) as well as the links to foreign ministries' websites of the Human Security Network, <http://www.humansecuritynetwork.org/network-e.asp>.

²² Lloyd Axworthy on the Canadian approach, in Canada World View, Special Edition, Fall 1999, <http://www.dfait-maeci.gc.ca/canada-magazine/wv-se1/se1t3-e.htm>.

²³ Roland Paris: Human Security: Paradigm Shift of Hot Air?, International Security 26 (2001) 2, at p.102.

'rallying cry' uniting ad-hoc or more sustained coalitions of States on single issues, as a research category or as a change of paradigm in security studies.

While in this paper I do not wish to pursue the issue of definition further, a working definition seems to be necessary. For the purposes of this analysis, I start from my basic understanding of human security: 'Human' means a focus on the individual and 'security' means the protection from threats as well as the provision of a safe environment. For the time being, I will thus understand human security as an emerging new concept which i.) is concerned with the security of people and the individual rather than with the security of a territorial state ii.) is concerned with "survival, daily life and dignity of human beings". I borrow this expression from Amartya Sen²⁴ and I am deliberately using these non-legal and general formulations for two reasons: for their non-legal character, so as not to introduce legal concepts at this point, and for the fact that I find the essence of what I consider to make up human security comprised in this statement. To me, 'survival' contains the security aspect and means protection from threats to the physical integrity as well as the provision of basic needs; 'dignity' refers to a strong link between human rights and human security, which I will discuss later; and 'daily life' seems to refer to the specific nature of human security which goes beyond safety and dignity but links security issues with the life in the communities and families and extends security beyond violent threats to yet unexplored limits.²⁵ While this working definition is certainly vague, it should suffice to reflect the main focus of human security as I understand it for an analysis from the perspective of international human rights law.

I will thus concentrate on how to apply the 'human' as well as the 'security' aspect of the concept of human security to international law. I will focus on the system of collective security together with the underlying concepts of State sovereignty and non-interference in the UN Charter ('security' aspect) as well as on the human rights regime ('human' aspect). In this respect, the close and

²⁴ Amartya Sen: Why Human Security?, presentation at the International Symposium on Human Security, Tokyo, July 2000, <http://www.humansecurity-chs.org/doc/Sen2000.html>

²⁵ For me, this notion further touches upon the idea of human security as being "designed to incorporate governance and protection of political communities with the broader concerns of individual welfare and invulnerability", see George MacLean: The Changing Perception of Human Security: Coordinating National and Multinational Responses, http://www.unac.org/en/link_learn/canada/security/perception.asp. at p.2.

compelling link between a human security approach and the role of non-state actors in international law will have to be addressed as well. All of this can only be a first sketch of how and where human security could be placed in the existing international legal order.

II. Human security: A challenge to international law?

International law as a discipline has yet been very reluctant to respond to the emergence of the concept of human security. I believe, however, that in order to analyse the impact which the concept of human security has or will have on the global agenda, its normative underpinnings deserve to be looked at in more detail.

In anticipating that the concept of human security challenges international law, one can approach the question from many angles. What areas of international law do we have to look at and where do we place human security in the study of international law? In which way can international law be understood as to provide the normative foundations of this emerging new concept? Are human security concerns already covered by international law and is human security nothing new to international law at all? In what way does human security challenge the sources of law and law-making, law-enforcement and State as well as non-State accountability? To what extent are traditional concepts of international law an obstacle to fostering human security?

I will proceed from the assumption that human security, perceived as a departure from state security (and its off-springs) towards individual security can change the established understanding of security in international law. In shifting the focus from territory to people, it can challenge fundamental concepts of international law such as territorial integrity and State sovereignty. It can also pose questions as to what will be the future role of non-state actors in the international legal order.

As for its content, human security has a close link with international human rights law, understood as freedom from fear and freedom from want. When

human security is about individual safety, integrity of the person and protection from structural as well as direct violence, about the freedom from fear and freedom from want, taking a human rights oriented approach might be a valuable tool to further clarify the concept of human security and the extent to which human security will have an impact on the international legal order.

Human security concerns have been raised in particular in situations of massive refugee flows and thus certainly affects the future of international refugee law. Human security is at risk in situations of internal strife as well as humanitarian disaster and consequently has a natural link with international humanitarian law.

Human security is increasingly influencing international decision making, intruding into the international institutional order and influencing global governance and will thus also have effects on institutional aspects of international law.

All of this are not new developments in international law. The question is whether by applying a human security perspective some aspects of change will become clearer, better understood and easier manageable or not.

III. Territorial integrity, sovereignty and state security: shifting the focus

i.) Two concepts in the UN Charter

'Security' has many different aspects.²⁶ In international law, it has traditionally been understood as 'national' or rather 'state' security,²⁷ i.e. the security of States as the primary subjects of international law, based on territorial integrity and sovereignty, as formulated in the UN Charter. The maintenance of

²⁶ For a discussion of different security concepts in relation to human security see, inter alia, Björn Möller: 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, UNESCO, Paris 2000, <http://www.copri.dk/publications/WP/WP%202000/37-2000.doc>.

²⁷ See on this difference with regard to its implications for the human security concept Andrew Mack: Security with a Human Face. A Proposal to Create a Human Security Report, 2001, <http://www.pcr.uu.se/papermack.doc>, at p.5.

international peace and security, as laid down in Art. 1 of the Charter, presupposes territorial integrity and political independence of States.

Security was thus seen as the ability of States to defend themselves against threats or actions against their territorial integrity and political sovereignty. Security issues were perceived in the context of the nation State, and military structures were build to defend the boundaries, institutions, citizens and values. Boundaries were inviolable, and interference in internal affairs was unacceptable.

With the introduction of collective security in 1945, security has been "internationalised", allowing States - under the umbrella of Chapter VII of the UN Charter - to act collectively and, if necessary with the use of force, to uphold or restore international peace and security. The concept of national or State security and its offspring, collective security, have continued to dominate the international legal order.

The concept has then been broadened by expanding towards non-military threats and by reluctantly including internal violence in collective security and peace-keeping activities. In addition, "global" security and the concern for the survival of mankind have entered the agenda.

In today's world of rising non-traditional, non-conventional and trans-national threats, the protection of borders and the preservation of territorial integrity cannot be the ultimate goal of security. In focusing on people rather than on States, human security tries to challenge traditional concepts of security and thus also established concepts of international law such as States' rights, national sovereignty and territorial independence. The driving factors of the human security debate, "the constraints on State sovereignty, the mobilization of international civil society in defence of international norms, and the sharing of power between state and non-state actors in a globalizing world (...) leave a clear message: the state is not longer able to monopolize the concept and practice of security".²⁸

²⁸ Sverre Lodgaard: Human Security: Concept and Operationalization, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/lodgaard.pdf>, at p.4.

From the very beginning, however, a second fundamental concept in the UN Charter has been a challenge to national and international security based on territorial integrity and political independence. The protection of human rights, as laid down in Art. 1.3 of the Charter (“promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion”) has been in conflict with territorial integrity and the non-intervention principle in Art. 2.7 from the very beginning. The question which of the two principles should prevail when they are in conflict with each other has been answered in favour of territorial integrity and non-intervention in the times of the cold war. The last decade has brought along significant changes and has led to a new, yet fragile balance of the two concepts.

Looking at this from the perspective of human security, I follow the opinion of Errol Mendes²⁹ in viewing human security as a concept which has the potential to reconcile these two conflicting principles of the UN Charter. The values behind territorial integrity and the protection of human rights are not incompatible. In this sense, human security is nothing new to the UN Charter. It only brings back the idea that the security of the State has to be seen along side with the security of the individual.³⁰ Thus, both national and individual security can be rooted in the Charter.

This line of thinking has been further expanded in the Report of the International Commission on Intervention and State Sovereignty (ICISS), set up in 2000 on the initiative of Canada.³¹ The Commission has presented its report in December 2001; a chapter of the report is devoted to human security.³² In analysing the relationship between State sovereignty and humanitarian intervention, the Commission pleads in essence for shifting the discussion away from a “right to

²⁹ Errol Mendes: Human Security, International Organizations and International Law: The Kosovo Crisis exposes the “tragic flaw” in the U.N. Charter, 1999, <http://www.cdp-hrc.uottawa.ca/publicat/bull.38.html>.

³⁰ See on this also Khatchik Derghoukassian: Human Security: A Brief Report of the State of the Art, The Dante B. Fascell North-South Center Working Paper Series, No.3, November 2001, at p.2, <http://www.miami.edu/nsc/publications/pubs-WP-pdf/WP3.pdf>.

³¹ See the Commission’s website <http://www.iciss-ciise.gc.ca>.

³² The Report is entitled “The Responsibility to Protect”, see <http://www.iciss-ciise.gc.ca/report-e.asp>.

intervene" towards a "responsibility to protect", and tries to root this proposal in the broader concept of human security.³³

What does this mean for State security? The challenge is "to shape a security paradigm that captures the need to reach out in defence of people as well as states, and that can orchestrate and steer our endeavours in both directions".³⁴ Human security is not a substitute for national or state security. Not only that the State will continue to be the cornerstone of the international legal order, there are still threats that fall within the traditional concept of inter-state conflict. Human security, however, reduces the concept of state security from the overarching concern of international law to just *one* possible concept of security. Human security complements state security and better defines the aim of state security, i.e. to protect the people and not an abstract entity, as the ultimate purpose of security.

While it will remain the goal of state security to protect a State's citizen from external aggression or military attack, a human security approach means that catering for an environment within the State which allows for the well-being and safety of the population is an equally important goal. Ultimately, the beneficiary of security must be the individual human being. There is no secure State with insecure people living in it. This insecurity can take many different forms. To give two examples: Reference has been made to the perverse logic of a purely State-centred approach to security during the cold-war, when the political and military decision-makers were faced with the "red-or-dead" dilemma in Germany, i.e. the option of guaranteeing the security of the nation-state by using nuclear weapons on the territory of Germany in the case of an aggression by the Warsaw Pact and consequently putting in danger the life and livelihood of its own population.³⁵ More recently, SIPRI in its latest report has pointed out that in the aftermath of 9/11 there is a dramatic rise in armament expenses not only in the US but also in countries where the population is facing serious hardship in their daily lives.

³³ "The Responsibility to Protect", Report of the International Commission on Intervention and State Sovereignty, 2001, at p.11 et seq., <http://www.iciss-ciise.gc.ca/report-e.asp>

³⁴ Sverre Lodgaard: Human Security: Concept and Operationalization, <http://www.hsph.harvard.edu/hpcr/events/hsworkshop/lodgaard.pdf>, at p.4.

³⁵ In Björn Möller: 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

Applying a human security approach has the potential to alter our thinking about the relation between the resources devoted to the protection of national security vis-à-vis the protection of the human security of the people. Another field of research will be the possible implications of a human security approach on sanction regimes.

ii.) Security from what?

Browsing through the academic and governmental papers on human security, the threats to human security seem as terrible as they seem endless: Military threats, war, organised crime, drug abuse, trade in human organs, trafficking in human beings, diseases, hunger, unemployment, crime, social conflict, political oppression, low standard of living, non-peaceful transfers of governmental powers, economic crisis, long-term environmental changes, de-humanisation, public health problems, social dislocation, environmental degradation, poverty, lack of development, landmines, small arms and light weapons, human rights violations, internal displacement, terrorism, AIDS, demographic pressures, diminished access to resources, conflict, ignorance, social and cultural deprivation, direct and indirect violence, lack of democracy, nuclear weapons, natural disasters, homelessness, inadequate health care, traffic accidents, state failure, migration, child abuse, an unfair international trading system, and gender-based violence. A central part of the debate on human security spins around these threats, their inclusion in or exclusion from the human security agenda and their ranking, prioritisation and placing on the human security agenda. Applying a very broad concept of human security, including all threats imaginable, has led critics to ask the question "if human security is all these things, what is it *not*?"³⁶ At the same time, other issues might even have to be added to this list, corruption being one of them.

Attempts have been made to categorise the possible threats to human security, e.g. as threats stemming from state violence, environmental degradation,

Training Institutions, UNESCO, Paris 2000, <http://www.copri.dk/publications/WP/WP%202000/37-2000.doc>, at p.27.

³⁶ Roland Paris: Human Security: Paradigm Shift of Hot Air?, *International Security* 26 (2001) 2, at p.92.

population displacement and globalisation.³⁷ Indeed, personally I think in further clarifying the concept, the approach to exclude issues from the human security agenda would be worth pursuing. Narrowing the concept down might lead to better operationalise human security. It is of course true that in turn such an approach might take away much of the potential of the concept if it is perceived as a paradigm shift in international relations. Human security, it is said, is not a defensive concept, but an integrative one.³⁸ Yet, the question of where to draw the limits between human security concerns and situations not following within the scope of human security remains to be drawn and will, in my opinion, lead to the exclusion of some of the issues listed above.

iii.) State sovereignty

Hans Correll in his analysis of the relationship between territorial integrity and human security has to the conclusions that human security and the sovereign State are not incompatible, as "human security is best guaranteed in the sovereign State which is governed under the rule of law with full respect for the human rights and the fundamental freedoms of those who reside in its territory."³⁹ This is of course a very narrow definition of human security, leaving aside many of the threats listed above. A broader concept of human security can challenge the concept of sovereignty more fundamentally.

This challenge is not new to international law. Academic writing has constantly been revolving around the evolution of this central concept of international law. The OSCE's "Human Dimension" has long ago initiated a shift from non-interference towards a community-oriented approach on the regional level, combining security issues with humanitarian questions. As a more recent contribution to the debate, preceding the concept of human security, let me

³⁷ Peter Stoet: *Human and Global Security: An Exploration of Terms*, Toronto (Toronto University Press) 1999, quoted from Khatchik Derghoukassian: *Human Security: A Brief Report of the State of the Art*, The Dante B. Fascell North-South Center Working Paper Series, No.3, November 2001, at p.2, <http://www.miami.edu/nsc/publications/pubs-WP-pdf/WP3.pdf>.

³⁸ Cf the keynote paper by Anwarul Karim Chowdhury on "Human Security: A Broader Dimension", 4th UN Conference on Disarmament Issues in Kyoto, 27 July 1999, <http://www.un.int/bangladesh/ga/st/others/humansecurity.htm>.

³⁹ Hans Correll: *From Territorial Sovereignty to Human Security*, Address to the Annual Conference of the Canadian Council of International Law 1999, <http://www.un.org/law/counsel/ottawa.htm>.

quote the words of UN Secretary-General Kofi Annan on the shift from territorial sovereignty to individual sovereignty:

"State sovereignty, in its most basic sense, is being redefined – not least by the force of globalisation and international co-operation. States are now widely understood to be instruments at the service of their peoples, and not vice versa. At the same time, individual sovereignty – by which I mean the fundamental freedom of each individual, enshrined in the charter of the UN and subsequent international treaties – has been enhanced by a renewed and spreading consciousness of individual rights. When we read the Charter today, we are more than ever conscious that its aim is to protect individual human beings, not to protect those who abuse them."⁴⁰

iv.) Internal conflicts and humanitarian intervention

While the number of intra-state conflicts has long since overtaken the number of inter-state conflicts, the international legal order has not been adapted to this situation. The Security Council has in an inconsistent and unpredictable way extended the meaning of 'international peace and security' to cover conflicts within States. Looking at the established concept of collective security from a human security perspective might help clearing the picture. While inter-state conflicts will remain an important concern of international law, intra-state conflict will have to be treated with the same emphasis. This does not mean that they will have to be treated with the same means, quite to the contrary, new tools might have to be developed.

Taking the human security approach seriously will have an impact on the discussion on the emerging international law of humanitarian intervention.⁴¹ Humanitarian intervention has been described as the most extreme form of promoting human security,⁴² and military intervention in Kosovo has been viewed as the "first human security war", drawing the attention to the fact that "security, force and power are intimately linked".⁴³ At the same time the point has been made that taking human security seriously could lead to a fatigue and

⁴⁰ Kofi Annan: Two Concepts of Sovereignty, *The Economist*, 18 September 1999.

⁴¹ See on this again the Report of the International Commission on Intervention and State Sovereignty, 2001, <http://www.iciss-ciise.gc.ca/report-e.asp>.

⁴² Kimberly Banks: Human Security and Canadian Foreign Policy, http://af.3dgdw.com/smss/pdf/banks_smss2001.pdf, at p.8. I would add human rights to this list.

⁴³ Kimberly Banks: Human Security and Canadian Foreign Policy, http://af.3dgdw.com/smss/pdf/banks_smss2001.pdf, at p.10.

over-stretch of the very notion of intervention.⁴⁴ In any case, the use of force, under a human security concept, would be applied for more “cosmopolitan”⁴⁵ goals, i.e. to manage human security threats.

Is anything of this new to international law? Is this new to the Charter? Indeed, it can be said that most of the UN agenda has in different forms already dealt with what is now called human security, e.g. peace-keeping, human rights, refugee flows, environmental issue etc.⁴⁶ It seems that the right way to see it would be that “the commitment to human security *underlines* much of the United Nations action in the areas of peace and security, humanitarian assistance, crime prevention and development, among others”.⁴⁷

IV. Human security and human rights

i.) Common concerns, different answers?

There is a close but not yet thoroughly analysed relationship between human security and human rights. The ultimate focus and bearer both of human rights and human security is said to be the individual. Both concepts place the individual human being in the centre. This seems to be a common feature.

Apart from that, what is the difference, what are the common features? Human rights are universal, extending to everybody everywhere. Human security has been called a holistic concept, but is this the same as universality? The questions I will raise here are the following: i.) Is human security a human right itself?, ii.) are human rights the core or normative foundation for human security?, iii.) what is the relation between human security and human rights in terms of

⁴⁴ Yuen Foong Khong: Human Security: A Shotgun Approach to Alleviating Human Misery?, in *Global Governance* 7 (2001), pp.231-236, and Roland Paris: Human Security: Paradigm Shift of Hot Air?, *International Security* 26 (2001) 2, at p.233.

⁴⁵ Kanti Bajpai, Human Security: Concept and Measurement, Kroc Institute Occasional Paper #19:OP:1, 2000, at p.30; http://www.nd.edu/~krocinst/report/report19/abs_19_1.html.

⁴⁶ See for a more detailed analysis of human security in the UN context Khatchik Derghoukassian: Human Security: A Brief Report of the State of the Art, The Dante B. Fascell North-South Center Working Paper Series, No.3, November 2001, at p.2 et seq., <http://www.miami.edu/nsc/publications/pubs-WP-pdf/WP3.pdf>.

mutual enrichment as well as potential mutual dilution of the respective concepts?

ii.) Security as a human right

Human rights have always been concerned with the security of the individual. 'Security' is a human right itself. Art. 3 of the Universal Declaration of Human Rights ("Everyone has the right to life, liberty and security of the person.") explicitly refers to security in the framework of human rights.

What is meant by "security" as a human right? Art. 3 of the Universal Declaration of Human Rights comprises three different, yet inter-linked rights, i.e. the right to life (which is seen as the right to life in a biological sense as well as in a wider sense, i.e. a decent life), the right of personal freedom (i.e. the right to move about) and the right to personal security.⁴⁸ Art. 3 is often read in connection with Art. 5 (prevention of torture) and Art. 9 of the Universal Declaration (freedom from arbitrary arrest or detention). As a whole, the right to security in Art. 3 has consequently largely been seen as a State obligation not to interfere with the integrity of the individual.

Is there a wider meaning of the right to security than this approach? Rehof⁴⁹ in referring to the *travaux préparatoires* of the Universal Declaration on Human Rights reminds us of the following: In the drafting process of Art. 3, a Cuban proposal to insert the protection of 'integrity' was rejected by the argument that 'integrity' was covered by the word 'security'. A similar Belgian amendment to include reference to 'respect for the physical and moral integrity of his person' was also turned down. Mrs. Roosevelt as chairperson of the drafting group, supported by the French delegation, then stated that the word 'security' was chosen because it was more comprehensive than any other expression. Finally,

⁴⁷ Statement of UN High Commissioner for Human Rights, Mary Robinson, at the 58th session of the UN Commission on Human Rights in March 2000, <http://www.hrea.org/lists/hr-headlines/markup/200302-3.php>.

⁴⁸ See for the following Lars Adam Rehof's contribution on Art. 3 in: Asbjörn Eide, Gudmundur Alfredsson, Göran Melander, Lars Adam Rehof and Allan Rosas: *The Universal Declaration on Human Rights. A Commentary*, Oxford (Oxford University Press) 1992, at p.73 et seq.

⁴⁹ Lars Adam Rehof's contribution on Art. 3 in: Asbjörn Eide, Gudmundur Alfredsson, Göran Melander, Lars Adam Rehof and Allan Rosas: *The Universal Declaration on Human Rights. A Commentary*, Oxford (Oxford University Press) 1992, at p.77.

the wording of Art. 3 was adopted by 36:0 with 12 abstentions. So although being closely linked to the protection of life and liberty vis-à-vis the State, the drafters of the Universal Declaration had a broader notion of 'security' in mind.

The spirit of Art. 3 has subsequently been transferred to other universal and regional human rights instruments. Let us thus take a closer look at these instruments. The analysis will show that international human rights law supports three different concepts of 'security': Personal security, social security and what I will call 'international' security.

Personal security is contained in Art. 9 of the Covenant on Civil and Political Rights ("Everyone has the right to life, liberty and security of person"), Art. 5 of the European Convention on Human Rights and Fundamental Freedoms ("Everyone has the right to liberty and security of person"), Art. 6 of the African Charter on Human and Peoples' Rights ("Every individual shall have the right to liberty and to the security of his person"), Art. 1 of the American Declaration of the Rights and Duties of Man ("Every human being has the right to life, liberty and the security of his person") and Art. 7 of the American Convention on Human Rights ("Every person has the right to personal liberty and security").

The line of thinking in these provisions is geared more towards protection from interference of State organ in the case of arrest and detention and does not seem to point towards the broader approach which the *travaux préparatoires* of the Universal Declaration on Human Rights is advancing. In this sense, 'personal' security can not be equated with 'human security', the concepts are different. More analysis on the case law of treaty bodies and human rights courts might, however, be able to show a perhaps closer link between these two concepts. Cases when the security situation of an individual has been found to have deteriorated, by State or non-State interference, to an extent that can be brought into line with the reasoning behind the human security concept will have to be examined. Generally speaking, however, we have to accept that the right to personal security is solely understood to guarantee freedom from detention in its different forms, and does not support a broader vision along the lines of "freedom from fear".

Social security as the second right we shall look at. While still disputed as for its enforcement, it is undoubtedly a human rights. Art. 22 (“Everyone, as a member of society, has the right to social security...”) and Art. 25 of the Universal Declaration on Human Rights (“Everyone has the right ... security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”), Art. 9 of the Covenant on Economic, Social and Cultural Rights (“The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance”), Art. 16 of the American Declaration of the Rights and Duties of Man (“Every person has the right to social security...”) and Art. 9 of the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights – ‘Protocol of San Salvador’ (Everyone shall have the right to social security...) contain provisions on social security. Again, while we can assume that social insecurity is a central part of the human security agenda, social security can not be equated with human security.

‘International’ security: Art. 28 of Universal Declaration of Human Rights states that “everyone has the right to a social and international legal order in which the rights and freedoms set forth in this Declaration can be fully realised”, i.e. there is a human rights to an international order which realises the right to personal security as laid down in Art. 3 of the Universal Declaration. Art. 23 of the African Charter on Human and Peoples’ Rights is the other provision referring to some kind of ‘international’ security in the form of a collective right. It states that “all peoples shall have the right to national and international peace and security”. These examples are perhaps the strongest indication of how human rights law can embrace a broader concept of security beyond the relation between a State party to a given treaty and the individual under its jurisdiction. This ‘internationalised’ right to security however, remains contested as for its practical application it remains to be seen whether and how e.g. the African Commission on Human and Peoples’ Rights has applied this provision. The three branches of security as a human rights, when taken together - i.e. personal security as protection from State interference (and possibly in a broader sense as protection from insecurity stemming from other sources) , social security as the freedom from want and the international aspects of the right to security, provide, however, a strong evidence of approaching human security from a human rights

perspective and rooting the concept in the international legal human rights regime.

iii.) Human rights as the core of human security

Looking for the term 'security' in human rights conventions can only be an indicator in answering the question whether human security is a human right, given the broader concept human security entails. It is the spirit behind the letter, i.e. the freedom from fear and the freedom from want as humanistic concepts, which is at the heart of the human rights regime and the human security agenda alike.

Thus, let us look at the human rights regime as a whole, i.e. a set of internationally acknowledged rights and freedoms as an ever broadening dynamic concept of protecting, promoting and fulfilling the rights, dignity, needs, livelihood, well-being, liberty and security of the individual human being. The question which should be answered in the first place, however, is: when human rights is about all that – why then do we need the concept of human security? Is not every concern of the human security agenda covered by human rights? Do human rights 'consume' human security? Can't we phrase all human security threats in human rights terms? Can we not just change the word "security" by "rights" in all the definitions of human security? In other words, is there value added in the human security approach or should we leave it with human rights?

What is the difference between human rights and human security? Human rights are inalienable rights of the individual person vis-à-vis the State. The international human rights regime in its broadest sense comprise customary and treaty law as well as soft-law instruments with the Universal Declaration of Human Rights and the major UN Covenants spearheading the subsequent development of the human rights regime, the Genocide Convention as well as regional human rights instruments, complemented by the work of international charter-based and treaty-based bodies, the UN Commission on Human Rights and its special procedures and the jurisprudence of international courts established for the protection of human rights. Human rights are all civil, cultural, economic, political and social rights as well as the right to development.

Not all of these rights are uncontested as *rights* in the international debate and the catalogue of human rights is dynamically expanding.

Still, at their very core, human '*rights*' are "interests protected by law".⁵⁰ Human '*security*', in contrast, is "a secure condition or feeling".⁵¹ To my opinion, human security is thus a broader concept, comprising fundamental rights as well as basic capabilities and absolute needs.⁵² Human security, in contrast to human rights, seems to comprise threats that human rights are not primarily concerned with, e.g. natural disasters, and it stretches towards threats from State and non-State actors alike and thus is not concerned with the private/public divide which we find in human rights. Human rights are part of human security.

What place should we assign to human rights in the concept of human security? Human rights have been described as the core of human security⁵³ and as a normative framework for human security.⁵⁴ Indeed, many of the threats to human security as presented in the various definitions of human security can be seen as human rights violations, provided one takes the universality of human rights seriously and includes all civil, cultural, economic, political and social rights as well as the right to development. Human security is about basic needs people share in every part of the world – food, shelter, health, education as well as a "fruitful milieu for the accomplishment of everyone's human potential"⁵⁵. These basic needs have over the decades been re-formulated and re-framed as human rights.

⁵⁰ Von Jhering, quoted from Bas de Gaay Fortman: "Rights-Based Approaches": Any New Thing under the Sun?, IDEA Newsletter 2000, http://www.carleton.ca/idea/newsletter/reports_122000_8.html, at p.3.

⁵¹ The Modern Oxford English Dictionary, Oxford (Oxford University Press), 1992.

⁵² Cf. Sabina Alkire, Conceptual Framework for Human Security paper presented at Kennedy School, Harvard University, 2002, www.humansecurity-chs.org/doc/0206harvard.html.

⁵³ E.g. Sabina Alkire, Conceptual Framework for Human Security paper presented at Kennedy School, Harvard University, 2002, www.humansecurity-chs.org/doc/0206harvard.html, at p.5, referring to human rights as the "vital core of human security".

⁵⁴ See the declaration adopted by the Workshop on Relationship between Human Rights and Human Security, San Jose, Costa Rica, 2 December 2001, <http://humansecurity-chs.org/doc/sanjosedec.html>: "We reaffirm the conviction that human rights and the attributes stemming from human dignity constitute a normative framework and a conceptual reference point which must necessarily be applied to the construction and implementation of the notion of human security".

⁵⁵ Minna Nikolova: Human Security in South-East Europe: Just a Vanguard Rhetoric or a Genuine Ride for Security for All, <http://www.bmlv.gv.at/wissen-forschung/bsp/niko01.shtml>.

While all human rights are core of the human security agenda, a divide between what can be called the freedom from fear and the freedom from want can be seen in the human security debate.⁵⁶ Comparing the two countries' approach, for example, which at present lead the human security debate – Canada and Japan – Canada seems to put more emphasis on the “freedom from fear”, while Japan relies more on the “freedom from want”.

In any case, the freedom from want – translated into the rhetoric of human rights law as economic, social and cultural rights – forms part of human security. In implementing and guaranteeing these rights, the concept of progressive realisation, as laid down in Art. 2 of the Covenant on Economic, Social and Cultural Rights, is a central element. In this respect it has been argued that by looking at economic, social and cultural rights through a human security perspective, the “margin of discretion” of States in realising these rights could be narrowed or even eliminated.⁵⁷ On a more general level, the holistic concept of human security might help in overcoming the division between first and second generation rights, i.e. civil and political vs. economic, social and cultural rights.⁵⁸

Some participants in the human security debate have pointed out that we are facing a trilogy of human concerns: Human rights, human development and human security⁵⁹. So the right to development comes into play. Indeed, a lot of discussion has been spinning around the difference between human development and human security and the UNDP has analysed this question, e.g. in the 1994 UNDP report. For the time being, I leave it with Walter Dorn, who has put the relationship in a short formula: “Human security is the ability to enjoy the fruits of human development in a safe environment”.⁶⁰

⁵⁶ Roosevelt's famous words of the four freedoms are usually used as a cornerstone for the development of human rights and now also for human security. The understanding of what he said, however, has changed over the years and it is from this perspective that these notions are used in the present context. Roosevelt

⁵⁷ Ellen Seidensticker: Human Security, Human Rights and Human Development, paper presented at the Kennedy School, Harvard University, 2002, <http://www.humansecurity-chs.org/doc/0206harvard.html>, at p.1.

⁵⁸ Ellen Seidensticker: Human Security, Human Rights and Human Development, paper presented at the Kennedy School, Harvard University, 2002, <http://www.humansecurity-chs.org/doc/0206harvard.html>, at p.1.

⁵⁹ Üner Kirdar: A Trilogy of Basic Human Concerns: Human Rights, Sustainable Development and Human Security, in: Perceptions. Journal of International Affairs III.4 (1998/99) ... The order in which these terms are put might still be worth a discussion.

⁶⁰ Walter Dorn: Human Security. An Overview, http://www.rmc.ca/academic/gradrech/dorn24_e.html.

iv.) Mutual enrichment?

On a very general level, an attempt to identify the possible impact of human rights on human security, the following points could be raised:

- Human rights provide the conceptual and normative foundation for human security, they are the basis for a life in dignity, well-being and security and they "define human security".⁶¹ Generally, a 'rights-based approach' can provide a useful framework for the promotion of human security.⁶²
- Human rights violations are often the root causes of conflict, insecurity and instability and in this way are a central element of a threat-based approach to explaining human security. In turn, of course, respect for human rights prevents conflict and insecurity.
- On a more general level, respect for human rights fosters harmonious social relations and thus inter-societal security.

We have concluded that human security is a broader concept and thus brings additional elements into the play. The following points might be further considered in future research on how human security can foster human rights:

- Human security can help to overcome the divide between different generations of human rights as well as to solve conflicts between human rights.⁶³
- The human security concept extends the human rights debate and brings issues such as humanitarian intervention on the grounds of serious human

⁶¹ Bertrand G. Ramcharan: Human Rights and Human Security, document prepared for the Workshop on Relationship between Human Rights and Human Security, San Jose, Costa Rica, 2 December 2001, <http://humansecurity-chs.org/doc/ramcharan.html>, at p.1.

⁶² This has also been one of the conclusions of the Symposium on Human Rights and Human Security, San Jose, Costa Rica, December 2000, see <http://www.humansecurity-chs.org/past/second>.

⁶³ Ellen Seidensticker: Human Security, Human Rights and Human Development, paper presented at the Kennedy School, Harvard University, 2002, <http://www.humansecurity-chs.org/doc/0206harvard.html>, at p.1.

rights violations, the use of force for the purpose of protecting human rights and human rights violations by non-state actors into the human rights debate. More analysis will be need to explore whether and how human security can explain and allows for the use of force in order to protect human rights.

- Human security relates human rights better to conflict-prevention and post-conflict peace-building.
- Security concerns perceived as national security allow for the derogation of human rights. It has been argued that if human security assumes importance alongside national security, human rights could not so easily been neglected or – legally speaking – derogated.⁶⁴
- Human security expands the notion of human rights towards threats that do not only emerge from States, but also indirect threats resulting from natural disaster or – with Galtung – “structural” or “cultural” violence. Human security might allow for a better explanation of why human rights violations by private parties and non-state actors should be seen as human rights violations.

v.) Detrimental effects on the human rights regime?

The way in which the elements of human security mentioned above can influence the human rights regime or not fully explored. Two consequences of linking human rights and human security can be imagined: On the one hand, applying the rights-based approach of the international human rights regime can enrich human security and make it a rights- or duty-bound concept as well. On the other hand, looking at human rights through the focus of human security could question the rights-based approach of human rights and turn human rights in the context of human security into needs which have to be fulfilled. Some of them might even have detrimental effects on the thinking about human rights. In any case, in integrating human rights into human security, the rights-based approach

must be maintained. 'Securitising' issues may not lead to the dilution of a rights regime.

V. Human security, human rights and non-state actors

An ever increasing variety of actors participate in global affairs. The international legal order does not remain untouched by this development, quite to the contrary, non-state actors have an impact on the various fields international law is dealing with, such as security, environment, human rights, humanitarian law and international economic law. Non-state actors participate in the creation and application of international norms. At the same time, the question of the accountability of non-state actors in international law is largely unsolved.

Non-state actors are a heterogenous and complex group of actors, entities and processes with different attitudes towards international law. Civil-society movements participate in the so-called "track-two" diplomacy. NGOs aim at promoting human rights and humanitarian law. The business sector is struggling with the development of code of conducts in fields such as international environmental law and labour standards. Individuals and groups of individuals are referred to as human rights violators in the private sphere. Trans-national criminal organisations and networks such as drug traffickers, traffickers in human beings as well as terrorist groups violate human dignity and destroy lives. Within failed States, entities at the threshold to exercising State sovereignty use and abuse international law. Rebel groups, criminal gangs and mercenaries are parties to internal violent conflicts.

The role of non-state actors is central to human security. Generally speaking, human security will lead to a further erosion of the fiction that the state is the master of international law. The decline of the sovereign State has again and again been described as one of the thriving forces of the transformation of

⁶⁴ Ellen Seidensticker: Human Security, Human Rights and Human Development, paper presented at the Kennedy School, Harvard University, 2002, <http://www.humansecurity-chs.org/doc/0206harvard.html>, at p.1.

international law.⁶⁵ In that sense, human security is not a new challenge to international law, rather is it a new rhetoric re-phrasing this challenge and attempting to better explain its consequences.

Non-state actors and human security are linked in two ways: Non-state actors can pose a threat to human security, but they can also contribute to human security. Attention has been drawn to the role of the national security sector as both a threat and a provider of human security.⁶⁶ No where is the important role of support and training in human security, human rights and humanitarian law more visible than in the case of national security services. Corrupt and unaccountable security institutions are a cause for human insecurity and state failure.

In a human security concept, military and police are, however, are not the only providers of security. Humanitarian organisations, civil society movements and development organisations might be considered important, if not equal actors of security, such as in the case of humanitarian crisis.⁶⁷ Claude Bruderlein has analysed how non-state actors can heighten or lessen human security in his paper on armed groups in intra-state wars.⁶⁸ In the case of failed States, non-State actors remain the only ones to bring about human security.⁶⁹

Non-state actors will gain more importance with the introduction of human security. Achieving and monitoring the compliance of armed groups with emerging norms of human security (or with established norms in humanitarian and human rights law) is one example. The inclusion of non-governmental actors such as NGOs or the business sector will be important issues, as well as regulating their accountability. The campaign leading to the adoption of the Anti-Personnel Mine Convention is always quoted as the example for this new form of

⁶⁵ Philippe Sands: *Turtles and Tortures. The Transformation of International Law*, New York University Journal of International Law and Politics 33 (2000) 527, pp.527-559, <http://www.nyu.edu/pubs/jilp/main/issues/33/pdf/33p.pdf>.

⁶⁶ See Paul Heinbecker: *Human Security: The Hard Edge*, in Canadian Military Journal, Spring 2000, 14, http://www.journal.dnd.ca/vol1/no1_e/policy_e/pol1_e.pdf.

⁶⁷ See on this thought in more detail Walter Dorn: *Human Security. An Overview*, http://www.rmc.ca/academic/gradrech/dorn24_e.html.

⁶⁸ Claude Bruderlein: *The Role of Non-State Actors in Building Human Security*, Geneva (Centre for Humanitarian Dialogue) 2000, <http://www.hsph.harvard.edu/hpcr/research.htm>.

partnership. The World Commission on Dams,⁷⁰ working towards the rights and security of people affected by large dams, is another instrument with a human security driven agenda. Within the framework of a human security – centred international system, we will witness more of such interest-driven, ad-hoc coalition-building among States, NGOs, inter-governmental organisations, the business community and others.

At the same time, with the introduction of the concept of human security the need for a better distinction between the different types of non-State actors and a clarification of the legal position is a more pressing tasks than ever before.

VI. Norm-making and international institutions

As pointed out above, the UN Charter is aware of the concept of human security. The UN itself, in its rhetoric, policies and actions, increasingly accepts human security as part of its agenda, and perhaps even more than this, as UN Secretary General Kofi Annan has put it: “Ensuring human security is, in the broadest sense, the United Nations’ cardinal mission.”⁷¹ Analysing the actual performance of international institutions from the point of view of human security will be a research task ahead.

Human security can challenge the international institutional order and the law of international organisations. A Security Council applying the concept of human security will look different from the Security Council we know with regard to decision making processes, operating methods, tools available and transparency and accountability. While the Security Council as it stands seems rather an obstacle to fostering human security than a mechanism for enhancing it, attention has been drawn to the activities of the Security Council with regard to

⁶⁹ See in greater detail Claude Bruderlein: People’s Security as a New Measure of Global Stability, in: *International Review of the Red Cross*, 83 (2001) 842, at p.361, <http://www.hsph.harvard.edu/hpcr/research.htm>.

⁷⁰ See the Commission’s website <http://www.dams.org>.

⁷¹ Kofi Annan in a statement delivered to the Foreign Affairs Committee of the Chinese People’s Political Consultative Conference in April 1998, <http://www.un.org/Pubs/chronicle/1998/issue1/0198p3.html>; quoted from Walter Dorn: Human Security. An Overview, http://www.rmc.ca/academic/gradrech/dorn24_e.html.

Sierra Leone as an interesting example of how parts of the human security agenda slowly seem to make their way into the system of collective security.⁷²

Replacing traditional thinking on security by human security will demand the development of a wider range of instruments, increased co-operation and more “soft power” in the form of conflict prevention. The use of force might change from unilateral use of military force to a more concerted use of force with different levels of force, of which military force will be only one option. International policing and monitoring, co-operation with local security agents and the civil society will become more important. The International Criminal Court will be an important cornerstone of a human security approach in international law.

When human security starts penetrating the field of international norm-making in a more persistent way, the documents resulting from these processes will possibly better reflect the balance between the concepts of State sovereignty and concern for the individual. Examples for such law-making processes cited are the Convention against Transnational Organized Crime and its protocols dealing with trafficking in firearms, smuggling in aliens and trafficking in persons as being influenced by this debate.⁷³

VII. Concluding remarks

Human security has become a catchword in a global debate on the changing meaning of security. It can be seen as an academic concept which transforms the way we think about security as well as a political agenda for global change. While human security is a contested concept as for its definition, scope and utility, it has met with interest, approval and critique by the scientific community. At the same time, human security is on the way to change institutions as well as the practice of global governance.

⁷² See Paul Heinbecker: Human Security: The Hard Edge, in Canadian Military Journal, Spring 2000, at p.14, http://www.journal.dnd.ca/vol1/no1_e/policy_e/pol1_e.pdf.

The two central aspects of human security are contained in the very notion itself, i.e. 'security' as protection from various threats and provision of a safe environment and 'human' as a shift of focus from a State-centred approach towards placing the individual in the centre. For the purpose of this paper, I have borrowed a very general working definition of human security as "a concept being concerned with survival, daily life and dignity of human beings".

In analysing the concept of human security from the perspective of international law, I have related the 'security' aspect to the UN Charter and the 'human' aspect to the international human rights regime. While the underlying issues of human security are not new to international law, they nevertheless pose a challenge to established concepts of international law.

As for the UN Charter, human security brings back the question of how we can place the security of the State on the same level with the security of the individual. Human security seems to have the potential to reconcile two different concepts in the Charter, i.e. the concern for State security based on territorial integrity, political independence and non-intervention on the one hand and concern for human rights on the other hand.

Human security has an impact on how we balance the UN Charter's attitude towards both inter-State and intra-State violent conflicts. Human security is closely linked with the question of establishing criteria and norms for humanitarian interventions.

'Security' in the form of personal, social or 'international' security is a human right in itself. The international law of human rights, comprising civil, cultural, economic, political and social rights as well as the right to development, is the core of human security. Yet, human security is more. It extends towards threats human rights are not concerned with as well as towards threats from actors which are not considered to be sufficiently bound by international human rights law.

⁷³ Paul Heinbecker: Human Security: The Hard Edge, in Canadian Military Journal, Spring 2000, at p.14, http://www.journal.dnd.ca/vol1/no1_e/policy_e/pol1_e.pdf. See also the Convention's website http://www.undcp.org/crime_cicp_convention.html.

Human rights enrich the concept of human security as they provide a sound conceptual and normative foundation of human security. There is a close link between human rights and human security. Human rights violations are often the root causes for insecurity. At the same time, respect for human rights prevents insecurity. Human security also has the potential to enrich the human rights regime. It brings human rights closer to the security debate. A human security approach brings human rights better into the field of conflict-prevention and post-conflict peace-building. When human security assumes importance alongside with national security, human rights can less easily be neglected. Human security might allow for a better explanation of the consequences of human rights violations by non-State actors.

The human security debate will have repercussions on the role of non-State actors in international law. The role of non-State actors in international law will have to be re-evaluated as both providers of human security and threat to human security.

Human security challenges international institutions and the law of international organisations, first and foremost with regard to the future role of the Security Council. A human security approach might lead to the creation of new instruments for conflict-prevention and conflict-management.

Human security as both an academic concept and as a political agenda has the potential to become a new organising principle of international relations and international law.

As for the link between human security and international law in a general perspective, I have tried to demonstrate that the underlying problems which the concept of human security addresses are not unknown to international law. International law and its institutions have acquired a certain degree of experience in some of the areas of the human rights agenda. The UN Charter as the principal document in international law offers space for both the 'security' and the 'human' aspects of the concept, i.e. concern for security as a concept

based on the sovereign State as well as concern for the fate of the individual human being.

Human security interpreted in a narrow sense, i.e. concentrating on the protection of physical integrity, dignity and fundamental rights has been part of the international legal order in the form of human rights, humanitarian law and refugee protection. These can be identified as core elements of human security. Having said this, further research in fields such as international environmental law and criminal responsibility could contribute to a better understanding of the scope and limits of the concept of human security in international law.

What are the implications of human security for international law? Largely a reinforcement of a paradigm shift which has been under discussion in the international legal debate long since. Human security means that the international order can no longer rest on State sovereignty as the overriding concept of international law, but that the individual has to be in the centre. International security is threatened when the security of individuals is threatened.

Introducing human security in the international legal order could lead to the creation of international norms – both hard and soft – reflecting the underlying principles of the human security approach.

Human security as a concept which brings together fields that have traditionally been kept separate, i.e. human rights, humanitarian affairs, development and security and others. Human security as both an academic concept and a political agenda which takes up, reinforces and underlines ongoing developments in international law has the potential to become a new organising principle of international relations. Accommodating the concept properly in international law is the task ahead.