How to Ensure Security and Freedom in the New, post-Westphalien World (dis)Order

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Security and human rights have never been good friends… or, at least, that seemed to be the case. Throughout history those responsible for our security always claimed that they need more freedom to use methods that interfere with the basic human rights of people in order to be effective. And human rights defenders always claimed that security services frequently exaggerate this need and want to — or indeed, do — intrude into our private sphere too much. Very frequently, we felt that we needed more protection from those services than from those who were claimed to be threatening our security. For somebody who spent the larger part of his life in a dictatorship and has been exposed for decades to the harassment of the security services of a — I admit, more liberal — dictatorship, this is even more important an issue. But it is not (only) a personal thing for me. Today, when new and very dangerous threats are looming on the horizon, when criminals and terrorists and in some case even secret services of other countries try to collect data about many citizens and when, on the other hand, using this realistic threat security services, again, try to show — not always without success — that their needs far exceed those allowed by law, it is essential that we at least discuss: who is right? Where is the golden middle in this contradiction?

Should we miss this discussion and miss finding a solution, should we miss being able to draw a fine line, we will, no doubt, face one of two fatal dangers: we will either not be able to defend ourselves against very dangerous enemies, who have learnt to use — misuse and abuse — democratic rights to their benefits and let them realize those threats, or loose our freedom in the name of freedom. Today's world is becoming quite different from the world we have known for decades, even centuries. The Westphalien world order is seriously challenged and undermined by new — especially non-state and failed state — players in international politics as well as new dangers posed by them. It is combined with radically new technologies that make evil intentions much more easily translatable into action.

The Westphalien world order is based on the primacy, actually almost exclusive role of states. States have the absolute monopoly of legitimate large- scale use of force and they are the sole subjects of international law. All national and international institutions — international law, international organizations, armies, etc. — have been created to address and deal with challenges posed by states. Today's world, however, is different. We must face the fact that challenges to security are posed by non-state actors, such as organized criminal groups and terrorists, who do not even attempt to adhere to the rules of the Westphalien world order. The instruments we have developed to deal with threats were never meant to deal with these actors and the challenges posed by them. On top of everything, technology created instruments are relatively easy to obtain and cheap, but at the same time, possess a destructive power way beyond that, which even states possessed a century or even a few decades ago. Think, first of all, about weapons of mass destruction, but also the consequences of globalization: in a globalized world, damage that might have been painful earlier, can disrupt the world economy today. For example, regular attacks against commercial airliners would make air traffic collapse thus severly damaging the world economy. However, there are also new phenomena which make the world much more vulnerable — think of computerization of our lives and the consequences of a serious cyber- attack on several systems that are indispensable for everyday life. With some exaggeration, one could say that the wars of the Middle Ages are being fought today with the weapons of the 21st century.

Security is therefore exposed to much more sophisticated and much more dangerous challenges than ever before. It is not the threat of an all-out nuclear war that we must face, but the danger of smaller threats. But, mind you, the 'smaller threats' have huge consequences as well. A single nuclear explosion could kill hundreds of thousands of people and contaminate entire continents. Artificially triggered epidemics of long forgotten diseases, like small pox, could claim the life of tens of millions — and lead to the collapse of entire states or

even the collapse of the world economy.

What makes these threats even more dangerous is that they are invisible and unpredictable. We can be fairly certain that one of these possibilities, one or several large-scale terrorist attacks, will happen. However, we have no idea, and we cannot and will not have an idea, when, where and who will commit them. By the time we know it, will be too late. Worse even is that organized crime intrudes into our everyday lives and we do not even know it. We see that corruption is spreading in many of our societies and it is undermining states and making many of them failed states, thus becoming a source of instability and a safe-haven for criminal groups and terrorists.

Under these circumstances, prevention becomes the unquestionable priority. As the consequences of a large-scale terrorist attack are unimaginable and, of course, unacceptable, we must be attentive to the smallest signs that such a danger is looming on the horizon. In the case of organized crime, the danger is not only that they intrude into our lives unnoticed, but also that they contaminate and in many cases take over the very security institutions that were supposed to fight against them.

All these threats are or can very likely become international. We are facing an 'International existence of criminals and terrorists' — thus our response must be international, as well. Herein lies a problem. While criminals have no need to regard issues such as sovereignty, legitimacy and public support, we do. And since they can only benefit from their unlawful actions, laws and regulations do not limit their actions. They do limit ours.

It is thus understandable that those responsible for our security feel the need to double, triple, etc. their effort and start feeling that the 'traditional' understanding of human rights and freedoms is too restrictive and gives the upper hand to criminals. Before rejecting this thinking, we must understand that, in light of the new threats, this is now more understandable than ever before and it poses a real challenge to those who are reluctant to give up freedom for security.

Under the new circumstances we must re-think many existing principles that regulate the functioning of the security sector. There are some rules that have been established to ensure that security services do not abuse their power, which are under strain in the current environment. First, we all agreed that regular armies must not be used for internal security. We must be willing to admit that there are certain scenarios where this can not be upheld: in the case of a dramatic, large-scale terrorist attack — e.g. using a nuclear explosive device or a dirty bomb — the situation cannot be managed without the military. In some countries, organized criminals have been able to acquire weapons and create armed groups, against which the police are not able to fight. Or in the case of large-scale epidemics, possibly even triggered by terrorists, the situation cannot be handled by civilian authorities alone.

Secondly, the threat of a large-scale terrorist attack threatens with such devastating consequences that its prevention requires the coordinated action of internal and external security services. The separation of internal and external security services has been one of the most important principles in avoiding abuse of their power. The experience gained after September 11, however, shows that this undermines the ability to detect conspiracies early enough to prevent certain terrorist operations.

Thirdly, the separation of secret services and law enforcement authorities has, too, been an important

principle of the security sector in democracies. This separation, however, proved to be ineffective in the fight against terrorists and organized crime in times when criminal acts have to be prevented rather than prosecuted. And the list goes on.

Does this mean that we must surrender to the needs of security and that we must accept that some of our basic freedoms need to be dramatically limited; that our security services must be given a de facto blank check to secure our lives?

I am convinced that this is not the case. Should we accept this we would quickly become more similar to our enemies than to our existing selves. We would surrender our democracy in defense of democracy. The other extreme is unacceptable as well. Should we close our eyes and insist on the 'old' understanding of security and all the 'old' limitations we put on our security forces? The result will be a dramatic drop in our security, which will undermine the very functioning of the state, the economy and our society.

There is no easy and cheap solution. First, we must recognize that the dilemma is a real one. It is not the fantasy of security experts, who want to increase their power and want to get rid of the limitations that have been imposed on them in democratic countries (having said that we also need to know that this is an ideal situation for them to demand what they always wanted: more power, less restrictions). Human rights activists must stop seeing these services as 'the enemy' and vice versa. Only cooperation can lead to acceptable solutions.

Secondly, we must recognize that there are no universal solutions and solutions found will not work forever. Security sector governance has become a permanent issue for our societies that has to be addressed regularly and has to be addressed collectively. Transparency of security sector governance — not of operations! — is more important than ever. Democratic political and civilian control is more important than ever. This, however, requires a serious investment. There must be experts on the overseers' side, too, who understand how security services work.

Thirdly, we need to recognize that security cannot be handled on a national basis alone. Of course, the main responsibility for the security of any given country and/or community rests with that community, the state and/or the society. That being said, it is vitally important to underline that security cannot be guaranteed anymore on the expense of the security of others, since the transnational threats make security transnational as well. The era of 'zero sum games' in security is over for those who have to face transnational threats. These threats can only be addressed successfully with cooperation. Cooperation must be between the many different players, such as the military, the police, the economy and finance, the media and, yes, very importantly, the civil society. On the other hand, it must also be addressed in cooperation with other countries, either within the framework of international institutions or on an ad hoc basis — or both. The concept of Cooperative Security is thus the only one that can serve this purpose.

Cooperative Security, however, is not an easy concept. It is difficult enough to coordinate the concepts, structures and actions of different international actors, especially, because in today's world countries are in a very different stage of development. The task is therefore to coordinate — more frequently then not — not only between homogenous states — like in NATO or in the European Union — but also between states and societies in different stages of development — pre- modern, modern and post-modern states — between different cultures, religions, speaking different languages, etc.

Difficult as it is, there is no other way. Cooperation and more, coordination, offers the best, if not the only chance to provide security. This will make the human rights aspects even more important (and more difficult to handle). Frequently, we must cooperate with states and societies that have a very different approach to human rights (the cooperation between the USA and the EU with regarding Saudi Arabia is a good example). It is therefore essential that we keep the rights of our own citizens in mind when we engage in such cooperation, especially in cases when our partners have different views on the human rights of their citizens. We will always face a difficult choice. How do we find an acceptable and at the same time workable compromise?

Finally, we must accept some limitations on our freedom. They should be temporary, whenever possible and should respond to real needs. They must be explained and justified to the public. This requires the establishment of trust between the civil society and security services that has never been there. In order to achieve that, a dialogue is necessary. It is our ultimate responsibility to make sure this happens, otherwise either our security or our freedom will be seriously threatened and undermined. We must not allow this to happen.

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Security and Human Rights (formerly Helsinki Monitor) is a journal devoted to issues inspired by the work and principles of the Organization for Security and Cooperation in Europe (OSCE). It looks at the challenge of building security through cooperation across the northern hemisphere, from Vancouver to Vladivostok, as well as how this experience can be applied to other parts of the world. It aims to stimulate thinking on the question of protecting and promoting human rights in a world faced with serious threats to security.

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