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### Human Security: Undermining Human Rights?

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#### Recommended Citation

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## Human Security: Undermining Human Rights?

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Human Rights Quarterly, Volume 34, Number 1, February 2012, pp.  
88-112 (Article)

Published by The Johns Hopkins University Press  
DOI: 10.1353/hrq.2012.0004



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# Human Security: Undermining Human Rights?

*Rhoda E. Howard-Hassmann\**

### ABSTRACT

This article warns that the human security discourse and agenda could inadvertently undermine the international human rights regime. Insofar as human security identifies new threats to well-being, new victims of those threats, new duties of states, or new mechanisms for dealing with threats at the inter-state level, it adds to the established human rights regime. When it simply rephrases human rights principles without identifying new threats, victims, duty-bearers, or mechanisms, however, at best it complements human rights and at worst it undermines them. A narrow view of human security is a valuable addition to the international normative regime requiring state and international action against severe threats to human beings. By contrast, an overly broad view of human security ignores the human rights regime; by subsuming human rights under human security, it also undermines the primacy of civil and political rights as a strategic tool for citizens to fight for their rights against their own states.

### I. INTRODUCTION

This article warns that the human security discourse and agenda has the capacity to inadvertently undermine the international human rights regime.

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It argues that insofar as 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. Insofar as it simply rephrases human rights principles without identifying new threats, victims, duty-bearers, or mechanisms, at best it complements human rights and at worst it could undermine them. The narrow view of human security, as defined below, is a valuable addition to the international normative regime requiring state and international action against severe threats to human beings. By contrast, the broader view of human security at best repeats, and possibly undermines, the already extant human rights regime, especially by converting state obligations to respect individuals' inalienable human rights into policy decisions regarding which aspects of human security to protect under which circumstances. The two may be competing discourses, despite arguments by some scholars that they are not.<sup>1</sup>

## II. HUMAN SECURITY: THE CONCEPT

The term "human security" was introduced into international discussion in the 1990s as a response to new (or more generalized) "downside risks" that could affect everyone. The United Nations Development Programme (UNDP) defined human security as both "safety from such chronic threats as hunger, disease and repression" and "protection from sudden and hurtful disruptions in the patterns of daily life."<sup>2</sup> Although the actual term "human security" was first used by the UNDP in 1994, its origins can be traced to earlier UN commissions on the environment, development, and global governance.<sup>3</sup> The Clinton administration used the term in many foreign policy speeches in 1993 and 1994.<sup>4</sup> Even earlier, the Helsinki Accords of 1975 linked state security to individual human rights.<sup>5</sup>

The 1994 UNDP report focused on the risks of "Unchecked population growth, Disparities in economic opportunities, Excessive international migration, Environmental degradation, Drug production and trafficking, [and] International terrorism."<sup>6</sup> Later, other risks such as the spread of disease and

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1. SHAHRBANOU TADJBAKSH & ANURADHA M. CHENOY, *HUMAN SECURITY: CONCEPTS AND IMPLICATIONS* 12 (2007).
  2. UNITED NATIONS DEVELOPMENT PROGRAMME [UNDP], *HUMAN DEVELOPMENT REPORT 1994*, at 23 (1994) [hereinafter *HUMAN DEVELOPMENT REPORT 1994*].
  3. See Gerd Oberleitner, *Human Security: A Challenge to International Law?*, 11 *GLOBAL GOVERNANCE* 185, 185 (2005).
  4. Emma Rothschild, *What is Security?*, *DAEDALUS*, Summer 1995, at 53, 55.
  5. JACK DONNELLY, *UNIVERSAL HUMAN RIGHTS: IN THEORY AND PRACTICE* 249 (2d ed. 2003).
  6. *HUMAN DEVELOPMENT REPORT 1994*, *supra* note 2, at 34.

instability in financial markets were added.<sup>7</sup> The human security agenda focuses on “early warning and prevention” of all these downside risks,<sup>8</sup> to which almost everyone, rich and poor, in the North or South, is vulnerable. Thus, the human security agenda identifies “new” threats to human well-being in the sense that the threats are actually new (climate change), more extreme than in previous decades (terrorism), or previously not thought of as a threat to human security (excessive migration).

The stress on “human” security was meant to be a counterweight to the view that the only form of security that mattered was state security, defined quite narrowly as “military defense of state interests and territory.”<sup>9</sup> The focus of human security is “people,” as opposed to states. Human security’s principal goal is to extend the concept of security beyond national security, as one way to force states to pay more attention to the needs of their citizens. The choice of the term “security” is meant to persuade governments that citizens’ security *is* state security; if citizens are insecure, then states are insecure. Furthermore, the term implies that states can be adversely affected by the insecurity of citizens outside their own borders: for example, by uncontrollable flows of illegal economic migrants. As a matter of self-interest, therefore, governments should participate in the protection of citizens of other states against standard threats to their security. Thus, human security can identify new victims of threats in the sense that it proposes broadening each state’s responsibilities to citizens of other states, not only through the mechanisms of international laws or courts to which states may be party, but also through other aspects of each state’s foreign and, indeed, domestic policies. For example, a state might decide to devote more resources to international efforts to ameliorate the threat of climate change or terrorism, or to liberalize its immigration laws.

The other innovation of the human security agenda is its suggestion that the international community has obligations to protect “people” by intervening to protect citizens’ security when their own states cannot provide it. Human security, in the view of one of its advocates, is a form of “forward defense” against common threats to humanity, utilizing new diplomatic and other tools.<sup>10</sup> It identifies new duty-bearers to protect human security and suggests new mechanisms that they can use. Thus, the original 1994 human security agenda intersects with the later agenda of the Responsibility to Protect Doctrine (R2P)<sup>11</sup> in an on-going attempt to legitimize and regularize

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7. Sakiko Fukuda-Parr, *New Threats to Human Security in the Era of Globalization*, 4 J. HUM. DEV. 167, 175–76 (2003).

8. *Id.* at 171.

9. Roland Paris, *Human Security: Paradigm Shift or Hot Air?*, INT’L SECURITY, Fall 2001, at 87, 87.

10. Paul Heinbecker, *Human Security: The Hard Edge*, CANADIAN MIL. J., Spring 2000, at 11,13.

11. Lloyd Axworthy, *Foreword* to TRADE, AID AND SECURITY: AN AGENDA FOR PEACE AND DEVELOPMENT xiii (Oli Brown et al. eds., 2007).

international intervention when states cannot, or will not, protect their own citizens. The R2P report, commissioned by the government of Canada as one of its human security initiatives, argues that the international community is justified in undertaking military intervention when states fail to protect their citizens from large scale loss of life that is a product of deliberate state action, state neglect, or inability to act; when there is a failed state situation; or when there is large-scale ethnic cleansing.<sup>12</sup> In 2005 the UN General Assembly agreed in principle with these recommendations.<sup>13</sup>

Despite the fairly compact list of generalized threats in the 1994 UNDP Report, there is substantial analytical disagreement about precisely what constitutes human insecurity. The narrower view focuses on crisis situations that require international remedies.<sup>14</sup> In some instances, the human security agenda can transcend professional distinctions such as between “humanitarian relief, development assistance, human rights advocacy and conflict resolution,”<sup>15</sup> requiring new, coordinated mechanisms of international cooperation or intervention to replace the piecemeal institutional approach that characterized international attempts to remedy large-scale crises in the past.

This narrow approach stems in part from the human security agenda proposed and implemented by the then Liberal Foreign Minister of Canada, Lloyd Axworthy, in the late 1990s.<sup>16</sup> In his view, human security referred to such matters as “[p]rotecting civilians, addressing the plight of war-affected children and the threat of terrorism and drugs, managing open borders, and combating infectious diseases.”<sup>17</sup> Human security lost its premier place in Canadian foreign policy after Axworthy’s tenure as Foreign Minister ended in 2000, even under succeeding Liberal Ministers.<sup>18</sup>

Other attempts to define human security take a broader approach than did Axworthy. Convened in 2001 at the behest of Japan, the Commission on Human Security delivered its Report in 2003, arguing *inter alia* that human security included protection against extreme impoverishment, provision of basic education, and provision of health care and social protection.<sup>19</sup> This

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12. INTERNATIONAL COMMISSION ON INTERVENTION AND STATE SOVEREIGNTY, *THE RESPONSIBILITY TO PROTECT* xi–xii (2001).
  13. GARETH EVANS, *THE RESPONSIBILITY TO PROTECT: ENDING MASS ATROCITY CRIMES ONCE AND FOR ALL* 3–4 (2008).
  14. Nicholas Thomas & William T. Tow, *The Utility of Human Security: Sovereignty and Humanitarian Intervention*, 33 *SECURITY DIALOGUE* 177, 178 (2002).
  15. Peter Uvin, *A Field of Overlaps and Interactions*, 35 *SECURITY DIALOGUE* 352, 352 (2004).
  16. Lloyd Axworthy, *Human Security and Global Governance: Putting People First*, 7 *GLOBAL GOVERNANCE* 19 (2001); Nik Hynes & David Bosold, *A History and Genealogy of the Freedom-from-Fear Doctrine*, 64 *INT’L J.* 735, 738 (2009).
  17. Axworthy, *supra* note 16, at 19.
  18. Hynes & Bosold, *supra* note 16; Francis J. Furtado, *Human Security: Did it Live? Has it Died? Does it Matter?*, 63 *INT’L J.* 405, 418 (2008).
  19. COMMISSION ON HUMAN SECURITY, *HUMAN SECURITY NOW* 6–7 (2003).

Japanese “security-development nexus”<sup>20</sup> was partly a reaction to the impoverishment caused by the Asian economic crisis of 1997 to 1999,<sup>21</sup> which resulted in a heightened sense of vulnerability in the Asian region to world economic events.<sup>22</sup> Japan set up a UN Trust Fund for Human Security in 1999, with a budget of \$170 million by 2002.<sup>23</sup> The Trust’s geographical focus was Southeast Asia and Africa, and its substantive focus was development.<sup>24</sup> The “Japanese” approach, ostensibly stressing development or freedom from want, is sometimes contrasted with the “Canadian” approach, ostensibly stressing freedom from fear.<sup>25</sup> However, in 2006 Japan and Mexico established a Friends of Human Security network within the United Nations.<sup>26</sup> This discussion forum for state and UN representatives leaned towards a broad, multidimensional view of human security, focusing on both freedom from want and freedom from fear.<sup>27</sup>

Some scholars advocate an even broader definition of human security than freedom from want and fear, referring to almost any aspect of an individual’s life that might make her insecure. Gary King and Christopher J.L. Murray, for example, redefine human security as “the number of years of future life spent outside a state of ‘generalized poverty.’”<sup>28</sup> Gunhild Hoogensen and Svein Vigeland Rottem include domestic violence as an indicator of human insecurity, while Mary Caprioli applies the language of human security to the entire range of women’s rights.<sup>29</sup> Even more nebulous is the idea of human security as “social, psychological, political, and economic factors that promote and protect human well-being through time.”<sup>30</sup> Thus,

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20. David Roberts, *Human Security or Human Insecurity? Moving the Debate Forward*, 37 SECURITY DIALOGUE 249 (2006).
  21. COMMISSION ON HUMAN SECURITY, *supra* note 19, at 8–9.
  22. Amitav Acharya, *Human Security: East Versus West*, 56 INT’L J. 442, 448 (2001); Paul Evans, *A Concept Still on the Margins, but Evolving from Its Asian Roots*, 35 SECURITY DIALOGUE 363 (2004).
  23. David Bosold & Sascha Werthes, *Human Security in Practice: Canadian and Japanese Experiences*, 1 INTERNATIONALE POLITIK UND GESELLSCHAFT [INT’L POLITICS AND SOC’Y] 84, 95 (2005).
  24. *Id.*
  25. *Id.* at 94–95.
  26. Gerd Oberleitner, *Human Security*, in ENCYCLOPEDIA OF HUMAN RIGHTS 486–87 (David P. Forsythe ed., 2009).
  27. Meeting Summary, UN Trust Fund for Human Security, Third Meeting of Friends of Human Security—New York (2007), available at <http://ochaonline.un.org/OutreachandABHS/Outreach/2007Activities/ThirdmeetingoftheFriendsofHumanSecurity/tabid/2877/language/en-US/Default.aspx>.
  28. Gary King & Christopher J.L. Murray, *Rethinking Human Security*, 116 POL. SCI. Q. 585, 585 (2002).
  29. Gunhild Hoogensen & Svein Vigeland Rottem, *Gender Identity and the Subject of Security*, 35 SECURITY DIALOGUE 155, 167 (2004); Mary Caprioli, *Democracy and Human Rights Versus Women’s Security: A Contradiction?*, 35 SECURITY DIALOGUE 411 (2004).
  30. Jennifer Leaning, *Psychological Well-Being over Time*, 35 SECURITY DIALOGUE 354, 354 (2004).

in the broader interpretations proposed by some scholars, human security now seems to refer to any possible need that any individual might have, including needs, such as provision of psychological security, never before defined as an obligation of either states or the international system.

This broad view of human insecurity sometimes identifies new threats to individuals' well-being and perhaps new victims of such threats, depending on each researcher's view of what human security should comprise. Moreover, it implicitly proposes new duties on states to protect the victims of violations of well-being, both internally and within other states, and implicitly suggests that new mechanisms for protection are needed. However, it is not clear what these new duties are or what new mechanisms might be used to realize them. If the duty-bearer for human security is the international community, or some subset of it, then the new mechanisms the community could use to combat generalized poverty, domestic violence, or psychological factors that undermine human well-being are far from clearly explained.

### III. INTERNATIONAL HUMAN RIGHTS LAW COMPARED WITH HUMAN SECURITY

Human rights are rights that, in principle, all human beings are entitled to, merely by virtue of being biologically human. They are individual rights, not tied to any particular social status or to group, communal, national, or any other membership. Human rights do not have to be earned, nor can they be limited except by conformity to the rule of law, for example when convicted criminals are deprived of freedom of movement. Individual human beings can assert their human rights, while states and other entities are obliged to respect, protect, and fulfill them. To respect human rights means not to violate them; to protect them means to ensure that they are not violated by others; and to fulfill them means to implement positive measures to ensure that individuals enjoy their rights. Human rights are also inalienable, meaning that the state may not withdraw any individual's human rights except under conditions prescribed by the rule of law or (for some rights only) in situations of national emergency.

The international human rights legal regime precedes the discourse on human security by over forty years. Human rights were originally enshrined in the UN International Bill of Rights, which consists of the 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR), and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>31</sup> Civil and political rights

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31. Universal Declaration of Human Rights, *adopted* 10 Dec. 1948, G.A. Res. 217A (III), U.N. GAOR, 3d Sess., U.N. Doc. A/RES/3/217A (1948) [hereinafter UDHR]; International



include, for example, protection against torture, the right to a fair trial, and the right to vote.<sup>32</sup> Economic, social, and cultural rights include, for example, the right to work, the right to form trade unions, and the rights to education, social security, an adequate standard of living, and the highest attainable standard of health.<sup>33</sup> There are also so-called collective rights, such as the right to development.<sup>34</sup> Many other more specific human rights treaties, some of which are mentioned below, have been agreed to since 1966.

Since the United Nations World Conference on Human Rights was held in Vienna in 1993, international law has recognized that all human rights are universal, indivisible, interdependent, and interrelated: it is impossible to enjoy one set of rights without enjoying the other sets.<sup>35</sup> This principle thus predates assumptions of inter-connectedness among solutions to problems of human insecurity.

Human rights were originally designed to protect the individual against the state.<sup>36</sup> Gross human rights violations such as extra-judicial execution, arbitrary arrest, and torture are usually committed by the state, although they can also be committed by non-state entities such as armed rebel militias. Civil rights such as due process, a fair trial, and habeas corpus are necessary to protect citizens against these abuses, as are political rights such as freedom of speech, freedom of assembly, and the right to vote. The ubiquity of the state makes a universal human rights standard necessary, regardless of the type of political regime.

Since the inception of the UDHR, however, human rights have gradually evolved to also protect individuals against non-state actors,<sup>37</sup> all organs of society are expected to protect human rights. An emerging normative regime obliges transnational corporations and international organizations such as international financial institutions (IFIs) to also respect human rights.<sup>38</sup> Moreover,

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Covenant on Civil and Political Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., 1496th plen. mtg., Supp. No. 16, at 52, U.N. Doc. A/6316 (1966) [hereinafter ICCPR], 999 U.N.T.S. 171 (*entered into force* 23 Mar. 1976); International Covenant on Economic, Social and Cultural Rights, *adopted* 16 Dec. 1966, G.A. Res. 2200 (XXI), U.N. GAOR, 21st Sess., 1496th plen. mtg., Supp. No. 16, at 49, U.N. Doc. A/6316 (1966) [hereinafter ICESCR], 993 U.N.T.S. 3 (*entered into force* 3 Jan. 1976).

32. ICCPR, *supra* note 31, arts. 7, 14, 25.

33. ICESCR, *supra* note 31, arts. 6, 8, 10–12.

34. Declaration on the Right to Development, *adopted* 4 Dec. 1986, G.A. Res. 41/128, U.N. GAOR, 41st Sess., 97th plen. mtg., Supp. No. 53, at 186, U.N. Doc. A/41/53 (1986).

35. Vienna Declaration and Programme of Action, *adopted* 25 June 1993, U.N. GAOR, World Conf. on Hum. Rts., U.N. Doc. A/CONF.157/23 (1993); DANIEL J. WHELAN, *INDIVISIBLE HUMAN RIGHTS: A HISTORY* 1 (2010).

36. See MICHELINE R. ISHAY, *THE HISTORY OF HUMAN RIGHTS FROM ANCIENT TIMES TO THE GLOBALIZATION ERA* 63–116 (2004); LYNN HUNT, *INVENTING HUMAN RIGHTS* (2007).

37. *NON-STATE ACTORS IN THE HUMAN RIGHTS UNIVERSE* (George Andreopoulos, Zehra F. Kabasakal Arat & Peter Juviler eds., 2006).

38. Ralph G. Steinhardt, *Corporate Responsibility and the International Law of Human Rights: The New Lex Mercatoria*, in *NON-STATE ACTORS AND HUMAN RIGHTS* 177 (Philip Alston

human rights obligations now extend to what was earlier considered to be the “private” societal and familial level. Society, the family, and individuals bear human rights obligations to the disabled, the aged, women, children, and increasingly to sexual minorities. Treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) protect women and children against social actors and against abuse by family members, as well as against abuse by the state.<sup>39</sup>

Regarding the interplay between the international human rights legal regime and the discourse of human security, it is of utmost importance to recognize that respect for, protection of, and fulfillment of human rights are not policy choices. States may not pick and choose which rights to protect, whose rights to protect, or when to protect them. States that have signed and ratified the relevant human rights treaties are not permitted to prioritize one right, or set of rights, over another in the fulfillment of policy objectives.<sup>40</sup> Nor may states use real or perceived security threats as excuses to pick and choose which rights to respect, whether the threats are traditional state security threats such as military attack or new human security threats such as climate change. Although some human rights may be suspended during states of emergency, others—such as the protection against torture<sup>41</sup>—may not be derogated from regardless of the situation.

Furthermore, states must protect the rights of their individual citizens. They may not derogate from the rights of some individuals in the name of protection of the national people, or any subset thereof. Individual citizens possess the legal right to demand that their human rights be enforced, whereas

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ed., 2005); *Report of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, John Ruggie, *Business and Human Rights: Mapping International Standards of Responsibility and Accountability for Corporate Acts*, U.N. GAOR, Hum. Rts. Council, 4th Sess., Prov. Agenda Item 2, U.N. Doc. A/HRC/4/35 (2007); Mark Gibney, Katarina Tomashevski, & Jens Vedsted-Hansen, *Transnational State Responsibility for Violations of Human Rights*, 12 HARV. HUM. RTS. J. 267 (1999); MARK GIBNEY, *INTERNATIONAL HUMAN RIGHTS LAW: RETURNING TO UNIVERSAL PRINCIPLES* (2008); DAVID KINLEY, *CIVILISING GLOBALISATION: HUMAN RIGHTS AND THE GLOBAL ECONOMY* (2009); ANDREW CLAPHAM, *HUMAN RIGHTS OBLIGATIONS OF NON-STATE ACTORS* (2006).

39. Convention on the Elimination of All Forms of Discrimination Against Women, *adopted* 18 Dec. 1979, G.A. Res. 34/180, U.N. GAOR, 34th Sess., 107th plen. mtg., Supp. No. 46, at 193, U.N. Doc. A/34/46 (1980) [hereinafter CEDAW], 1249 U.N.T.S. 13 (*entered into force* 3 Sept. 1981); Convention on the Rights of the Child, *adopted* 20 Nov. 1989, G.A. Res 44/25, U.N. GAOR, 44th Sess., 61st plen. mtg., Agenda Item 108, Supp. No.49, at 166, U.N. Doc. A/44/49 (1989), 1577 U.N.T.S. 3 (*entered into force* 2 Sept. 1990).
40. Gerd Oberleitner, *Porcupines in Love: The Intricate Convergence of Human Rights and Human Security*, 6 EUR. HUM. RTS. L. REV. 588, 596 (2005).
41. ICCPR, *supra* note 31, arts. 4, 7.

the individual has no standing in the human security discussion.<sup>42</sup> National laws; regional treaties such as the European Convention for the Protection of Human Rights and Fundamental Freedoms, the American Convention on Human Rights, and the African Charter on Human and Peoples' Rights;<sup>43</sup> and international bodies such as the United Nations Human Rights Committee are all entities to which individuals can appeal violations of their rights, although their enforcement powers differ.

On the other hand, rarely can an individual appeal to a state to protect his human rights if he is not a citizen of that state. This leaves stateless individuals unprotected, while migrants, whether legal or illegal, frequently have no recourse against violation of their human rights even if they remain citizens of a state where they no longer reside. Human security's broadening of states' responsibilities to include non-citizens, even if only in principle rather than practice, is thus a significant change from the international human rights regime, with its insistence primarily on states' responsibilities to their own citizens.<sup>44</sup>

Defenders of the human security approach might argue that although the human rights legal regime is extensive, it has not had much, if any, real positive effect since 1945. Some scholars argue that there is no evidence that when a state signs a human rights treaty, its actual human rights performance improves.<sup>45</sup> It seems that states sign treaties and take part in the ritual of UN human rights monitoring to gain international and internal legitimacy, rather than to improve their domestic human rights performance. On the other hand, some states are acculturated by international norms to improve their own human rights performance,<sup>46</sup> and states that UN monitoring bodies criticize for poor protection of human rights after signing the ICCPR and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>47</sup> improve their performance.<sup>48</sup> Recent statistical

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42. Rothschild, *supra* note 4, at 70–71.

43. European Convention for the Protection of Human Rights and Fundamental Freedoms, *opened for signature* 4 Nov. 1950, art. 34, 213 U.N.T.S. 221, Eur. T.S. No. 5 (*entered into force* 3 Sept. 1953); American Convention on Human Rights, *signed* 22 Nov. 1969, art. 44, O.A.S. Doc. OEA/Ser.L/V/II.23, doc. 21, rev. 6 (1979), O.A.S.T.S. No. 36, 1144 U.N.T.S. 143 (*entered into force* 18 July 1978); African Charter on Human and Peoples' Rights, *adopted* 27 June 1981, art. 55, O.A.U. Doc. CAB/LEG/67/3/ Rev. 5, 1520 U.N.T.S. 217 (*entered into force* 21 Oct. 1986).

44. Rothschild, *supra* note 4, at 83.

45. Linda Camp Keith, *The United Nations International Covenant on Civil and Political Rights: Does It Make a Difference in Human Rights Behavior?*, 36 J. PEACE RES. 95 (1999).

46. HELEN M. STACY, *HUMAN RIGHTS FOR THE 21ST CENTURY: SOVEREIGNTY, CIVIL SOCIETY, CULTURE* 124 (2009).

47. Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* 10 Dec. 1984, G.A. Res. 39/46, U.N. GAOR, 39th Sess., 93d plen. mtg., Agenda Item 99, Supp. No. 51, at 197, U.N. Doc. A/39/51 (1985) [hereinafter CAT], 1465 U.N.T.S. 85 (*entered into force* 26 June 1987).

48. STACY, *supra* note 46, at 130. ANN MARIE CLARK, *INTERNATIONAL SOURCES OF HUMAN RIGHTS CHANGE* (2009).

work shows that on average, state ratification of human rights treaties does improve internal human rights performance.<sup>49</sup>

The human rights legal regime is also the underpinning for a strong, international civil society movement that has penetrated all areas of the world during the last three decades. The regime is a standard of achievement upon which citizens can rely in criticizing not only their own governments, but also non-state entities such as private corporations, and supra-state international organizations such as the World Bank and the International Monetary Fund. Even when the human rights obligations of non-state and supra-state entities are not yet strongly enshrined in law, the normative power of human rights is compelling.<sup>50</sup>

On the other hand, the human rights regime does not make strong demands on the international system. Few international mechanisms exist that can actually check human rights abuses. The UN Security Council (UNSC) can pass resolutions regarding human rights abuses it deems to adversely affect international peace and security. The International Criminal Court (ICC) can convict individuals of war crimes, crimes against humanity, or genocide, but only after they have already severely abused human rights. Various UN human rights committees dealing with civil and political rights; economic, social, and cultural rights; racial discrimination; discrimination against women; protection against torture; children's rights; and rights of migrant workers can assess and comment on state reports of compliance with human rights treaty obligations.<sup>51</sup> In some circumstances, these committees can also hear individual complaints against states. None of these committees, however, have enforcement powers; they can only monitor states that violate human rights, shame the violators, and persuade them to change their practices. Thus, although individual states bear the responsibility to protect their citizens' human rights (and in some cases, the rights of non-citizens), the international system as a whole does not bear similar responsibilities.

#### IV. IMPROVING ON THE INTERNATIONAL HUMAN RIGHTS REGIME

The narrower view of human security, as originally proposed in the 1994 UNDP Report, identifies some new, and universal, threats to human well-being. It identifies collective, existential threats that are not direct human rights violations, such as climate change.<sup>52</sup> It also identifies threats to people

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49. BETH A. SIMMONS, *MOBILIZING FOR HUMAN RIGHTS: INTERNATIONAL LAW IN DOMESTIC POLITICS* (2009); TODD LANDMAN, *PROTECTING HUMAN RIGHTS: A COMPARATIVE STUDY* (2005).

50. RHODA E. HOWARD-HASSMANN, *CAN GLOBALIZATION PROMOTE HUMAN RIGHTS?* 99–114 (2010).

51. JULIE A. MERTUS, *THE UNITED NATIONS AND HUMAN RIGHTS: A GUIDE FOR A NEW ERA* 80 (2005).

52. *HUMAN DEVELOPMENT REPORT 1994*, *supra* note 2, at 36.

who otherwise enjoy all their human rights, like the financial crises of 2008 and 2011, which seemed to indicate for many middle-class North Americans the end of the financial security they were used to and that permitted them to enjoy their economic human rights. The narrow human security agenda also focuses attention on people who are not under the legal or effective protection of any state, such as stateless individuals, non-status refugees, and illegal economic migrants. However, there is some disagreement regarding who exactly is the object of human security protection. Astri Sukhre suggests that “the core of human insecurity can be seen as extreme vulnerability,” so that the responsibility is to protect the most vulnerable.<sup>53</sup> This appears to contradict the original contribution of the 1994 Human Development Report, which identified existential threats that pertained to everyone, even those not normally thought to be vulnerable at all.<sup>54</sup>

The narrower human security agenda also permits a new approach to international relations. It is a political, mobilizing slogan to undermine exclusive state sovereignty over the security of people, or citizens.<sup>55</sup> It represents a new vehicle for the creation of norms that can reinforce R2P principles, cascade into the wider foreign policy community, and perhaps eventually influence new norms guiding the decisions of the UNSC, such as the 2006 UNSC Resolution 1674 on the Responsibility to Protect.<sup>56</sup> This Resolution’s primary purpose is to advise states that they bear the responsibility to protect their own citizens; that is, they no longer possess the sovereign right to treat their citizens as they see fit, especially if this means violating their human rights. Clause 26 of the Resolution also notes that “the deliberate targeting of civilians and other protected persons, and the commission of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict, may constitute a threat to international peace and security,” and reaffirms the readiness of the UNSC “to consider such situations and, where necessary, to adopt appropriate steps” to ameliorate these violations.<sup>57</sup>

Thus, the narrow view of human security proposes stronger enforcement mechanisms for the international community to remedy extreme human rights violations, whether interstate or intrastate.<sup>58</sup> This is an important innovation, even in light of the widening of human rights obligations discussed above:

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53. Astri Sukhre, *Human Security and the Interests of States*, 30 SECURITY DIALOGUE 265, 272 (1999).

54. HUMAN DEVELOPMENT REPORT 1994, *supra* note 2, at 22.

55. Keith Krause, *Human Security: An Idea Whose Time has Come?*, 23 SICHERHEIT UND FRIEDEN [SECURITY & PEACE] 1, 6 (2005).

56. Resolution 1674, *adopted* 28 Apr. 2006, S.C. Res. 1674, U.N. SCOR, 5430th mtg., U.N. Doc. S/RES/1674 (2006).

57. *Id.* ¶ 26.

58. Fen Osler Hampson & Dean F. Oliver, *Pulpit Diplomacy: A Critical Assessment of the Axworthy Doctrine*, 53 INT’L J. 379, 404 (1998).

individuals and groups still do not have any right to call on the international community to protect them in times of severe human rights abuse such as genocide or ethnic cleansing. For all such protections, they depend on states' votes in the UNSC.

The narrower human security agenda also provides clearer foreign policy focus and guidance for those states that seriously adopt it, as Canada did when Axworthy was Foreign Minister.<sup>59</sup> Promotion of a ban on land mines, concern for child soldiers, promotion of the ICC, and commissioning the R2P Report gave Canada a niche in international diplomacy and a way to exercise "soft" or persuasive power without resorting to force.<sup>60</sup> It provided an independent role in the formation of international policy for some like-minded middle powers and less-developed states.<sup>61</sup>

The Canadian, Norwegian, and Swiss governments established a Human Security Network in 1998,<sup>62</sup> which other countries including Chile, Jordan, Austria, Ireland, Mali, Greece, Slovakia, Thailand, the Netherlands, and South Africa (with observer status only) joined.<sup>63</sup> The Network's main activity is the annual meeting of member states' foreign ministers, who also consult on human security with non-governmental organizations.<sup>64</sup> This coalition, however, lacks focus. It has adopted the broader human security approach, concerning itself not only with the concise foreign policy matters that were originally Canada's concerns, but also with "people-centered development," including alleviation of poverty and provision of social services.<sup>65</sup> Moreover, most, if not all, members of the Network are "relatively minor players" in international affairs.<sup>66</sup> Thus, the Network does not appear to have had any significant impact on how the international community addresses the responsibility to protect people, either from gross human rights violations such as genocide or from day-to-day intrastate violations of human rights.

## V. SUBORDINATING HUMAN RIGHTS TO HUMAN SECURITY

The 1994 UNDP Report refers to human rights in its section on political security, stating: "One of the most important aspects of human security is

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59. Axworthy, *supra* note 16.

60. Jutta Brunnée & Stephen Toope, *Canada and the Use of Force: Reclaiming Human Security*, 59 INT'L J. 247, 249 (2004).

61. Laurent Goetschel, *The Need for a Contextualized and Trans-Disciplinary Approach to Human Security*, 23 SICHERHEIT UND FRIEDEN [SECURITY & PEACE] 26, 29 (2005).

62. CAN. CTR. FOR FOREIGN POLICY DEV., ROUNDTABLE ON CANADA-NORWAY RELATIONS: THE LYSØEN DECLARATION (1998).

63. Krause, *supra* note 55, at 3.

64. ALISON BRYSK, GLOBAL GOOD SAMARITANS: HUMAN RIGHTS AS FOREIGN POLICY 206–08 (2009).

65. Human Security Network, *Principles* (2006).

66. Denis Stairs, *The Axworthy View and Its Dilemmas*, POL'Y OPTIONS, Dec. 1999, at 7.

that people should be able to live in a society that honours their basic human rights."<sup>67</sup> It argues:

For most people, a feeling of insecurity arises more from worries about daily life than from the dread of a cataclysmic world event. Will they and their families have enough to eat? Will they lose their jobs? Will their streets and neighbourhoods be safe from crime? Will they be tortured by a repressive state? Will they become a victim of violence because of their gender? Will their religion or ethnic origin target them for persecution?<sup>68</sup>

This list of threats to individual human rights does not identify new threats, new victims, new duties, or new mechanisms to remedy human rights violations. Thus, it does not show how using the language of human security instead of referring to national law or the international human rights legal regime might improve the situation of victims of human rights abuses. It is already the duty of states to remedy these worries about daily life. National welfare policies exist (in some states) to ensure that everyone has enough to eat and to provide some income for people who lose their jobs; these policies fulfill the obligations of states that are party to the ICESCR. Although individuals' personal physical security is indeed threatened by crime, states bear the primary responsibility through their police forces to protect individuals against criminals. International human rights laws and treaties, including the CAT and the Convention on the Elimination of All Forms of Racial Discrimination (CERD), already impose obligations on states to protect individuals against torture and against religious and ethnic discrimination.<sup>69</sup> Finally, national criminal laws already exist to combat violence against women, which are reinforced in principle by the UN Declaration on the Elimination of Violence Against Women.<sup>70</sup> States that do not protect their citizens from want, crime, torture, discrimination, or gender-based violence when these abuses are considered human rights violations are no more likely to protect their citizens when those same abuses are considered violations of their citizens' security.

Moreover, to re-label these common threats to human well-being as human insecurity rather than human rights violations does not shift responsibility for their amelioration from states to the international arena. For example,

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67. HUMAN DEVELOPMENT REPORT 1994, *supra* note 2, at 32.

68. *Id.* at 22.

69. CAT, *supra* note 47; International Convention on the Elimination of All Forms of Racial Discrimination, *adopted* 21 Dec. 1965, G.A. Res. 2106 (XX), U.N. GAOR, 20th Sess., 1406th plen. mtg., Supp. No. 14, at 47, U.N. Doc. A/6014 (1966) [hereinafter CERD], 660 U.N.T.S. 195 (*entered into force* 4 Jan. 1969).

70. Declaration on the Elimination of Violence Against Women, *adopted* 20 Dec. 1993, G.A. Res. 48/104, U.N. GAOR, 48th Sess., 85th plen. mtg., Agenda Item 111, U.N. Doc. A/RES/48/104 (1994).



only in the last instance, through refugee law, is there an obligation on other states to protect individuals against domestic violence or torture in their home state.<sup>71</sup> States are not obliged to protect citizens of other states from poverty; economic refugees are not a legally-recognized category. Some legal scholars do argue for expansion of state responsibilities to citizens of other states; for example, jurisprudence emerging from the UN Declaration on the Right to Development maintains that richer states are obliged to assist poorer states to develop.<sup>72</sup> These proposed changes, however, emerge from reinterpretations and extensions of existing human rights law, not from the discourse of human security.

Except insofar as it encompasses within its purview the narrower approach, the broader vocabulary of human security does not improve on the national laws, principles, and policies meant to protect, promote, and fulfill human rights, nor does it improve on the international human rights legal regime. The international community is unlikely to adopt the duty to remedy human rights abuses clearly in individual states' domains of domestic responsibility unless they reach the threshold, not only of exceptionally violent and widespread abuse, but also of threats to other countries, such as increased risks of terrorism, or threats to traditional international peace and security. Nor is the international community likely to adopt new humanitarian mechanisms to protect individuals against the entire range of insecurities to which they are subject, by and within their own states. For most human rights abuses or insecurities, the international community will continue to rely on persuasion, shaming, and monitoring by the various UN human rights treaty bodies, occasionally and inconsistently using stronger measures such as sanctions and military intervention to combat genocide or ethnic cleansing.

Just as the 1994 UNDP Report neglects the preexisting human rights regime, there is also remarkably little reference to the human rights regime in the scholarly debate on human security. Indeed, some scholars of human security ignore the human rights regime.<sup>73</sup> They do not acknowledge that international human rights law already addresses many of the problems they identify, such as underdevelopment and the failure to fulfill individuals' basic needs of food, shelter, health care, and education.

Sadako Ogata and Johan Cels, for example, list ten key human security concerns.<sup>74</sup> Four concerns fit the narrower human security agenda and are

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71. LISA S. ALFREDSON, *CREATING HUMAN RIGHTS: HOW NONCITIZENS MADE SEX PERSECUTION MATTER TO THE WORLD* 9, 151, 193 (2009).
  72. GIBNEY, *INTERNATIONAL HUMAN RIGHTS LAW*, *supra* note 38, at 108.
  73. Julie MacArthur, *A Responsibility to Rethink? Challenging Paradigms in Human Security*, 63 *INT'L J.* 422 (2008); Caroline Thomas, *Global Governance, Development and Human Security: Exploring the Links*, 22 *THIRD WORLD Q.* 159 (2001).
  74. Sadako Ogata & Johan Cels, *Human Security—Protecting and Empowering the People*, 9 *GLOBAL GOVERNANCE* 273 (2003).



not adequately addressed, if at all, by existing human rights law: protection of people in violent conflicts, protection from weapons proliferation, protection of “people on the move” (other than migrant workers and their families),<sup>75</sup> and the responsibility to rebuild in conflict situations. Four other concerns are already extensively covered by human rights documents: ensuring livelihoods and work-based security, such as women’s rights to access credit covered in Article 14(1)(g) of CEDAW;<sup>76</sup> poverty-related health threats, covered in the ICESCR and subsequent documents;<sup>77</sup> the right of the poor to benefit from technological and knowledge-based advances, already noted as a universal right in Article 27(1) of the UDHR;<sup>78</sup> and the right to basic education, noted in Article 26 of the UDHR and in many subsequent documents.<sup>79</sup>

Ogata and Cels’ ninth suggestion, that markets be reformed to balance growth and investment with social services and human development, is prefigured in the extensive discussion in the human rights literature of the responsibilities of multinational corporations and IFIs.<sup>80</sup> Even Ogata and Cels’ tenth, most nebulous, and most difficult goal—to form “compassionate attitudes and ethical outlooks from a global perspective”<sup>81</sup>—is presaged in the UDHR’s statement that “education shall be directed . . . to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups.”<sup>82</sup>

Gerd Oberleitner states, “Human security is a concept based on common values rather than national interest,” yet there is already an enormous body of human rights law based on common values rather than national interest.<sup>83</sup> As of October 2011, 167 states were party to the ICCPR, 160 to the ICESCR, 175 to CERD, 149 to CAT, and 187 to CEDAW, all key treaties dealing with—and predating—many of the preoccupations of the broader view of human security.<sup>84</sup> It is unlikely that states that are already party to

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75. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, *adopted* 18 Dec. 1990, G.A. Res. 45/158, U.N. GAOR, 45th Sess., 69th plen. mtg., Agenda Item 12, Supp. No. 49, at 261, U.N. Doc. A/45/49 (1990), 2220 U.N.T.S. 3 (*entered into force* 1 July 2003).

76. CEDAW, *supra* note 39, art. 14(2)(g).

77. ICESCR, *supra*, note 31.

78. UDHR, *supra* note 31, art. 27(1).

79. *Id.* art. 26.

80. Ogata & Cels, *supra* note 74, at 279.

81. *Id.*

82. UDHR, *supra* note 31, art. 26(2).

83. Oberleitner, *Human Security: A Challenge to International Law?*, *supra* note 3, at 190.

84. ICCPR, *supra* note 31; ICESCR, *supra* note 31; CERD, *supra* note 69; CAT, *supra* note 47; CEDAW, *supra* note 39. For current status of treaties, see U.N. Treaties Collection, Status of Treaties Database, Chapter IV.2, 3, 4, 8, 9, *available at* <http://treaties.un.org/pages/ParticipationStatus.aspx>.

human rights treaties, yet ignore their obligations, will honor them if they are articulated in the guise of human security rather than human rights. Rather, attention to human security as the reigning discourse of international justice might help delinquent states deflect attention from their violations of human rights. The discourse of human security is not one of state obligations and individual entitlements: it is a discourse that permits states to make choices as to what aspects of human dignity they wish to protect.

In the human security discourse, moreover, human rights appear to be merely a subset of human security concerns, and as such less worthy of attention than they have heretofore been. Fen Osler Hampson, for instance, presents an idiosyncratic definition of human rights, derived from American constitutional principles.<sup>85</sup> He claims that the “‘natural rights/rule of law’ conception of human security . . . is anchored in the fundamental liberal assumption that individuals have a basic right to ‘life, liberty, and the pursuit of happiness.’”<sup>86</sup> In fact, human rights are far more firmly articulated in international law than Hampson suggests and they address a much wider range of problems than he identifies. Hampson’s definition of human rights trivializes them by not referring to the body of international law built up since the 1948 UDHR and by not identifying what rights already overlap with, and indeed precede, the human security agenda.

A key aspect of the human security rhetoric is its focus on freedom from fear and freedom from want,<sup>87</sup> referring back to Franklin D. Roosevelt’s famous speech on the Four Freedoms in 1941.<sup>88</sup> Freedom from fear of extrajudicial killings, torture, imprisonment, and other such abuses is central to the earliest conceptions of human rights, as reflected in the UDHR and the ICCPR. Freedom from want is also a central part of the human rights agenda, embedded in both the UDHR and the ICESCR. The stress on freedom from want and freedom from fear in the human security discourse runs the risk of separating the two, the “Axworthy school” emphasizing freedom from fear while the “Japanese school” emphasizes freedom from want. This division is facile, as those who want also often fear, and those who fear also often want, as the Vienna Declaration on Human Rights affirmed by declaring the indivisibility of human rights.<sup>89</sup> Freedom from want—stressed by the development-oriented Japanese school—requires freedom from fear (of

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85. FEN OSLER HAMPSON ET AL., *MADNESS IN THE MULTITUDE: HUMAN SECURITY AND WORLD DISORDER* (2002).

86. *Id.* at 5.

87. HUMAN DEVELOPMENT REPORT 1994, *supra* note 2, at 24.

88. Franklin D. Roosevelt, President of the United States, State of the Union Address (6 Jan. 1941), *excerpt reprinted in* ECONOMIC RIGHTS IN CANADA AND THE UNITED STATES 211 (Rhoda E. Howard-Hassmann & Claude E. Welch, Jr. eds., 2006).

89. Vienna Declaration and Programme of Action, *supra* note 35.

torture, imprisonment, execution); citizens require protection of their civil and political rights in order to achieve their economic human rights. China, for example, has experienced rapid economic growth since 1978 without instituting civil and political rights; without these rights, citizens are unable to protest China's growing inequality, official corruption, and irrelevant or utterly rights-abusive "development" projects.

To de-politicize freedom from want by suggesting that it is merely a consequence of insufficient development implies that state agents are less responsible than impersonal market forces for human insecurity. This rhetoric allows states to endorse a cosmetic agenda of concern for their citizens' material needs while ignoring their own complicity in creating want. Underdevelopment is often exacerbated by state policies such as underpayment for peasants' crops by state marketing boards, as in Uzbekistan;<sup>90</sup> forcible expropriations of citizens' land or urban property, as in Zimbabwe;<sup>91</sup> or unreasonable controls on urban markets, as in Venezuela.<sup>92</sup> It is also exacerbated—if not indeed caused—by the massive corruption of state elites.

One should, therefore, be wary of states that encourage the broader human security approach as an alternative to better protection of human rights within their own societies. If the broader concept of human security is attractive to Asian states, that may be not only because it focuses on supposedly apolitical problems of development, but also because it deflects attention away from internal and avoidable violations of human rights. The concept of human security might nicely replace the discredited claims of earlier decades to collective, communitarian Asian<sup>93</sup> and African concepts of "human rights" that deliberately undermined their individual and inalienable characteristics, and ignored the necessity for a rule of law that permitted individuals to make claims against the state.

Oberleitner suggests that human security can show "that human rights and the security of nation states . . . are not opposing aims but in fact converge."<sup>94</sup> Long-term analysis of such states as the United States, China, or Israel might indeed support such a point of view, but in the shorter term, states—or the elites that control them, even in democracies—might well believe that suppression of their citizens' human rights is in their interest. While one might wish to believe that both human rights and human security demonstrate that "common values are stronger than particular interests,"<sup>95</sup> in

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90. See EUROPEAN CENTRE FOR CONSTITUTIONAL AND HUMAN RIGHTS, *CHILD LABOUR IN UZBEK COTTON PRODUCTION AND THE RESPONSIBILITY OF EUROPEAN CORPORATIONS* (2011).

91. See Rhoda E. Howard-Hassmann, *Mugabe's Zimbabwe, 2008–2009: Massive Human Rights Violations and the Failure to Protect*, 32 HUM. RTS. Q. 898 (2010).

92. Rhoda E. Howard-Hassmann, *Reconsidering the Right to Private Property* (2011) (unpublished manuscript, on file with the author).

93. DONNELLY, *supra* note 5, at 107–23.

94. Oberleitner, *Porcupines in Love*, *supra* note 40, at 604.

95. *Id.* at 605.

reality the particular needs—or desires—of those who control states usually trump common values. The advantage of the concept of human rights over human security is that it recognizes that the interests of individuals and states do not converge; that, despite all the inter-state talk and treaties meant to protect individuals, their governments continue to abuse them.

Keith Krause states that “use of the concept of human security by states and decision-makers is not merely a trivial matter of labeling. Rather, it leads states and policy-makers to focus on different issues, to ask different questions, and even to promote different policies.”<sup>96</sup> Similarly, Yuen Foong Khong notes: “Once an issue . . . is securitized, its status in the policy hierarchy changes.”<sup>97</sup> The narrower human security discourse focuses particularly on threats emerging from failed or collapsed states<sup>98</sup> and conflict situations. Yet human rights violations can occur just as often in strong states, such as China, as in failing states. Similarly, human rights can be violated, and often are, in non-conflict situations where there is no evident state failure, as in North Korea.<sup>99</sup> Human rights problems in strong states that can prevent their citizens from fleeing or turning to terrorism do not affect the security of other states the way that human rights violations in failing states do. There is a danger in focusing only on security issues abroad that might adversely affect “‘our’ physical protection,” so that, for example, the Western world would focus on poverty in areas that breed terrorism but not on poverty elsewhere.<sup>100</sup> The securitization of some types of human rights violations over others may mean that some violations of human rights will disappear from public concern.

The human security discourse, both narrow and broad, may also unintentionally privilege threats to collectivities over threats to individuals. The nebulous term, “people,” used in some of the human security discourse, contributes to such privileging. “People” can mean a group or collection of individuals, or it can mean “a people,” suggesting a particular national or minority group. The term “individual” is clearer: any one individual or any number of individuals can be victims of human rights violations, even if they do not constitute an ethnic or national people or any other kind of collectivity. Using the term people does not clarify that individuals take priority over collectivities, nor does it clarify that a people does not mean a state. By its focus on threats to collectivities rather than individuals, the

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96. Krause, *supra* note 55, at 1.

97. Yuen Foong Khong, *Human Security: A Shotgun Approach to Alleviating Human Misery?*, 7 *GLOBAL GOVERNANCE* 231, 231 (2001).

98. Hampson & Oliver, *supra* note 58, at 386.

99. See, e.g., RALPH HASSIG & KONGDAN OH, *THE HIDDEN PEOPLE OF NORTH KOREA: EVERYDAY LIFE IN THE HERMIT KINGDOM* (2009).

100. Taylor Owen, *Human Security—Conflict, Critique and Consensus: Colloquium Remarks and a Proposal for a Threshold-Based Definition*, 35 *SECURITY DIALOGUE* 373, 379 (2004).

human security approach could unintentionally undermine human rights claim within states by individuals.

## VI. UNDERMINING THE INTERNATIONAL HUMAN RIGHTS REGIME

The Commission on Human Security claims that the human rights perspective “leaves open the question of which particular freedoms are crucial enough to count as human rights that society should acknowledge, safeguard and promote,” arguing further that “human security can make a significant contribution [to defining which human rights are crucial] by identifying the importance of freedom from basic insecurities.”<sup>101</sup> Further, the Commission claims that by using the concept of human security, it can provide “reasoned substantiation” for some human rights.<sup>102</sup> Yet myriad ethical and empirical arguments made over many centuries already provide such reasoned substantiation, showing that individuals are more secure when not tortured than when tortured, when not starving than when starving, when not subjected to discrimination than when subjected to it, and so forth.

Moreover, the Commission’s suggestion that some freedoms are crucial, while others are not, implies that there are some human rights that society need not acknowledge, safeguard and promote because they do not address basic insecurities. This undermines the wide and substantive body of international human rights law that has evolved since 1948.<sup>103</sup> In the human security discourse, human rights are only one of several “securities” individuals should enjoy; yet individuals still live primarily under the protection of—or threat from—their own states. Many governments violate individuals’ human rights and prevent them from publicizing or protesting those violations. The human security discourse’s marginalization of individual human rights bolsters those governments and makes it easier for them to violate human rights in the name of human security.

The human security perspective might be seen as a quasi-realist substitute for the liberal internationalist perspective on human rights embodied in the international human rights regime. Especially in its narrower incarnation, the human security perspective accepts that states exist and that they act primarily in their own interests in a world of competing states. Nevertheless, in its narrow interpretation, the human security discourse provides a shortlist of severe threats to all humanity which, it is thought, almost all

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101. COMMISSION ON HUMAN SECURITY, *supra* note 19, at 9.

102. *Id.*

103. See David Petrasek, *Human Rights “Lite”? Thoughts on Human Security*, 3 DISARMAMENT FORUM 59, 61 (2004).

states can agree to remedy without undermining the power of incumbent political elites. States, however, are not neutral bodies: they are controlled or heavily influenced by individuals, elites, private corporations, or particular ethnic or other groups. These entities frequently benefit from precisely the human insecurity they claim they want to ameliorate; indeed, they may have caused the problem in order to benefit from it. Political elites may well profit from major threats to human well-being such as drug trafficking, terrorism, climate change, or financial crisis. Human rights, by contrast, are designed to protect individuals from state elites that deliberately undermine citizens' interests in order to benefit themselves.

While the narrow view of human security suggests excluding some human rights from its protection, the broader view is so diffuse as to permit states to claim they are protecting human security even as they continue to oppress their own citizens. This is especially so regarding the human security stress on development. The individual rights to adequate food, shelter, health care, and education enumerated in the ICESCR are a concrete guide to the entitlements of each individual that must be protected even as states implement development programs. These individual rights protect citizens against states that violate economic human rights in the name of collective or people's development, for example, by displacing millions of individuals when building dams.<sup>104</sup>

The human rights agenda is wider and more protective than the freedom from want and fear stressed in the human security agenda. Hundreds of millions of people live without want, in the sense that their basic material needs are fulfilled, and without fear, in the sense that they do not fear the actions of the state or paramilitary groups. While the world would certainly be a far better place if everyone enjoyed freedom from want and fear, however, this is still a minimalist view of human rights. Upper and middle-class women in the Western world, for example, lived without want or fear (at least of the state, although not of their husbands or other male "guardians") for decades before they actually realized significant portions of their human rights. Human rights are premised on the notion of human dignity; human dignity requires that individuals be treated as autonomous beings, living in societies where they are recognized as persons of value, where they do not suffer from discriminatory legislation, where they are able to participate in collective decision-making, and where they can freely pursue their interests. Human dignity requires far more than freedom from want and fear, but there

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104. Korinna Horta, *Rhetoric and Reality: Human Rights and the World Bank*, 15 *HARV. HUM. RTS. J.* 227, 237 (2002); Denis Goulet, *Global Governance, Dam Conflicts, and Participation*, 27 *HUM. RTS. Q.* 881 (2005).

is no need to reconfigure human rights as human security to protect human dignity; in fact, to do so poses major threats to human dignity protection.

Moreover, the international human rights legal regime insists on the inviolability of civil and political rights. These rights are of paramount importance not only for their intrinsic value—individuals prefer bodily integrity over torture, freedom of speech over censorship, freedom of movement over confinement—but also for their strategic value, as a means of acquiring and protecting other rights, such as to basic education and health care. In the past, some commentators objected to a perceived paramountcy of civil and political rights over economic, social, and cultural rights, claiming that this was a Western bias.<sup>105</sup> This objection demonstrates a misunderstanding of Western, and world, history: enjoyment of civil and political rights helps citizens to act in their own interests, to force states to ensure the personal, physical, and material security they need. This was and is the case in the West, and is the case in non-Western states now.

The strategic value of civil and political rights is one reason why both the human security and the human rights discourses pay so much attention to civil society. Civil and political rights are strategic tools that civil society organizations use to obtain economic, social, and cultural rights, and to press for development processes that focus on individuals, not on states or favored sub-state groups. The human security agenda underplays the importance of civil and political rights, weaving them into a “holistic” description of human needs<sup>106</sup> that ignores how rights are realized and employed in practice. The assertion that human security is a useful “policy tool” that can circumvent political disputes about human rights risks legitimizing avoidance of human rights obligations by rights-abusive states.<sup>107</sup>

To avoid abuse, human security should focus on the vital core of protecting “all human lives from critical and pervasive threats”<sup>108</sup> that are not already protected by, or are inadequately protected by, the existing human rights regime. In the narrow interpretation, human security constitutes “rights-cum-obligations,”<sup>109</sup> requiring new, international duty-bearers to find new mechanisms to protect rights-holders—that is, individuals—from rights-abusers, whether the latter are states, international organizations, private organizations, or natural events. Yet, in the broader view, “so many different issues and themes nestle comfortably under [human security’s] wings that it

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105. R. Panikkar, *Is the Notion of Human Rights a Western Concept?*, INTERCULTURE, Jan.–June 1984, at 28; Olusola Ojo, *Understanding Human Rights in Africa*, in HUMAN RIGHTS IN A PLURALIST WORLD: INDIVIDUALS AND COLLECTIVITIES 115 (Jan Berting et al. eds., 1990).

106. Petrasek, *supra* note 103, at 60.

107. Oberleitner, *Porcupines in Love*, *supra* note 40, at 596.

108. See Owen, *supra* note 100, at 382.

109. TADJBAKSH & CHENOV, *supra* note 1, at 123.



is difficult to extract any prescriptions about how to deal with any of them other than to look at problems in a ‘people first’ kind of way.”<sup>110</sup> As Paul Heinbecker puts it, “the more encompassing economic and social definitions [of human security], . . . while entirely laudable in their objectives, would risk meaning all things to all people and end up meaning nothing to anyone, at least nothing new and ‘actionable’ by governments.”<sup>111</sup>

Moreover, if the “four essential characteristics” of human security are that “it is universal, its components are interdependent, it is best ensured through prevention, and it is people-centered,”<sup>112</sup> then it must be acknowledged that these have long been aspects of human rights. Universality has been the most fundamental aspect of human rights since the Universal Declaration of Human Rights in 1948.<sup>113</sup> The 1993 Vienna Declaration on Human Rights enshrined in law the principle that human rights are interdependent.<sup>114</sup> Human rights scholars and practitioners have long advocated prevention of human rights violations and have focused on individuals (“people”) as opposed to states.

The narrower discourse of human security does, however, advocate new duties and international mechanisms to ameliorate some situations that result in massive violations of human rights. Nevertheless, there are already many inter-state treaties that require international cooperation in the areas that the human security agenda identifies; for example, in protecting the rights of migrant workers and their families (although not the rights of other migrants), or fighting drug trafficking or human trafficking.<sup>115</sup> For the narrow human security agenda to improve on the international human rights regime,

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110. EVANS, *supra* note 13, at 35.

111. Paul Heinbecker, Dir. of the Ctr. for Global Relations, Governance and Policy at Wilfrid Laurier Univ., Notes from a Keynote Address to the Annual Meeting of the Academic Council on the UN System: The US, the UN and Human Security: Protecting People in a Unipolar World (1 July 2004), available at [http://www.peacedividendtrust.org/EIPdata/Library/Human%20Security/US\\_UN\\_HumanSecurity.pdf](http://www.peacedividendtrust.org/EIPdata/Library/Human%20Security/US_UN_HumanSecurity.pdf).

112. King & Murray, *supra* note 28, at 589.

113. UDHR, *supra*, note 31.

114. Vienna Declaration and Programme of Action, *supra* note 35.

115. Single Convention on Narcotic Drugs, adopted 30 Mar. 1961, 520 U.N.T.S. 151 (entered into force 13 Dec. 1964); Convention on Psychotropic Substances, adopted 21 Feb. 1971, 1019 U.N.T.S. 175 (entered into force 16 Aug. 1976); U.N. Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted 20 Dec. 1988, 1582 U.N.T.S. 95 (entered into force 11 Nov. 1990); International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, *supra* note 75; U.N. Convention Against Transnational Organized Crime, adopted 15 Nov. 2000, G.A. Res. 55/25, U.N. GAOR, 55th Sess., 62d plen. mtg., Agenda Item 105, U.N. Doc. A/RES/55/25 (2001), 2225 U.N.T.S. 209 (entered into force 29 Sept. 2003) By the same resolution the General Assembly also adopted two protocols to the Convention: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and the Protocol against the Smuggling of Migrants by Land, Sea and Air. *Id.*



the new duties of states and international mechanisms for remedying abuses of human security must be clearly defined and backed by law, treaties, and material resources. The International Criminal Court, the Landmines Treaty, and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict are some examples of serious concern with human security that were not addressed through preexisting human rights laws.<sup>116</sup> The landmines treaty did, however, build on preexisting international humanitarian law outlawing particularly cruel types of weapons.<sup>117</sup>

Despite these genuine contributions of the narrower human security agenda to the protection of people, at the moment it appears that anyone can jump on the human security bandwagon, advancing her own preoccupations as causes of human insecurity. For the concept to be useful, however, it must add some value to human rights protection. As noted earlier, the narrow human security focus adds value insofar as it identifies new threats to people, such as climate change or sudden financial downswings. It also identifies new objects of such threats, pointing out that they can affect everyone in the world, rich or poor, regardless of whether some already enjoy all their human rights. It suggests new duties requiring states and international organizations to ameliorate problems previously unknown or previously considered the responsibility of individual states in isolation from other states. Finally, the narrower human security agenda suggests new international mechanisms for dealing with these threats, contributing to the normative push for international responsibility to ameliorate a wider set of threats against humanity than merely the threat to international peace and security enshrined in Chapter VII of the UN Charter.<sup>118</sup>

By identifying new threats, new objects of threats, new duties of state and international organizations, and new mechanisms to ameliorate the threats, the narrower view of human security supplements the normative framework of human rights. By contrast, the broader human security discourse merely extends what is useful in the narrower view to a new rhetoric for identifi-

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116. Rome Statute of the International Criminal Court, *adopted* 17 July 1998, U.N. Doc. A/CONF.183/9 (1998), 2187 U.N.T.S. 90 (*entered into force* 1 July 2002); Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, *adopted* 9 Dec. 1997, G.A. Res. 52/38(A), 52d Sess., 67th plen. mtg., Agenda Item 71, U.N. Doc. A/RES/52/38(A) (1998), 2056 U.N.T.S. 211 (*entered into force* 1 Mar. 1999); Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, *adopted* 25 May 2000, G.A. Res. 54/263, U.N. GAOR, 54th Sess., 97th plen. mtg., Agenda Item 116(a), U.N. Doc. A/RES/54/263 (2001), 2173 U.N.T.S. 222 (*entered into force* 12 Feb. 2002).
117. Hans-Peter Gasser, *Humanitarian Law*, in *ENCYCLOPEDIA OF HUMAN RIGHTS*, *supra* note 26, at 462, 469.
118. U.N. Charter art. 39, *signed* 26 June 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153 (*entered into force* 24 Oct. 1945).

cation of threats to individuals that are already adequately covered by the international law, norms, and practices of human rights. Ramesh Thakur, for example, argues that in the human security perspective “the state is but a collective instrument to protect human life and enhance human welfare.”<sup>119</sup> This is precisely what the human rights perspective has been since 1948.

## VII. CONCLUSION: COMPLEMENTARY OR COMPETING?

This article cautions against assuming that the discourse of human security complements, rather than competes with, the international law of human rights. International human rights are based on individuals’ capacities to claim their human rights from the state; states are obliged to respect, protect and fulfill individuals’ human rights. By contrast, the human security discourse allows states to convert human rights obligations into “policy talk,” making policy choices as to which aspect of human security they might focus on.<sup>120</sup>

The individual has much stronger standing in international human rights law than she has in the human security discourse. The discussion of human security de-politicizes “standard threats” to human well-being, while the international law of human rights recognizes that threats to human well-being are inherently political. Moreover, the suggestion in the human security discourse that some human rights should have priority over others undermines the principle of indivisibility so crucial to the human rights regime.

More important and disconcerting, much of the academic writing on human security bypasses, misinterprets, or ignores international human rights law. The broader view of human security often refers to threats already covered by criminal and human rights law, rather than identifying new threats, victims, state duties, or inter-state mechanisms to remedy human insecurity. Occasionally, however, the broader view, as proposed by some academics, does suggest new types of human insecurity, such as psychological insecurity, not already covered by human rights. Such insecurities, however, are not remediable either by states or the international system. Neither law nor public policy can remedy all the problems that human beings face.

The narrower view of human security, by contrast, does identify some new or more severe threats, sometimes including new potential victims. It also focuses on everyone in the world, implying that states should take on new responsibilities to non-citizens facing these threats. New state duties and new international mechanisms are required to remedy these threats. Thus,

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119. Ramesh Thakur, *A Political Worldview*, 35 SECURITY DIALOGUE 347 (2004).

120. Oberleitner, *Porcupines in Love*, *supra* note 40, at 596.

the narrower view of human security does more than complement human rights: it adds to human rights law and provides a framework of analysis that should help states and international organizations to take new actions in the face of new threats.