

## **HUMAN RIGHTS IN TIME OF GLOBALIZING SECURITY**

Gregor Garb<sup>1</sup>, Damir Črnčec<sup>2</sup>

### **Abstract**

Diversity of processes in the contemporary international environment and the attendant effects, including security risks bring rapid changes in society. On the other hand, new opportunities and challenges are characterized by globalization of security and modern security paradigm, triggered by the overwhelming number of processes within existing systems of national security that modify the state's role in ensuring the safety of its citizens or residents.

In the contemporary security paradigm appears a tendency to provide individual security or deviation to the concept of ensuring security of the individual. Security is becoming a fundamental civil right which requires the synthesis of a wide range of state and social policies, including respect of human rights.

International terrorism, as one of the security risks, against which many countries have accepted anti-terrorism laws, which intervene in the free exercise of individual rights and that leads to an imbalance between freedom and security.

**Keywords:** Human Rights, Civil Rights, Globalizing Security, Individual Security.

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<sup>1</sup> M.Sc. Gregor Garb earned his master's degree in political sciences with the thesis *Forms of Secret Operation of Intelligence-Security Services of the Republic of Slovenia*, and in logistics of systems with the thesis *Security Management of Critical Infrastructure*. He has attended numerous education courses and conferences in Slovenia and abroad, and published several military professional articles (intelligence security activity, counter-terrorism, organized crime, critical infrastructure, national and international security). He is also Referee in *Contemporary Military Challenges Publication*. E-mail: garbgregor5@gmail.com

<sup>2</sup> Ph.D. Damir Črnčec, graduated in political sciences – defence studies, and received his Master's degree and PhD in political sciences. In 2010 he was appointed to the position of Assistant Professor of defence and security studies and since 2011 he has been Head of Chair of National and International Security Studies at The Graduate School of Government and European Studies.

## **Introduction**

Conception and understanding of security was under the influence of globalization process, especially after the Cold War, has changed considerably. Changed political and security environment has led to the professional security circles began to mention in addition to traditional, even non-state actors with transnational connections and influences. Also, there is a need to redefine the individual dimensions of threat, going beyond the existing temporal and spatial dimensions and in many modern societies is seen as a new and modern sources of threat, which could even lead to global chaos. These safety considerations expanding existing security agenda, which derives from the Cold War, taking into account the fact that only a few modern sources of threat can be eliminated only with military capabilities. These changes are largely provide conditions for the elimination of tensions and mistrust in relations within the international community, and thus to some extent possible to set up less conflict and more cooperative international relations as well as the possibility of an organized collective action in case of need.

Globalization and universalisation of the information revolution and, consequently, a high degree of interdependence, with associated processes bring with them all of the risks and increase their impact on the level, and hence the price that requires security. Therefore greater than the effects and consequences of globalization processes, the greater is the diversity and impact of modern security risks and threats to the safety of different reference objects. While not negligible even synergistic links between them, which may completely non-hazardous and isolated location and connectable, because of its abundance and the general globalization trends, grow into a completely real. From this we can conclude that globalization and security in mutual interdependence and proportionality. In other words, the higher is the risk and threats, the higher are the price of security, which means that the security, not only in financial but also in geo-strategic importance, and consequently increasingly becoming globalized and globalizing security.

The changing security environment and the processes of globalization, which they started in almost all aspects of social life, are to the fore the issue of human rights and their protection. The period after the end of the Cold War has prompted many countries to establish a more effective legal system, promote democratic principles and the approximation of the laws, greater legal protection and a clear definition of human rights and fundamental freedoms and duties arising therefore. Rights of the individual are perceived and understood as a matter of course, and has always been something as existing or acquired by birth with us no one

can take that away. Some of the fundamental rights as the right to life, liberty, etc are actually acquired at birth and are inalienable, threats and violations of those rights are subject to strict penalties.

Therefore the basic thinking and research question of the article is, to where individuals in a democratic society, which is the basis for the rule of law prepared their fundamental rights and freedoms for the sake consciously restrict higher level of security.

### **Relationship between freedom and security**

Diversity of processes in the contemporary international environment and the attendant effects, including security risks posed by rapid changes in society, on the other hand, new opportunities and challenges are organized in the new, modern security paradigm launch a number of irresistible processes within existing systems of national security, modifying the role of the state in ensuring the safety of its citizens and residents. As a result, today's conception of safety, be understood and studied as a multifaceted and comprehensive approach in which the importance and topicality of individual segments of security through different periods in history. Modern security includes various aspects of human existence and functioning of the social environment as well as all levels of integration and forms of social organization within and outside the country. System approach to the understanding of security related to an individual as an individual, company or country as well as in the international environment. Providing a level of security is a necessary condition for the second level of security.

The study and understanding of contemporary security paradigm is often raised in the scientific literature to address security in three fundamental conceptual levels, which are closely related: an individual security, national security, international security.

Security in its social materiality is based only on the relationship between individuals and their perception of threat or a consequence and response to a specific threat source. Threats of individuals do not become only from the natural environment, the threats also come from the social environment and may manifest as individuals, individual segments of society, organizations, etc, and as such have an impact on the spiritual and physical dignity, but can also threaten means by which an individual directly or indirectly satisfy its addition to physiological, the other needs. Črnčec (2009: 25) pointed out that the safety of the operation in all fields of human activity, it occurs in all of its activities,

and should any classification in the public or private sector unnecessarily limiting.

Security is therefore an objective basis on which it is possible to develop an integrated and sustainable development of the individual and his values, social communities, states, and ultimately the global world. Satisfying of the need for security to individual provide qualitative development and, ultimately, the existence of them. In view of the known fact that there is no absolute<sup>3</sup> safety, we can say that the individual safety is relative, because of their dependence on the needs and expectations of other individuals, members of the contemporary social community that can help or threaten the safety of other in coexistence.

Security threats to the individual, which is a direct or indirect source country, Buzan (1991: 44-48) is divided into:

- Threats by the national legal system (insufficient or excessive policy and law enforcement);
- Threats to individuals or groups by government institutions (legal discrimination);
- Threats to the individual from the disorderly political system (the struggle for control of state institutions also include internal political violence and political terrorism in order to discredit the government);
- Threats by foreign policy (foreign military intervention).

It is also not insignificant fact that any alienation of individual fundamental rights and freedoms represent of a threat to the security of the individual. In ideally circumstances, it would be excellent that individual and national security for individual be provide at the same time but nowadays, in modern times, accompanied by a constantly changing environment it is practically impossible.

Given the fact that security is related to the possibility of the free exercise of an individual, it can be said that the security and freedom complement each other. Security is one that allows freedom of the individual or society and therefore its prerequisite (Anžič, 2002: 457). Only in a free and safe society, the individual may, as subject of certain criteria (legal system, democracy, constitution), safely exercising his rights. It follows that security is a prerequisite for human rights. Modern democratic states tend to uphold the highest standards of safety of its citizens, but they want to allow as much freedom in their work. The key

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<sup>3</sup> In theory, the security may be absolute, which in real life means complete freedom from all sources of threat or complete security.

issue is to maintain a balance between freedom and security. Therefore, we can not allow the dominance of one over the other or to the detriment of another<sup>4</sup>.

Fundamental to the relationship of freedom and security is their implementation from the perspective of the individual within the legal system. The state shall guarantee human rights by legal means and the repressive apparatus, which represents the guardian of the state system (constitutional system, values, human rights, etc.). It is also responsible for supervising compliance with legal norms and full implementation of the obligations arising from them. The state needs to achieve these goals operate in accordance with statutory limits and not exceed its powers, otherwise a democracy and legitimacy becomes questionable (Anžič, 2002: 455-457). In case of violations the state is also legitimate to react to them accordingly and also penalize violators.

Based on the Constitution, implementation of rights is not absolute in relation to the rights of others, so security provides freedom of implementation of the rights as long as they are complying with the legal norms. If someone exceeds the legal norm and also violate of rights, from the state is expected that through its security apparatus to ensure the rights of those whose rights have been violated. Security and freedom are in the context of interdependent and complement each other, their relationship must be balanced. This means that security provides freedom and the freedom gives individuals possibility to choose and implement their individual rights in the country.

Taking into account that security is correlated with repression, its essential function must be guaranteeing the right to life. It is a fundamental right of the individual and a prerequisite for the provision of other forms of freedom that are part of the right to life.

In case of security threats, such as international terrorism, the state could adopt counter-terrorism measures, which aims to reduce the level of threat and increase the level of security. With this taken measures, the state can affect and restrict human rights and freedoms, to a certain extent.

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<sup>4</sup> To achieve a higher level of security to the detriment restrictions or even violations of human rights.

## **More security to the account of freedom**

Fundamental human rights and freedoms in modern democratic countries already laid the basic constitutive act of the State - the Constitution, which also includes provisions on their legal protection. Development of human rights has contributed to greater awareness of the importance of rights not only for the individual but for the whole society and its political structure, depending on the legal and institutional arrangements in this area. Level of quality, respect and protect the individual rights of the individual is always more impact on the legitimacy of the political system, and also indirectly defines a system of social value (Cerar, 2002: 17).

International conventions and declarations on human rights and freedoms have been written and adopted to ensure the minimum rights to all people and to allow their legal protection. In this way, the relationship was established, which allows one to enforce his rights, but protects them from other possible violations. However, the law provides that in certain circumstances may intervene in certain acquired rights. In principle, it is true relationship in which the rights of individuals is limited by the rights of others, and the latter can not be implemented at the expense of meaning or even compromising the other<sup>5</sup>.

The state is therefore one which provides the implementation of the rights and protects them in the event of a breach and provides appropriate sanction against violator. Often it happens that the state does not allow for adequate protection of the rights enshrined or even appears in the role of the offender. The state may affect the rights and limited only by the Constitution and the law. This is mostly happening in the exercise of certain private, political,

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<sup>5</sup> Human rights and fundamental freedoms in the Constitution of the Republic of Slovenia defined from 14 to 65 Article. In the 15th Article expressly provides that they shall be exercised directly on the basis of the Constitution. The law may prescribe the manner of exercising rights and freedoms, but only where the Constitution so provides or is required by the very nature of the rights or freedoms. The same article also states that the right is limited only by the rights of others, otherwise, they may be limited only where the Constitution. The restriction of the rights is also important 16th of the Constitution, which allows the suspension and restriction of rights. Thus, some rights may be restricted or suspended, in war or state of emergency, with the restriction or revocation only applies for the duration of reason. It stressed that the restrictive measures should not be such as to lead to inequality based on race, nationality, sex, language, religion, birth, education or any other personal circumstance. The Constitution also provides for the rights, which in any case can not be suspended or restricted, such as the inviolability of human life, prohibition of torture, the protection of human personality and dignity, presumption of innocence, the principle of legality, legal guarantees in criminal proceedings and freedom of conscience.

economic and other interests, in the sense of "the aim justifies the means."

This theorem is in the era of globalization and the emergence of modern forms of threats, which include also international terrorism, established a completely new dimension. The desire and interest to strengthen national security, national security became the primary goal. Rigorous anti-terror measures become a means for its realization. These taken measures shall reach out to human rights, especially in terms of their restriction. Despite the fact that in exceptional cases may be right to a certain extent limited, the scope of the limitations often difficult to determine because of the sensitivity of institutions having the right to restrict.

The threat to individual freedom is meant mostly from the perspective of countries almost unlimited choice of means to achieve their goals, even if they are unethical in relation to human rights. Freedom, security and privacy are rights which are, by their very nature and content of the most sensitive, especially when it comes to their restriction or violation. In other words, the right to freedom in its broadest sense, and the right to security including the right to life, represents a condition of the implementation of all other rights.

Concerned for the safety of citizens and national security, the country adopted a variety of measures, including those to restrict certain rights of the individual. On account of these measures, the security might be increased, while on the other hand, the freedom and privacy is limited. Concerning of thin line between freedom and security is therefore necessary to find a suitable compromise, because, as Hagan (1997: 155) says "democratic society must not violate their own moral principles and values in the fight against terrorism, otherwise they become a monster to fight against."

For decades, international terrorism is a challenge for safety at all levels, and also for human freedom. Historical turning point, both for terrorism as well as human rights, represented a terrorist attack in the U.S., 11 September 2001. Countries have mostly reacted in such a way that they have taken measures to have increased security on account some restrictions on the rights of its citizens.

This led to an imbalance in the relationship between security and freedom. The main objective of counter-terrorism legislation is aimed primarily at ensuring security, while threatening people's freedom. In the context of international institutions existing international legal norms

which are accepted by the state also represent the cornerstone of implementation and protection of fundamental human rights and freedoms. In relation to terrorism both have become a second-rate importance.

Interference with these rights may be viewed from two perspectives: in terms of restricting the rights of due to the existence an increased security risk and in terms of the deliberate violations of rights in the form of a terrorist act. In the first case a State in the event of risk due to the potential threat to its citizens or public interest, should limit certain rights. The state independently decides about the range and for what time period. The boundaries of freedom and privacy, are difficult to resolve, therefore laws are those, to restrain the boundaries between them in the most legitimate way. However, it is necessary to ensure a balance and equality between rights, because all rights are equal and none has greater importance than the other. Otherwise it can easily lead to imbalance and conflict between rights.

In the second case, terrorist acts express the roughly interference in the most fundamental values of liberty and security. Assets which are to be used are unethical to human rights, moral principles and the rule of law. If these actions are seen through the eyes of terrorists, their ideas and actions perceived as legitimate and attributed the status of rights. This also means that they're willing to fight and lose lives for this right, regardless of the fact that this action will jeopardize the rights and lives of others. Thus they establish implementation of one right on account others, such as the right to a nation state, religion on account the right to life, freedom of others.

In order to increase security, the States have limited some of the basic rights and indirectly threaten them. Controversial at this is thinking and same time an apology that the restriction of certain rights increased higher level of security. This can have positive and negative consequences, depending on the type and the extent and duration of restrictions on individual rights. Assuming that the restriction of the right to acceptable limits may show a positive impact in significantly faster and more effective way of detecting terrorist activities, greater control over the operation of suspected persons and organizations, improved international cooperation, etc. Negative effects of limitation of rights in some countries expressed through an increased level of xenophobia and hatred, violence, intolerance to other, etc. The measures which have reduced the rights of foreigners, asylum seekers and immigrants, have compromised the validity of international standards to guarantee these



rights, but also endanger the obligations of States under international law.

Following the attacks on the World Trade Center and the Pentagon in the United States dominates the view that the national security, at least temporarily more important than civil rights and civil liberties. The Government has adopted a number of new laws that have greatly increased the powers above all intelligence and security services, such as monitoring of electronic communications in real time, tapping without a court order, control of air passengers, the proliferation of personal data, more difficult access to public information, etc. At the same time they allow abuse laws. In addition, the U.S. requested that European and other governments adopted similar changes in national legislation. With this, the U.S. has much greater access to information about their citizens. Thus is achieved greater control of EU citizens sharing personal data with the U.S. and respect for the American rules on the Internet.

### **At that time temporary remains**

With the adoption of "new patriotic legislation" events which followed 11th September 2001, triggering a wave of violations of the rights and freedoms in huge proportions. Democratic world then, and also in most of the current violation, to a greater extent and will not have the power to set their abuse. Artificial excessive fear of terrorism has been so strong and widespread that many people consciously forget about human rights. At that time, many European countries have adopted a number of laws that are not in accordance with the norms and accepted standards of human rights. "War on terror" has been used to cope with political opponents, separatists, members of different religious groups. Tolerance and multiculturalism have become irrelevant values. List of violators is long. U.S. Judge Sandra Day O'Connor was so long ago pointed out that "if we want to remain loyal to their values against the tyranny we can not fight with the tool of tyrants!" (Soban, 2011: 21).

Intelligence and security services have taken responsibility, unacceptable in terms of human rights. The principle that everyone has the right to a fair hearing (the court), in the current fight against terrorism does not respect nearly anyone. People are detained without any legal process and without any proof. In many places, the prisoners are tortured, even though torture is forbidden by all international conventions and although it is everyone perfectly clear that the data obtained with the method of torture are not credible. Also of concern is that many do not oppose such methods.

Instead, in order to protect the people, what their mission is, states in the

function of the war on terror, protect themselves. This may lead to the creation of the state within the country and the abuse of state secrets can lead to a kind of state terror. In order to prevent the complete degradation of democratic values and dignity, says Dick Marty, reporter for the Council of Europe, "... a necessary mechanism for control over their work, which will respect the specificity of their mission and the resulting tasks, while they constantly reminded to respect the laws." Mechanism represents parliamentarians (Marty in Soban, 2011: 21).

With a view to apology their actions they are trying to demonstrate that security is more important than freedom and human rights. Therefore the executive government concealed its activities behind the walls of state secrets but not with the objective of insurance protection and high-security data but usually in order to protect its own people involved in illegal actions.

It follows that we are returning to a period in which we are already located in the time of the cult of state secrets, as a tool of the executive, who is hiding behind the walls of state secrets tries to distance itself of any control of many increasingly marginalized legislative and judicial power. Executive government by taking actions which are in total contradiction with democratic policy, values and human rights, an ever more power, which creates an imbalance among all three branches of government. Escalation of this imbalance can undermine the foundations of democracy<sup>6</sup>.

With such unreasonable acts Europe and the world approaching a dangerous culture of impunity that has supplanted fatal foundations of democratic institutions. In democratic systems, based on transparency, citizens have a right to know what the executive government and its intelligence and security services are doing on their behalf. Justice is obliged to prosecute all those who are entitled to take into their own hands, even if it is for senior officials and political intelligence or security spheres.

So the key changes occurred in the area of responsibility of internal security authorities, especially the police and the intelligence and security services in the field of immigration and asylum policies as well as in ensuring the safety of air traffic. Addition to the mentioned there was also changes of policy in the financial field (measures to freeze the

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<sup>6</sup> That last thought may be escorted by the U.S. President statement in May 2011, after the extrajudicial statement by Osama bin Laden: "Justice has been done" or "Justice was served."

assets of suspected terrorism or links to it and measures related to intelligence and security services access to personal data and other bank accounts of their customers and financial transactions), the judicial and criminal matters (measures related to increasing penalties for perpetrators of acts of terrorism), the rail and maritime transport and the control of cross-border movement. It shall also be noted that there has been increased investment in modern control technologies, such as electronic search engines, brain fingerprints, computer translators, body scanners, the ever-present cameras and sensors, robots inspector, use of wireless networks, are just a few.

After that turning point R Slovenia has not received any special anti-terrorist measures. However, it has become even more active in countering terrorism and carried out certain preventative measures, which is particularly evident from enhanced cooperation and integration, against various threats, at the international level and in the adoption of various international instruments, conventions, declarations, protocols, etc. Also, public opinion polls related to the risk of its citizens do not attach great potential emergence of terrorism in its territory. Due to open borders and the free movement of people R Slovenia is much more exposed to other forms of organized crime.

## **Conclusion**

Modern international environment is characterized by the diversity of processes and related effects, including security risks posed by rapid changes in society. New opportunities and challenges characterized by globalizing and modern security paradigm launch a number of irresistible processes within existing systems of national security, changing the role of government in providing security to its citizens and residents. Changes in the concept of security are resulting from changes (new and modern) sources of threats as well as new players in the ensuring security. The changes are equally influenced by the perception of the real sources of threat.

In recent decades we can observe two different approaches in defining the concepts of security. In the traditional concept of security, the interests, needs and rights of individuals and social groups are subordinated to the interests of the country. While contemporary scientific discussion on the security follow to the changed security environment, also have influence of the changes in the reference security objects.

Instead of countries, individual, society, the environment, critical

infrastructure, etc are becoming more imperative than non-state actors. However, it would be completely unacceptable and wrong, taking into account the almost lacking in transparency number of contemporary sources of threat, pushed the country into the background, and other reference objects seen as the only and the most important in terms of security. Modern expert discussion on security is so focused and based primarily on reference objects, sources of threats and security mechanisms to ensure the security and what are the means to achieve safety.

In modern security paradigm we can trace a double deviation from state centric perspective of security, on the one hand, we are faced with transnational security, while on the other there is an increasing trend towards ensuring individual (human) safety, this means a shift to the concept of ensuring safety of an individual. Security is becoming a fundamental civil right that requires the synthesis of a wide range of countries and national social policies.

When limiting the rights at the expense of safety there has been a peculiar paradox. Developed western countries who advocate the rule of law, democracy and respect for human rights, with adoption of anti-terrorist legislation restricting or even breach the above mentioned principles. People are also under the influence of the media, in fear of losing security willing to give up some of their rights or even allow their violation. It follows that the relationship between freedom and security, priority to the safety, regardless of the resources necessary for its provision. With the implementation of the policy of restricting the rights, the states jeopardize their own freedom rather than to provide it.

Therefore to ensure security, it appears perfectly legitimate dilemma between freedom and security and where to apply "more security on account of liberty." Individuals with their rights and freedoms are the ones who will have to answer the question whether they are willing to accept certain restrictions on their rights because of security and for how long.

Increasingly, the public opinion is occurring, and we now have fewer freedoms than we had ten years ago, with the trend, which suggests that we will have even less in the future. Human rights and fundamental freedoms are the cornerstone of democracy and a just society. With them democracy begins and ends. Where there is no human rights there is home of dictatorship, totalitarianism, police state.

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