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## Human security as a key factor of international humanitarian law

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*The aim of this article is to study the problem of human security in the context of international humanitarian law. Here security will be interpreted as the security of people, not just territory. It is noted that human security is under threat not only from other people and states, but also from their own state. The state should actually do good to its population, and not harm it. The welfare and dignity of the individual must be the first aim of government.*

*Research methods: The following research methods were used: a comparison method to evaluate materials discovered during the study of various sources, a method of describing facts of violation of the rights of citizens' safety, a method of in-depth research, a method of applying legal measures to ensure security conditions. The article adheres to the historical and chronological structure of the problem under consideration.*

*Novelty of the study: For the first time, this study offers a comprehensive framework for addressing contemporary security challenges and improving the protection of civilians in conflict.*

*Conclusion: Ultimately, it is emphasized that human rights and international humanitarian law are the fundamental basis for the development of human security. Human security as an international humanitarian law aims to mitigate the impact of armed conflicts on individuals and communities, protect civilians and protect their rights and dignity during wars.*

*It is noted that the government and its institutions must guarantee the security of its people, even if they cannot provide all aspects of their well-being. Protecting human life means respecting human safety. Respect for human security means that all actors, whether institutional, corporate or individual, must ensure that their actions do not threaten human security.*

*Human security, as a key factor in international humanitarian law (IHL), involves the study of how the principles and practices of human security contribute to the development and implementation of international humanitarian law.*

**Key words:** Human security, humanitarian law, Human Development Report, Azerbaijan, Karabakh.

**Introduction.** The concept of human security has its roots in the famous Declaration by President Roosevelt in 1941, in which he explicitly mentioned freedom from want and fear together with freedom of expression and religion. It was formally introduced into the United Nations Development Programme's Human Development Report of 1994, drawing from international humanitarian law, human rights and human development. In the Report it was indicated that the threats to human security are no longer just personal or local or national. They are becoming Global: with drugs, AIDS, terrorism, pollution and nuclear proliferation [1, 173]. The Commission defined it as a paradigm aimed at protecting the vital core of all human lives. The vital core is conceptualized as a set of elementary rights and freedoms [2, 23].

**Main part.** Security is protection from harm. Threats to security came from other states, for example in the form of external aggression. After the Cold War, states became more secure. However, this did not mean that military security lost its leading role [1, 173].

To protect people's lives means respecting all human rights prescribed in domestic law and international conventions; violating them means causing human insecurities and the failure of the state to fulfill its own obligations towards the law. Therefore, the protection and the welfare of the people should become first goal of the government. In cooperation

with international organizations and NGOs, governments should find and promote appropriate policies to establish a political, economic and social security environment for all the people as citizens of that country [3, 81].

The human concept is rooted in the human rights tradition that is supposed to protect individuals from abuse at the hands of their own state and on the other hand in the concept of development, which implies that a state as a necessary instrument of promoting human security [1, 175].

Human security is a new paradigm for the development of the international legal order. Human security is closely linked with UN institutional reform. A new institution such as Security Council takes human security considerations into account. Some authors have underlined that human security poses a different challenge to international law and the practice of international organizations. Others stress that this concept sets out to strengthen the rule of law in international relations and support the development of public international law. Human security stands for an involvement of individuals in developing new international normative instruments [4].

The concept of "human security" can be used as a conceptual framework to allow international law to focus its attention on the individual and be responsive to the needs of persons affected by insecurity. The

Commission on Human Security argues a rights-based human security approach “reorients humanitarian strategies towards enhancing people’s capabilities, choices and security.” In general, international law ‘must be at the heart of human security’ and the latter contains disciplines of human rights law, humanitarian law, international criminal law and refugee law [5, 37].

Human security has as its normative basis in human rights, and therefore international human rights law is extremely important for this concept. The concept of human security links security with human rights and development among the most important national law treaties and instruments aimed at ensuring international peace and security is the United Nations Charter. Regarding human rights, the concept of human security does not constitute a set of legal norms, but an instrument which can be used, among others, to interpret and develop legal norms. Taking into account the conclusion that international law is a tool to ensure human security, and human security can be used to interpret and develop legal norms, the relationship of human security and international human rights law is actually an interaction. International law upholds sovereign equality and thereby protects primarily small and weak states that do not have at their disposal significant military or economic power. This clearly shows that the international legal system does not exist for its own sake and that its ultimate goal is the good, welfare and security of human beings, in other words human security [1, 179]. To protect people’s lives means respecting all human rights prescribed in domestic law and international conventions; violating them means causing human insecurities and the failure of the state to fulfill its own responsibilities towards the law. Therefore, the protection and the welfare of the people should become first goal of the government [3, 357].

The interrelationship and interdependence of human rights and human security are apparent. Like human rights, human security has become an international concern. On the international level, human security and human rights interact meaningfully and multidimensionally [4, 9].

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities, and restricts the means and methods of warfare. Its scope is, therefore, limited *ratione materiae* to situations of armed conflict. The use of force is prohibited under the Charter of the United Nations. Nevertheless, international humanitarian law has to be applied equally by all sides to every armed conflict, regardless of whether their cause is justified. International human rights law is a system of international norms designed to protect and promote the human rights of all persons. These rights, which are inherent in all human beings, whatever their

nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status, are interrelated, interdependent and indivisible. They are often expressed and guaranteed by law, in the form of treaties, customary international law, general principles and soft law. Human rights entail both rights and obligations. International human rights law sets the obligations of States to act in certain ways or to refrain from certain acts, in order to promote and protect the human rights and fundamental freedoms of individuals or groups [6, 5].

International conventions have traditionally looked at states to protect civilians, but today this is threatened in several ways. States are seen as inappropriate agents for the implementation of humanitarian rules, particularly in internal armed conflicts. They often avoid getting involved in these messy situations, or alternatively, they themselves may become a party to the conflict. Each conflict carries shock waves of the hostilities in concentric circles to every continent. Internal armed conflicts rely heavily on external inputs and assistance to maintain their momentum, whether through illegal trafficking, government contracts or other commercial opportunities. Conflicts affect population migration, regional ecosystems, financial markets, drugs and arms trafficking [7, 354].

From the human security standpoint, the security of the individual is no longer defined exclusively within the realm of states and as a consequence of national security. The origins of today’s insecurities are different and can be found in social, economic, environmental and health factors. These insecurities are increasingly transcending State borders and having global repercussions [7, 355].

Human security is a people-centred and multi-sectoral approach to security, emphasizing the empowerment of people to enhance their potential through concerted efforts to develop norms, processes and institutions that systematically address insecurities. Even though human security is first and foremost designed to shift the focus or referent object of security away from the state to the individual, the idea of a human-centred approach itself is not alien to international law. International law, while being built upon the traditional, inter-state paradigm, has developed to accommodate a human-centred approach by incorporating, for example, the principle of equality and non-discrimination, the principle of respect for human dignity, and the principle of humanity. These principles have underpinned the development of international human rights law, refugee law, and international humanitarian law; particularly in the second half of the twentieth century. What distinguishes human security from the human-centric approach to international law, particularly international human rights law, is its place within the analytical framework of security. The human-centred approach to international law, as traditionally

conceived, does not necessarily address the interests of human beings within the paradigm of security. Conceived as such, human security is inherently a public concept concerned with the security of individuals as members of the community, rather than each individual's own personal security [8, 7].

Many other countries like Norway, Romania, Republic of Moldova, Ukraine, Australia, Finland, the UK, and the Netherlands have also included human security issues in their national security policies [3, 86]. Central and Eastern European countries, including the above-mentioned states as well as Slovakia and Lithuania, have gained valuable experience in security sector reforms, both positive and negative, while implementing global models and developing their own ones. An exchange of experience should contribute not only to identifying the causes of common problems, but also to finding the most effective ways for successfully overcoming them. Assisting in sharing the experience is one of the goals of this compendium. Another goal that is equally important is attracting attention to human security as a necessary component of the democratic transition. In large parts of Africa, the Balkans, Central Asia and the Middle East, people live in daily fear of violent attacks, kidnapping, rape, extortion, robbery or trafficking. Though the traditional threats are still vital, and Russian aggression against Ukraine proves this fact clearly, the human security paradigm of placing people at the centre should be a hallmark for the security sector reforms in countries that have chosen a modern democratic model of development [9, 3].

Civil society is the only source of legitimacy, which has importance for the operation of institutions in democratic regimes. Without this legitimacy is any idea of "democratic" or "civil" control of the armed forces according to the "Western model" in any country, successful security sector reform can help internal stability (an effective solution to tensions and problems, providing security and justice for citizens), as well as regional stability (using as an important confidence-building mechanism in the region) [10, 58]. The main point of this perspective is to understand security comprehensively and holistically in terms of the real-life, everyday experiences of human beings and their complex social and economic relations.

For all country national security problems and priorities are of vital and primary importance. Newly independent states are particularly sensitive to security problems. In these states, these processes are additionally complicated by the military conflicts that maintain the focus on traditional/hard state security. South Caucasus is an unstable region with several secessionist conflicts and interstate wars, which shape the regional security environment. Relationships within a potential security complex are still overshadowed and strongly influenced

by the relationship to more powerful neighbors and players. The most important security challenges in South Caucasus include ethnic and territorial conflicts. All three South Caucasus-states of Armenia, Azerbaijan and Georgia, and the disputed territories of Nagorno-Karabakh, Abkhazia and South Ossetia, face a range of complex policy challenges. In per capita terms, the region possesses among the world's largest number of internally displaced persons and refugees. The region remains deadlocked and divided from violent conflicts between 1988 and 1994. The 2008 war between Russia and Georgia unraveled the confidence-building initiatives that had been painstakingly constructed for more than a decade between Abkhaz and Ossetians with Georgians. The continuing displacement of a large group of people, who have been violently forced from their homes since 1992 in Azerbaijan, is a main challenge to the peace, security and stability in the South Caucasus and represents a massive human rights violation in the region.

Total destruction and heavy mine contamination of formerly occupied territories of Azerbaijan, as well as, ethnic cleansing and forceful deportation of more than 650 thousand Azerbaijanis, more than half of whom were women and girls from their lands have tremendous humanitarian consequences for the country. The liberation of the Armenia-occupied territories of Azerbaijan in 2020 was a remarkable occasion for Azerbaijanis, in particular for more than 700,000 internally-displaced people who had been expelled from their homelands in the early 1990s. By the way, Azerbaijan was the first post-Soviet republic to face a refugee problem. As a result, after three decades, the indigenous people of Karabakh had the chance to return to their homeland, though with new challenges that overshadowed the process. Azerbaijan is currently rebuilding and restoring the territories destroyed by Armenia for nearly 30 years. Over 1.5 million mines had planted by Armenia across our lands throughout the occupation. Since the Second Karabakh War ended, 302 Azerbaijani citizens were killed as a result of explosion of mines, 57 of whom died, and 245 were injured. Since 1992 nearly 3400 of our fellow citizens suffered from mines, with 587 losing their lives. 358 mine victims were children and 30 were women. (electron resource, 29.11.2023) Azerbaijan continues the hard work of demining the territories it regained in the Second Karabakh War 2020, accepting any international help offered.

**Conclusion.** International security concept was perceived as primarily problem of State security. Within recent years, however, an additional concept has emerged – acknowledging that threats cannot only come from States and non-State actors, but can also exist to the security of both states and the people. The state itself should consider that recent threats affect seriously the wellbeing of humans. Human

security identifies new threats to well-being, new victims of those threats, new duties of states, or new mechanisms of dealing with threats at the inter-state level, it adds to the established human rights regime. The term “human security” was introduced into international discussion in the 1990s as a response to new “downside risks” that could affect everyone. Human security focuses “people” as opposed to states. Human rights are rights that, in principle, all human beings are entitled to, merely by virtue of being biologically human.

Security is no longer only the concern of defence and humanitarian actors. In the aftermath of the Cold War, the security debate has become part of the international development agenda. The ending of the Cold War rivalry between the United States and the Soviet Union generated new discussions about how security should be conceptualized in a world recently freed from bilateral rivalry between nuclear armed states. The United Nations Development Programme’s 1994 Human Development Report issued the first comprehensive and direct definition of human security.

Security, cannot exist without danger. Moreover, security comes into existence only with the emergence of threats. A comprehensive and integrated response to security and development challenges is indispensable to enhance sustainable peace globally. This requires the involvement and concerted action of all members of the international community, whether they be states, UN system bodies, regional organizations, international financial institutions, NGOs or other civil society actors. Human security is threatened in countries that suffer from political instability and lack of government capacity or willingness to provide basic services and to protect people’s safety and security. This is particularly true in states that have lost control over their boundaries. Even in countries that are politically and economically stable, human security can be threatened when domestic institutions cannot properly cope with internal or external challenges such

as natural disasters, infectious diseases, and social conflicts. Aid agencies should provide assistance for post-conflict countries, in a flexible and quickly to reconstruct state functions and to help reestablish people’s livelihoods.

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## Людська безпека як ключовий фактор міжнародного гуманітарного права

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*Метою статті є вивчення проблеми людської безпеки в контексті міжнародного гуманітарного права. Тут безпека інтерпретується як безпека людей, а не тільки території. Зазначається, що безпека людини перебуває під загрозою не лише з боку інших людей та держав, а й з боку їхньої власної держави. Держава має насправді робити добро своєму населенню, а не завдавати йому шкоди. Добробут та гідність особистості мають стати першою метою уряду.*

*Методи дослідження. Були застосовані такі методи дослідження як: метод порівняння для оцінки матеріалів, виявлених при дослідженні різних джерел, метод опису фактів порушення прав безпеки громадян, метод глибинного дослідження, методу застосування правових заходів для забезпечення умов безпеки. Стаття дотримується історико-хронологічної структури цієї проблеми.*

*Новизна дослідження. Вперше в даному дослідженні пропонується комплексна основа для вирішення сучасних проблем безпеки та покращення захисту цивільного населення в умовах конфлікту.*

*Висновки. У результаті наголошується, що права людини та міжнародне гуманітарне право є фундаментальною основою розвитку безпеки людини. Безпека людини як міжнародне гуманітарне право спрямована на пом'якшення впливу збройних конфліктів на окремих осіб та спільноти, захист цивільного населення та захист їх прав та гідності під час воєн.*

*Зазначається, що уряд та його інститути повинні гарантувати безпеку своєму народу, навіть якщо вони не зможуть забезпечити всі аспекти їхнього добробуту. Захищати життя людей означає поважати безпеку людини. Повага безпеки людини означає, що всі суб'єкти, чи то інституційні, чи корпоративні, чи індивідуальні, повинні гарантувати, що їхні дії не загрожують безпеці людини.*

*Безпека людини як ключовий фактор міжнародного гуманітарного права (МГП) передбачає вивчення того, як принципи та практика безпеки людини сприяють розвитку та реалізації міжнародного гуманітарного права.*

**Ключові слова:** Безпека людини, гуманітарне право, Звіт про людський розвиток, Азербайджан, Карабах.