AŞIRI GÜVENLIK ÇAĞINDA İNSAN HAKLARI VE ÇEŞITLILIK

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Özet

Son yirmi yıl Doğu-Batı çatışmasının sona ermesi, geleneksel güvenlik politikalarının yeniden kavramlaştırılması ve değişmesiyle sonuçlandı. Batı tipi devlet yapısı ve yönetim modelleri (örneğin pazar ekonomileri, çok partili sistemler) yeni müdahaleci bir insan hakları rejimi adına -örnek olarak Kosova'da yapıldığı gibi- uygulamaya konmuş ve sonuçta şimdiye kadarki alakasız politika alanlarında kaybolup gitmiştir. Bu tebliğde sınırları belirlenmiş insan hakları söylemine entegre olan, genel anlamda yayılmacı batı yönetişimini ve toplum mühendisliğini tasvir etmek amaçlanmaktadır. Türkiye'nin potansiyel AB üyeliği göz önüne alınarak, daha önce bahsi geçen ve git gide küreselleşen bir yapı içinde yerel ve bölgesel manada azalan tepkileri insan haklarının güvenliği politikaları bağlamında açıklanmaya çalışılacaktır.

HUMAN RIGHTS AND DIVERSITY IN AN ERA OF OVER-SECURITIZATION

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Abstract

The last two decades, with the end of the East-West-Conflict, have resulted in both, a reconceptualization as well as reorientation of traditional security policies. Western models of state-hood and governance (e.g. market economies, multi-party systems) have been promoted – and in cases such as Kosovo even enforced – in the name of a new interventionist human rights regime and, thus, resulted in a merging of hitherto unrelated policy fields. More precisely, new forms of formerly unrelated policies, especially in the security and foreign policy sector, have been blended together to support and include human rights frameworks. The human security concept has become a paradigmatic example of this change. In our address, we seek to outline how the concept of human security – which stresses the protection of individuals from physical violence and seeks to guarantee the provision of basic human needs – can be characterized regarding its incorporation of human rights issues.

Furthermore, we aim to illustrate in how far the formerly more demarcated human rights discourse has been integrated in a far more expansive Western model of governance and societal engineering in general. By looking at the Turkish reforms in the course of potential EU membership we will try to give evidence for our thesis that through the aforementioned process of securitization human rights policies have become more globalized in scope while in the meantime becoming less diverse through silencing opposition at the local and regional level.

This subject matter leads to relativist versus universalist approaches in the human rights discourse. The question is how universal values as laid down in the Universal Declaration of Human Rights (1948) can be put into practice without violating cultural or religious rights. Currently the European Union is running the risk of restricting religious and cultural diversity, especially in the membership seeking countries of the Balkans and in Turkey. In order to address this problem we will present a concept of human rights and security which constitutes a rather limited legal concept of rights and freedoms, which leaves room for any religion or world view, as it is promoted by the German scholar Heiner Bielefeldt. A similar view holds the Sudanese academic and human rights activist Abdullahi An-Na'im when he argues that Muslims should realize that there is "nothing magical about the concept of human rights". Still, there may be a danger of human rights concepts diminishing the unfolding of culture and religion, as it is pointed out by critiques especially from the Islamic but also from the broader African and Asian scope. We will try to expose a concept of human rights and security which takes the fear of cultural indoctrination in consideration as well as the request of security in a globalized environment.

HUMAN RIGHTS AND DIVERSITY IN AN ERA OF OVER-SECURITIZATION

We have been told that we are living in turbulent times since the last two decades, which saw the end of the East-West-Conflict, the breakdown of the dominant ideological divide and the premature "end of history" (Fukuyama). Over the last years, changes in the international system such as Western models of state-hood and governance (e.g. democratisation, multi-party systems) have been promoted – and in cases such as Kosovo even enforced – in the name of a new governance regime and resulted in a merging of hitherto unrelated policy fields. With the "liberation" of peoples, however, also came their "protection" and, thus, a tendency to patronise them. However, it is less the politico-practical side of these policies (that is rather a question of domestic legitimacy) but rather the perception by the non-Western world which has resulted in a distorted and estranged view of human rights and human security in a global context (that is not to be seen as synonymous with global governance). This, because the ambiguous nature of the "imposed" regimes were not simultaneously perceived as empowering and granting the people the possibility to have a say in their respective countries.

Yet, one must analyze these more encompassing governance systems with regard to their adoption of the human rights frameworks in order to allow for a decent evaluation. It seems nowadays natural that the ODA of development programmes is only granted on the condition that the recipient state adheres to certain human rights standards (Duffield 2001) and/or – if having fallen victim to civil war or ethnic strife – becomes embroiled in larger so-called peace-building efforts (Paris 2004). A (very) recent example of such a policy that stresses the primacy of human rights is the U.S. stance on the composition of a reformed UN Human Rights Commission (Lederer 2006).

For this reason, the human security concept has become a paradigmatic example of this change. Basically, the human security concepts argues, that the population of states, and, even more encompassing: every single individual, has to be protected from various threats, such as economic deprivation, dangers to its physical integrity such as landmines or illicit small arms and be granted a minimal standard of human rights to ensure the person's safety (Hampson et al. 2002, Ramcharan 2002, CHS 2003). The means to ensure this end are, thus, interventionist in the sense that certain states (often termed as the 'international community') claim the right to protect individuals in other states and to eventually restructure the societal fabric of the state according to their art of the state (Paris 2004). This trend is currently observable in quasi-states such as Kosovo and East-Timor where a 'peace-building-process' has been initiated after military intervention and the entity is administered by a provisional government under a UN mandate. Thereby, cultural relativism as far as economic, societal, governmental and human rights issues are concerned gets sidelined and the preference for the "Western" model of statehood and governance privileged. It is this kind of 'interventionism' (ICISS 2001, Chandler 2004) that is also at the heart of current membership negotiations for organisations such as the EU or NATO – though in a more benign way and through a way of "invited" intervention. As the examples of the 2004 enlargement of 10 new EU-members and the two accession waves of new NATO member states show, a similar way of integrating countries is taking place by restructuring and deregulating their economies and necessitating the adoption of the European human rights regime, that is partly more encompassing than the 1948 Universal Declaration of Human Rights (UDHR). In addition, measures such as the acquis communautaires with wide-ranging forms of political and administrative reform programmes become prerequisites for the beginning of accession talks and, hence, force potential member-states to comply with these standards. Yet, the ambiguous nature of these undertakings by the "West" becomes misperceived too often. To understand the logic of "Western" politics it becomes thus necessary to have a look at their efforts to "securitize" political action.

Securitization and Identity Politics

The theoretical model of "securitization" (Waever 1995, Buzan et al. 1998) seeks to analyse politics by distinguishing an "ordinary" from an "emergency" mode of policy-making. The "ordinary" form of political decision-making takes place in the form of political action that is

kept in check through the separation of powers and a constitution that allows for and restricts political action by political actors and governing bodies. However, if the "securitizing move" by political decision-makers (e.g. "we have to stop Iran from getting nuclear weapons by all means) that declares something a security issue is successful, the political actors will have basically all means at their disposal because certain democratic principles (and, hence, human rights, too) will have to step back behind the formulated end and a kind of post-democratic "emergency mode" becomes established (in our example: basically all means for the government to prevent the development of nuclear weapons by Iran).

In the case of accession talks this tendency has become visible in the debate on Europe's and Europeans' identity. Current intra-European debates (that is, here, the 25 member-states) focus on the cultural and geographic form and nature of Europe whereby stockpiles of op-eds and journal articles are produced to come to grips with the diversity of arguments.

Two of the most often cited counterarguments for the EU-membership of Turkey rest firstly on the insufficient human rights standard of the country, especially with regards to the treatment of the Kurdish population (Kinzer 2006). The second argument is based on the – implicit or explicit – assumption that the Turkish state might endanger the existing (pan-)European identity (Rumelili 2004: 44ff.) by having to integrate a Muslim society.

By having such a lively debate within its borders the EU gives proof for its capacity to protect and guarantee human rights such as freedom of speech and freedom of religious beliefs. On the other hand some national political decision-makers try to "securitize" the question by relating it to a geo-strategic or a religious/cultural dimension which leads to potential misunderstandings from the side of Turkish observers.

Thus, the diversity in European civil society that is due to a wide-ranging human rights regime becomes less observable from the outside. Simultaneously, the EU's demand for a more transparent and efficient Turkish human rights regime becomes misperceived because it becomes linked to security issues, be it human cultural security in the form of a Christian EU identity by opponents of Turkey's accession or the proponent's argument to have a "stable political ally" in the Middle East region. In doing so, European decision makers seem to argue their case by relating human rights questions and the question of human security to a wider spectrum of political considerations, be it identity-based, cultural, geo-political or, not mentioned in the previous example, economic reasons.

Competing Concepts of Human Rights and Security

As we have shown human security concepts exceed the level of legal regulation and affect political, economic, and social standards as well. Hence, to promote a human security system based on rather Western models of state-hood and governance implies the possibility to inflict systemic components on a society that might be alien to it. The key question is whether one set of rights and norms can be applicable to all individuals and societies independent of national, cultural or religious background, or whether the international bill of human rights, on which modern security concepts are based on, are of Western character, and therefore not suitable for non-Western societies.

This debate is marked by positions ranging from universalist to relativist approaches. Simply put, universalists claim that the UN set of rights is applicable to all humans at all times at all places. Attributes like religion, gender or cultural background are considered no reason to impute more or less rights to an individual. The most fundamental argument against universalist theory is that it denies differences among people. Some societies, a common example goes, are not based on gender equality and neither women nor men within these societies favor this concept. They rather picture men and women as being equipped with different qualities and weaknesses and therefore should have different obligations and rights. To try to enforce women's rights in such a society would mean to ignore social structures which have grown for generations and generations and are often backed up by religious value systems.

Relativists hold that human rights cannot be universal since understandings of human needs differ too much according to religious or cultural norm systems. Rights and freedoms are

understood to be culturally and politically conditioned. The strong relativist position goes as far as to state that no trans-cultural concept of rights can ever exist and hence that no culture is entitled to impose on others what must be seen as its own ideas (compare Steiner/Alston 1996: 193). To relativists, the pretension of universality of rights and instruments to enforce them suggests an "arrogance or 'cultural imperialism' of the West, given the West's traditional urge (…) to view its own forms and beliefs as universal, and to attempt to universalize them" (Steiner/Alston 1996: 193).

At first glance the relativist approach seems to leave more space for the unfolding of differing values systems and life-styles and hence seems to be an appropriate reaction to global diversity. On the other hand cultural relativism is criticized for not attributing equal rights to all. To reject the idea of equal rights for all, the critique runs, undermines the very idea of human rights so fundamentally that it destroys it all the same.

Where do these different approaches lead us, if it comes to the actual set of rights? Relativist authors tend to generate an allocation of rights which labels independent or "basic" rights on the one hand and culture-dependent rights on the other hand.[1] Modifications are generally not applied to the "basic rights" such as the right to life, physical integrity, prohibition of torture or slavery, etc. Instead, they are applied to rights which are considered to be rather specific, and which mostly lie within the scope of family law, gender equality, and freedom of religion and expression. The focus on these subjects in relativist approaches and especially in those stemming from the non-Western world is on the one hand due to the underlying concepts of collective and individual rights. The UN declarations are based on the rights of the individual. Group rights are only of marginal importance, although many rights can only be exercised jointly with others or aim at protecting a common good (i.e. protection of the family Art. 16 III UDHR; right to freedom of religion and worship, either alone or in community with others, Art. 18 UDHR; right to freedom of peaceful assembly and association, Art. 20 I UDHR; right to form trade unions, Art. 23 IV UDHR; right to participate in the cultural life of the community, Art. 27 I UDHR). This individual centered view is said to be contrary to the understanding of most non-Western, especially Muslim, societies. Indeed, for Muslim societies the concept of the umma plays an important role. In certain situations, the individual has to subordinate its needs to those of the community, in order not to weaken the umma. This can, for instance, be applied to restrictions of freedom of religion or expression: Apostasy or missionary work for other religions is forbidden by the Qur'an (and also strongly restricted by international Islamic human rights declarations[2]), since it weakens the community of believers. This restriction to individual freedom is understood to be outweighed by the gain of the community, from which all believers profit.

Another difference in the underlying human rights concept is seen within the relationship of rights and duties. Not only the Islamic declarations but also the African Banjul Charter focuses much more on human duties than the UN Universal Declaration does. Similarly to the importance of collective rights, duties are understood to be indispensable in order to build a functioning society in which the rights of every person can be respected and fulfilled (compare Steiner/Alston 1996: 689).[3] The notion of duties appears only marginally in the UN document,

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[1] Interestingly, no steady term has been established for the group of rights, which are not counted as "basic". Maybe this is because labelling this group of rights as "non-basic" or "advanced" would sound too discriminatory. Yet, as a matter of fact, this is just what the concept aims at: granting certain rights to some groups only, who qualify by being born in certain parts of the world, and granting fewer rights to others.

[2] Universal Declaration of Human Rights in Islam (1981): Art. 12 and 14; Cairo Declaration of Human Rights in Islam (1990): Art. 10.

[3] Additionally the concept of rights and duties found in the Qur'an is one which establishes a direct connection between these two features. Most rights are understood to be duties at the same time, e.g. the right to education includes the duty to seize this right. The Arabic word for right "haq" does also stand for "truth". Furthermore it is a synonym for God and can be understood as "obligation towards God" respectively.

namely in Art. 29 I UDHR, which states generally that every person has duties towards the community.

Considering the foundation of human rights, the UN declarations assume that every human being is entitled to inalienable rights solely for the reason that he or she is part of the human family (Preamble UDHR). Rights are considered to be pre-state and supra-positive, which means that they are valid independent of any national or international order or jurisdiction. For they are not granted by any instance, they cannot be cut back either.

In non-Western human rights concepts theocentric approaches are more widespread. These assume that human rights have been granted by God, which gives them the only possible validity and guarantee. Concepts which rely on a secular and anthropocentric basis only, are considered to be modifiable and therefore weak.

In summary it can be said that we face the problem that concepts of human security as promoted e.g. by the European Union are based on a norm system whose universal claim is not uncontested. The question is whether these concepts are so deeply inspired by Western ideals that they are not applicable to non-Western society or whether it is rather a problem of appropriate implementation. If there are discrepancies in the actual right catalogues, these rights have to be identified. Yet, if the outcomes, i.e. the rights, are the same, and only stem from different religious or philosophical understandings, the differences should not be the focus of attention.

Cracking the Dilemma? A Limited Concept of Human Rights

In order to solve the dilemma of these competing concepts, the German scholar Heiner Bielefeldt proposes a "limited concept of human rights". By that he defines human rights as a political and legal standard of limited normative scope, which leaves room for religious believes, cultural traditions or ideologies (Bielefeldt 1998: 147). Human rights require political and legal implementation in order to guarantee human security. But by no means do they aim at substituting a religion or ideology. "Unlike Islam and other religions, which claim to shape the whole lives of their adherents, human rights do not represent an all-encompassing "weltanschauung" or way of life, nor do they provide a yardstick by which to evaluate cultures and religions in general. […] Rather, they concentrate on political justice by setting up some basic normative standards" (Bielefeldt 1995: 588). Human rights do not aim at destroying but rather at preserving cultural diversity and religious practices and traditions.

If, in contrary, human rights are attributed to one or the other culture or religion, culture specific demands of exclusiveness are on the rise, which can only weaken the idea that human rights are applicable to all human beings at all times and all places (Bielefeldt 1997: 58 ff.; 1998: 145). Therefore it is crucial that human rights and security concepts are theoretically framed as well as put into practice in a manner which leaves room for different interpretations. Westerners have too often made the mistake of attributing the idea of human rights exclusively to the occidental culture and philosophy and defining the existing legal shape of human rights through the UN documents as the only one possible. In return, claims from the Islamic side to be the true proprietor of human rights[4] in order to parry hegemonic Western demands are no fruitful answer either.

The task is not to judge which culture or religion has mostly contributed to the human rights idea. The task is to accept the rights as laid down in the international documents as a minimum standard and to think about a better integration of foremost non-western notions, e.g. the close relationship between rights and duties or a stronger focus on collective rights, which only appear marginally in UN documents up to now. Furthermore these rights systems must be implemented without cultural indoctrination. This means that the scope for diverse

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[4] As the two international Islamic human rights declarations do, as well as voices from the academic or political area.

interpretation of rights must be kept as large as possible, without undermining the substance of the very right.[5]

The thesis of the reformist Sudanese scholar Abdullahi An-Na'im presents a liberal universalist view and goes into the same direction as Bielefeldt's approach. Although An-Na'im describes religion as an important factor for the acceptance of human rights, he finds that "one can easily identify some fundamental tensions, if not open conflicts, between religious precepts and human rights norms" (An-Na'im 2000: 2). The key question is, he continues, whether the set of rights as laid down in the UN declaration can have universal validity – despite its Western origins. He underlines the importance of „the need for relativist sensitivity in developing universal standards" (An-Na'im 1990: 366). In this regard it is important to stress that universality must not be confused with uniformity. The right to security does not specify a certain concept of security and not a certain way, how it can be reached. More simply: the right to adequate housing does not limit the choice between a tent, a skyscraper or an igloo; the right to sufficient nutrition still leaves room to go for rice, bread or potatoes. The UN declarations provide a set of right which is yet to be filled with content. This content may differ very much from state to state and culture to culture, without undermining the envisaged rights.

In regard to Islam, An Na'im calls for stronger Muslim participation in the international human rights discourse. He sees it as a mistake to reject the whole discourse on the ground that it is perceived to be hoisted upon the Muslim world against its will. Rather, he calls for engagement in the global debate, in order to achieve "a position to challenge any aspect of it that fails to respond to our own concerns and priorities" (Noor 2002: 6). An Na'im supports a universal rights and security concept but underlines the importance "to make the understanding of human rights equally valid and legitimate from the perspectives of a wide variety of believers as well as non-believers all over the world" (Noor 2002: 8).

What Does This Mean For Turkey?

In the recent years an increasingly globalized nature of domestic politics can be observed (Öniş 2003: 22). This is especially true for Turkey, since all features of its domestic politics are under constant scrutiny of the EU and will for a good part be responsible for the decision about the Turkish dream of accession. Since Turkey's ambitions to become a full member of the European Union have become more focused than ever before, the country is in a situation in which it has to abide by many European guidelines and at the same time has to swallow the pill of criticism from European states and institutions for not having accomplished enough reforms yet. The Copenhagen criteria demand far reaching reforms in quantity and quality. Turkey tries hard to adapt to European economic and legal-political standards and to change inner-state regulations according to European standards, which it has not decided about and which it cannot influence much. "Love it or leave it" is the slogan of these days for Turkey. If the country wants to keep up its chances to be accepted as an EU member, it has to undertake reforms without questioning their content. Can it be that in this manner laws, social concepts and ways of life are imposed on a society which simply doesn't want these concepts? Have the EU process and the increasingly influential new concepts of human security already led to the diminishment of cultural and religious diversity in the membership seeking countries? Is this another case of cultural imperialism, similar as relativists understand the UN concept as imperialistically imposed on non-Western countries?

The AKP government does not seem to see reasonable problems concerning the adaptation of European standards. Yet, other voices can be heard from representatives of the Turkish civil society, especially from Muslim groups. From their point of view, the EU applies double standards, by focusing on the rights of ethnic and religious minorities in Turkey, but on the

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[5] Besides, there is nothing wrong with searching for roots of human rights and security concepts in religious texts. Many traces can be found in the Old and New Testament as well as in the Qur'an. Understanding and reinterpreting holy texts in such a way that they support and legitimized human rights is neither farfetched nor an illegitimate mixture of secular and religious concepts. But trying to attribute human rights to one single religion or culture sets up a climate where it will be difficult to make these rights count for all humans, no matter which religion or culture they belong to.

other hand ignoring or even rejecting the rights of the Muslim majority. One benchmark of this debate is the headscarf issue. Not only is the headscarf forbidden at schools and universities in many EU countries, either for teachers only (as in most parts of Germany) or for teachers and students (as in France). More over, the European Court of Human Rights seems to have sided against the Muslims, by rejecting the application of Leyla Şahin, who alleged to be banned from university for wearing a headscarf, or rejecting the case of Refah Partisi, which had claimed a violation of the right to freedom of association.

Those parts of the Turkish civil society which stand up for religious freedom for Muslims have not found much support so far, neither from the AKP government nor from the EU. The AKP has for the most part missed to integrate civil society actors into the reform process. Reforms in Turkey seemed to have become a "spectator sport" (Tepe 2005: 80) with too little cooperation between state and civil society as well as between civil society and EU.

If Turkey wants to become a full member of the European Union, it has to undergo deep and sustainable change, which will not only stay on a structural level only but concern the normative content of Turkish politics (compare Glyptis 2005: 403). It will have to abandon practices which have been understood to be indispensable pillars of the Turkish nation state, such as the strong position of the Turkish military and its influence on political and civil issues. Furthermore, amendments of laws reflecting ethical and religious norms, such as changes in family law, gender equality and the like have already have already been passed. Additionally the EU demands changes in the electoral system (e.g. reducing the 10%-threshold for entry into parliament). Not only in the political, but also in the economic area Turkey is undergoing radical changes within the last years in order to comply with the EU criteria of free market economy, stable interest rates and moderate inflation.

Yet, the reform process on these different levels can never be successful in the middle and long term, if it is understood to be done solely for the purpose to satisfy European demands. Rather, it is "crucial that the reform process is 'internalized' in the sense that the kind of reforms needed to satisfy Copenhagen criteria ought to be portrayed as reforms which are intrinsically valuable and not simply accomplished to meet EU criteria in purely instrumental fashion" (Öniş 2003: 27). Up to now, public debate over these reforms has been astonishingly sparse. Over 70% of the population state to have heard about the reforms, but state to be unfamiliar with their content (Tepe 2005: 73). That shows that the government has not done enough to inform the public and that the little endeavors which have been undertaken have not been very fruitful. Similarly, the cooperation between governmental and bodies and civil society actors is not well developed yet. This can be seen e.g. in the failure to integrate a broad range of human rights NGOs into the protection system of the Human Rights Presidency.

Yet, public debate as well as participation and integration of civil society groups are needed in order to shape a reform process which is backed by the people and therefore has the chance to be successful and sustainable. Successful, in this regard, means that democratic structures are strengthened and a concept of human security is enhanced that leaves room for religious and cultural life without adopting a patronizing norm-system from outside. For this endeavor An Na'im's and Bielefeldt's thesis about human rights and securities can help as they try to disconnect security aspects from cultural prerogatives. If human rights are not longer considered to be a Western concept, it might be easier to achieve a sustainable way to protect human rights norms in Turkey. These norms are demanded by the European Union, yet they are not exclusively European. The European Union, on the other hand, must be careful not to construct a concept of human security which is based on specifically European understandings of religion, secularism and the like, but instead leave a largest possible margin for different interpretations without countermining the universal standard.

Put differently: European demands for reform should be seen as a means to allow for changes at the domestic level by empowering civil society actors and giving them greater say in Turkish political life, hence creating a situation of greater diversity and human security. For being successful, this process will depend on the willingness of the EU's civil society groups to resist the securitising attempts of some of their leaders as well as the perception of Turkish civil society that the adoption of the EU's standards does not represent a patronising act of the governing elite but a prospect for their future blossoming.

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