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Human Rights and the Ontological Security of States through the Application of Anthony Giddens's Structuration Theory

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ABSTRACT

Anthony Giddens is among the theorists who have had a significant influence on the metatheoretical debates of scholars in the field of International Relations. One of the most important of these areas is ontology, particularly the question of which has priority in the agent–structure relationship. In response to this question, Giddens emphasizes the reciprocal relationship between the two and does not accept the priority of one over the other. The question of the relationship between the structure of human rights and the state, and the mutual effects of these two on one another—namely, how they constitute each other and whether either has priority—is the main question of this study. In response, their interaction or duality within the framework of structuration theory is proposed as the main hypothesis. Accordingly, using a descriptive–analytical method, library and documentary sources, and an interdisciplinary approach, this study first explains structuration theory and its main concepts, as well as the structuration and transformation of the state and human rights within the context of time–space. Finally, by applying the concept of “existential or ontological security,” it demonstrates the interaction between these two in accordance with the main hypothesis. In this regard, human rights norms—as structural and organized rules—create anxieties for states in the process of internalization and transformation into a structure, namely the structure of international human rights. These anxieties arise from changes and transformations in the scope of states' Westphalian sovereignty and their regularized social practices through the acceptance of human rights. However, with the semantic transformation of sovereignty and its scope, these anxieties disappear, and respect for human rights becomes a guarantor of governmental and sovereign legitimacy, as well as the reproduction of the concept of the state on the basis of its responsibility rather than its immunity.

Keywords: *existential or ontological security, sovereignty, human rights, agent–structure, structuration theory.*

Introduction

In its lexical sense, an agent refers to a person who undertakes an act—intentional activities—whereas structure refers to something that is in the process of being constructed and consists of transformative yet organized rules and resources, as well as the routine and repetitive affairs of every society. Accordingly, an agent is a human being, or something dependent upon human beings, that possesses the capacity to choose in a particular social situation



and acts on the basis of that choice. The reference to “dependent upon human beings” in this definition is due to the fact that human beings, as agents, are capable of creating legal and constructed persons such as the state; these legal persons, in turn, by conferring authority upon certain human beings as agents, allow them to act on behalf of legal persons (1). Therefore, the state, as an existing entity or phenomenon, is itself a social construct that acts as an agent within the framework of the international system and also within a specific territorial domain.

All human beings, by virtue of being human, possess privileges and rights. These privileges and rights constitute the real criterion of legitimacy and the standard for limiting the authority of the state vis-à-vis individuals. Human rights, by their very nature, are transtemporal and trans-spatial, although one should not overlook the fact that, despite these characteristics, in practice there is a wide spectrum of orientations toward them, ranging from non-recognition to violation and suppression, and from acceptance to observance. Although human rights are universal and inherent in the human person, it may also be argued that they are a social construction that, over time and space, has become increasingly expansive while simultaneously becoming more assertive and agile, as the scope of human rights treaties and obligations expands day by day and adherence to human rights rules also increases. The state, as the principal agent of the international system, acts under the influence of this social construction, which has been constructed, developed, and recognized by states themselves. The purpose of human rights is to create appropriate conditions for the individual and social development of humankind, and the principal agent of this purpose, as can be found in human rights texts and treaties, is the state.

Lord Mawuko states that “most scholars of International Relations believe that over the past 60 years, we have witnessed a gradual decline in the sovereignty of states alongside the growth of human awareness and the need to protect human beings against the state and its anti-human acts” (2). Although human rights regimes—whether declaratory and promotional or executive and mandatory—transform state sovereignty in the sense of independence in the international sphere and freedom in the domestic sphere, how is it that these very regimes are accepted and ratified by states themselves?

Over the past fifty years, the international human rights regime has grown remarkably on the basis of the idea that human rights must be protected globally, and it has apparently become the principal symbol of globalization (3). This is an instance of politics in the context of time and of the importance of the temporal component in social cognition. The structure of human rights and its acceptance constitute a form of self-limitation by states and, as a social and constructed reality—which itself has become a massive structure—have emerged from the interaction and mutual action of structure and agent.

Anthony Giddens maintains that nation-states are the principal agents within the framework of the global political order. Why do states, which are the principal agents of the domestic and international systems and enjoy freedom and independence—or sovereignty—in the domestic and external spheres, consider themselves obliged to observe human rights and, at least outwardly, lack the capacity to resist the human rights wave and instead align themselves with it? Today, we observe that even totalitarian and absolutist states, in their declaratory policies rather than in their actual practices, present themselves as supporters of and committed to human rights, sometimes with a different and transformed definition of their instances. The historical development of human rights rules also indicates that it has been states themselves that have constructed and developed these rules in their present form and have considered themselves obliged to observe them. “The main idea of the international human rights system is that states are responsible for creating satisfactory conditions in their treatment of people, remedying possible defects and weaknesses, and undertaking certain preventive and compensatory measures taken by the

international community or its agencies. This idea is presented in composite form in the human rights provisions of the Charter of the United Nations; similarly, an American court has stated that ‘in the modern age, it must be clearly said that the conduct of a state toward its citizens is an international matter and issue.’ Since the end of World War II, this idea has led to what Charles Beitz calls the ‘emerging practice of human rights’” (4). This is a practice that targets the ontological security of the state arising from Westphalia, a security that relates to the personality of the state and the preservation of its selfhood or identity.

The principle of sovereignty is widely regarded as the superior norm of international society, while human rights norms are considered an international regime aimed at limiting the inhuman consequences of the prevailing order. Sovereignty and human rights are generally regarded as separate from one another and as mutually opposed and conflicting regimes (5).

On this basis, the central question arises: how do the human rights structure and the agency of the state constitute one another and lead to the formation of a social system through the reproduction of social practices? Is the relationship between the state and human rights based on interaction or confrontation? Have we in fact witnessed, as Lord Mawuko states, a gradual decline in state sovereignty through human rights? The aim of this article is to offer a new approach to the relationship between these two, with emphasis on Anthony Giddens’s structuration theory and through the use of library sources.

In response, the main hypothesis is formulated as follows: human rights, as a set of norms identified under the concept of structural rules in structuration theory, interact with state sovereignty and, by rendering it responsible, contribute to its consolidation, legitimation, and constitution. This occurs in such a way that we witness the reproduction of the concepts of state and sovereignty—from sovereignty as immune sovereignty to sovereignty as responsible sovereignty—through human rights. It is merely initial fears and cognitive anxiety, grounded in a system of distrust and based on ontological or existential security, that have produced confrontational approaches by states toward human rights in the early stages of their encounter, as well as the perception that human rights diminish the scope of sovereignty.

The organization of the article is also based on this framework and includes the introduction, the research background, the conceptual framework and explanation of structuration theory and, within it, the structuration of the state and human rights. As a complementary section, it then addresses the issue of human rights and the ontological security of the state, along with the analysis of statistical data, which proves the article’s hypothesis. Finally, the conclusion is presented.

Research Background

On the issue of the relationship between human rights and the state or sovereignty, and the interaction or confrontation between the two, few works are available in Persian. Noting that in most existing studies, scholars of law, political science, and International Relations have regarded these two as opposed to and in conflict with each other, one such source, alongside two Latin-language sources, is introduced here:

Human Rights and Its Impact on the National Sovereignty of States (6):

This article was written by Khairullah Parvin and published in the Law Quarterly of the Faculty of Law and Political Science at the University of Tehran. In this article, the author, assuming the relativity of sovereignty, states that sovereignty can function both positively and negatively in relation to human rights, and that this depends on the

nature of the state and its sovereignty. On the other hand, human rights and the advocates of a human rights approach do not have a positive view of sovereignty and seek to limit the sovereign domain of states. The author concludes that the way out of this dual situation is investigation and the search for truth by international bodies in order to resolve this contradiction, so that, once the truth is revealed, the pretexts for violating human rights by defenders of sovereignty and for violating sovereignty by human rights advocates will be removed.

Although the author of this article addresses concrete issues and examples of conflicts between sovereignty and human rights, such as humanitarian intervention, he does not engage extensively in theoretical discussion and analysis. This gap is precisely what the present study seeks to fill. The same deficiency is also found in other studies.

The Politics of Human Rights (7):

Andrew Vincent, in this book, examines human rights within a philosophical-political context. Vincent offers a general and systematic examination of the nature and development of human rights and, at the same time, advances an argument about human rights and their relationship with politics: human rights have only a limited relationship with natural rights; historically, they are novel and new; and human rights are a response to genocide after 1945, which is directly related to the destructive and lethal potentials of the nation-state. Therefore, given the role and importance of the nation-state and its capacities in shaping human rights, the understanding of these rights must primarily focus on politics. On the other hand, there are no universal moral or religious standards for establishing them that are agreed upon by all, and this further reveals the political nature of human rights. Human rights exist in a context based on social cognition and within a political community. The implication of this is that the 1948 Universal Declaration of Human Rights is a political document, not a legal or moral one. In fact, Vincent seeks to show that human rights are reliably and necessarily related to the self-limiting capacity of states. He argues that, with the development of the civil state from the 18th century onward, specific standards of civil conduct for a portion of humanity were slowly but painfully conventionalized, and these standards of civility were extended to a wider society of states. At best, he describes human rights as the vocabulary of the ideal civil state.

Perhaps the most important critique of Vincent is his depiction of human rights in a political text in which the civil state is both the object and the subject of human rights. He presents human rights as part of the composition of the civil state, which must be politically analyzed, interpreted, and understood. This book is, in fact, a political critique of the legal nature of human rights with a social orientation. By diminishing the legal dimension of human rights, it examines them within a social framework and from the perspective of the social sciences. For this reason, it can be highly useful in understanding the non-legal dimensions of human rights. However, diminishing their legal dimension can be raised as an important critique of Vincent; accordingly, a better and more appropriate title for the book might have been *The Political Philosophy of Human Rights from a Historical Perspective*.

The Politics of Human Rights: A Global Perspective (8):

Tony Evans, in *The Politics of Human Rights: A Global Perspective*, examines the relationship between power and the concept of human rights. He regards human rights as the outcome of a struggle to obtain moral legitimacy and considers the expansion of human rights in the post-World War II era to have occurred within the confrontation between Eastern and Western ideologies. Like Vincent, Evans emphasizes the role of politics in human rights and

regards human rights as a political phenomenon that states desire for the sake of legitimacy. However, he does not address the reciprocal role of human rights and the state, which is the very basis of the present article.

Conceptual Framework: Structuration Theory

Anthony Giddens is one of the theorists who has had a significant influence on the metatheoretical debates of International Relations scholars. One of the most important of these areas is ontology and the question of which has priority in the agent–structure relationship. Ontology addresses the question of what the being of the phenomenon under study is and what its nature is. Is the reality under study independent of the subject or the knowing subject—the human agent—or is it a product of their mind and thus subject-dependent in nature? In response to this question, Giddens emphasizes the reciprocal relationship between the two and does not accept the priority of one over the other.

The relationship between agent and structure has long been one of the fundamental issues governing methodology, epistemology, and ontology in sociology. To what extent do structures constrain or enable the actions of actors, and to what extent can actors distance themselves from the constraints of structures? In this regard, there are two approaches: objectivist and subjectivist. Objectivists focus their attention on structure as the framework within which the action of the agent takes shape, and they regard action as arising from structural constraints. Opposite them are subjectivists, who focus on the motives, personal experiences, and feelings of agents. In fact, proponents of the objective approach accept the priority of structure, while proponents of the subjective approach accept the priority of the agent (9). The most well-known and comprehensive attempt to move beyond this dualism is Anthony Giddens's structuration theory. Giddens first introduced this theory in the 1970s, but it appears that he presented its most complete form in *The Constitution of Society*, subtitled *Outline of the Theory of Structuration*. In this work, he goes so far as to state that “every research investigation in the social sciences or history is concerned with the issue of the close connection between action and structure” (10). From Giddens's perspective, it cannot in any way be said that structure determines action, or vice versa. Objectivists, including structuralists, give priority to structure and ignore the role of human agents. From the perspective of this school of thought, agents act under the domination of structures and are like objects. In structuration theory, however, human agents, although acting within the framework of structures and under the constraints of their rules, can play a role in changing and even constructing new structures. This influence and being influenced are reciprocal, and the two constitute one another. From Giddens's perspective, the fundamental problem of social theory is to explain ordered social practices across time and space. It is agents who produce and reproduce structures in their social relations, while structures at the same time both constrain and enable agents (11).

Within the framework of structuration, structures are formed from a series of interactions and practices among agents (12). By applying Giddens's theory to the field of International Relations, countries, and specifically states, are self-conscious actors that act intelligently on the basis of specific reasons. Through reciprocal or purposive action with structures and other actors and agents, the international relations system is formed.

Basic Concepts of Structuration Theory:

Anthony Giddens identifies the concepts of structure, system, and the duality of structure as the core of structuration theory (11). Alongside these, action and agency are also addressed here:

Structure:

Structure is a set of repeatedly organized rules and resources that, in its concrete instances and in a coordinated manner, is stored as memory and is characterized by the absence of the subject (11). Structure, as the rules and resources of social systems, is fully fundamental in structuration theory. Structural properties also refer to the institutionalized features of social systems that extend across time and space (13).

System:

A system, or systems, refers to reproduced relations among actors and agents or collectivities that are organized as regularized social practices (11). In structuration theory, systems are reproduced relations among actors or collectivities in interaction with structures, which are known as regularized social practices.

Action and Agency:

From Giddens's perspective, action is a continuous flow of conduct: "a flow of manifest, actual, and reflexive interventions by embodied beings in the ongoing course of events in the world" (14). The agent is also assumed to be a reflexive and knowledgeable being who must not only know what he or she is doing, but must also display it to others in an intelligible and visible manner. In the theory of agency, emphasis is placed on human agency, consciousness, subjectivity, and the determining role of human consciousness and action—and, in the international sphere, the role of states. In interaction or reciprocal action with other agents and structures, their behavior is modified, leading to the reconstruction of structures and the transformation of agents' behavior. This can clearly explain and account for the dynamism of both the social system and the international system. Alongside this consciousness and intentionality of agents' action, it must be emphasized that, in Giddens's view, the flow of action constantly produces consequences that are not intended by agents, and these consequences shape the unacknowledged conditions of action. Human beings and agents are intentional, and their actions are intentional acts; however, the consequences and outcomes of these acts are not necessarily those that existed in their imagination or perception.

Duality of Structure:

The duality of structure means that the structural properties of social systems are both the medium and the outcome of the practices that constitute those systems. Duality is a condition in which the relationship between part and whole is manifested in social reproduction. According to structuration theory, the basic domain of inquiry in the social sciences is organized social practices in time and space, and duality is the fundamental basis of continuities in social reproduction across time–space. According to the idea of the duality of structure, the structural features of social systems are both the medium and the outcome of the practices that repeatedly organize them.

The Relationship between Agent and Structure:

Anthony Giddens introduced the concept of structuration in sociology as a method for analyzing relations between structures and actors. According to Giddens, structures, including the rules and conditions guiding social action, do not determine what actors do. The relationship between structure and actor requires intersubjective understanding. Structures constrain actors, but at the same time actors can, through reflection upon these

structures and by acting upon them in a new manner, bring about transformation in structures. Therefore, the concept of structuration is less negative and takes a dynamic view of the relationship between structure and actor (15).

The Structuration of Sovereignty and the State as Agent: The Reproduction of the State System

The Structure of the State:

Structure, as rules and resources—or, more simply, as the features of a system—has, in discussions of Westphalian sovereignty and the state, consisted of unwritten rules that bestowed upon it attributes such as absoluteness, permanence, indivisibility, and inviolability. Independence in the international sphere and freedom in the domestic sphere, based on the principle of the inviolability of states and their conduct, were presented as characteristics of the state system before human rights debates became prominent.

In dominant narratives, the state emerging from the Treaty of Westphalia is the principal actor and agent of the domestic and international system. Alongside this agent, there are also others who, in reciprocal action with the state, significantly affect the process of transformation of its concept. The narratives of nation, nation-state, and the international system composed of nation-states play a central role in constructing the modern world. However, the concept of the state has usually remained in the shadows in many areas of social theory—though not in realist explanations of International Relations. The national state is a fundamental component of world society. The national state, as a form of governance, has such a pervasive presence that even International Relations scholars take its existence for granted and rarely pay attention to it. It is often assumed that the national state, or something similar to it, has always existed and is a universal and natural component of human nature (16).

The state and the system of states are social structures whose purpose is to create, preserve, and defend social conditions and basic values. The most important of these basic values are security, freedom, order, justice, and welfare. All these basic values are part of fundamental human rights. Therefore, it can be said that the state has no purpose other than preserving and defending human rights, even if this was not explicitly stated at the time of the state's formation. "Some states, mainly developed states, often provide all these conditions and values at their highest levels. Moreover, they have successfully provided these conditions and values over several centuries, during which standards have gradually risen and have now reached their highest level. These countries have created a set of international standards for these values. However, some of these countries, especially developing countries, have failed to provide even the lowest standards, and as a result their presence in the contemporary state system has raised a series of serious questions about these states as well as about the state system of which they constitute an important part" (15).

The Duality of Structure and the Concepts of Sovereignty and the State:

The principle of sovereignty is generally regarded as the superior norm of international society. The concept of sovereignty has from the outset been the essential characteristic of the state, but in recent decades this concept has undergone transformation in view of international developments such as the growth of international organizations and non-state actors, multinational corporations, the emergence of concepts such as the responsibility to protect, the creation of an opening for intervention in the domestic affairs of countries, globalization, and the increased prominence of human rights. The unlimited will and power of government in exercising

sovereignty in its absolute, permanent, and indivisible sense has been limited in light of transformed internal and external conditions, including increased public awareness among nations and globalization. Today, the basic conditions for exercising sovereignty are defined differently—the reconstruction and redefinition of sovereignty in the context of time and space—and citizens' consent is presented as the essential element that grants legitimacy to governments.

The history of the past four centuries shows that the national state has not only adapted itself very effectively to global transformations and thus continued to survive, but has also gradually, through its growth, influenced the course of global transformations and compelled other social organizations and institutions to adapt themselves to this social organization or, in Alexander Wendt's words, this superior social construct. In the contemporary world, the national state has presented itself as the main provider of public goods or interests, and public expectations of it have also increased in this respect. Indeed, modern life cannot be imagined without the state (17). This adaptation to transformations that initially created the impression that the state would disappear demonstrates the reciprocal action of agent and structure and the duality of their relationship. A historical examination also shows that, initially, we encountered absolute and despotic interpretations of state sovereignty; over time, however, through its semantic transformation and its association with legitimacy and acceptability, effective measures have been taken in the field of human rights protection.

The state is that which exists and has being; however, this being is not unrelated to other beings. In fact, it must be said that the state is a social and historical construct. By the historicity of the state is meant the temporality of the relation between specific states and the ideal model of the state. This relation points to a kind of similarity within dissimilarity. Similarity means that specific states contain a minimum of the identity-forming elements of the state, because in order to call a particular entity a state, it must contain such minimums. Yet this similarity coexists with a kind of dissimilarity. Specific states, while similar to the ideal model of the state, also have significant dissimilarities from it. They usually stand at some distance from their ideal model. This relative distance from or proximity to the ideal model of the state is a function of time and space (18). Therefore, the state has transformed within history, that is, within time and space, and its meaning and concept, and beneath it sovereignty, have also transformed. Sovereignty itself comes from somewhere, and at every time it is influenced by other norms and social practices (19). The transformation of the concept of sovereignty under the influence of the present narrow interpretations of it, in comparison with the rigid interpretations of the past, confirms the effect of time as one of the elements considered by Giddens in social cognition. This is not a reduction in the scope of state sovereignty, but rather its redefinition and the expansion of the scope of states' obligations, because the principal agent and executor of human rights is the state, and through human rights, obligations in addition to their traditional obligations have been placed upon states.

The nation-state phenomenon is a specific social form rooted in modernity. This phenomenon is fundamentally different from most traditional systems, because it develops only as part of a broader nation-state system that has today acquired a global character. In the literature of International Relations, nation-states are often regarded as actors, and the principal characteristic of these actors is their power to organize and systematically and regularly control social relations across unlimited time–space distances (20).

The Structuration of Human Rights:

“Human rights are rights to which all human individuals are entitled solely because they are biologically human; ... human rights are not acquired and do not depend on any particular social status, such as whether an individual is a man or a woman. Those who have duties—those who are obliged to protect, promote, and secure human rights—are, in the first instance, states” (21). “One of the new ideals that has succeeded on the world stage is human rights. This ideal has united left and right, clergy and state, and the developing and developed worlds. Human rights are freedom from pressure, repression, and domination; they are the cry of the homeless and the deprived and the political program of revolutionaries and dissidents. ... Everyone expresses their claims in the language and discourse of human rights. Human rights are the end of postmodernity. ... Human rights have become the most authentic condition of philosophy and law and the best testimony to the universal hopes and aspirations of modernity” (22).

“The doctrine of human rights is the articulation of the public morality of world politics. Human rights state that every person is a global subject. It does not matter where the person is located or to which social group or political subset they belong. Everyone has human rights and responsibilities to respect and protect these rights, which in principle extend beyond geographical and political borders. The dissemination and promotion of this idea is one of the most important and effective legacies of World War II. According to Richard Rorty, human rights today, given an influence that has astonished even their own drafters, have become a universal truth. Today, if it can be said that the discourse of world peace has a common moral language, that language is human rights” (4). New rules, such as universal human rights, have created a fundamental rupture in the concept of sovereignty compared with the past; at the same time, some view these values merely as an expression of the preferences of great powers (23).

The year 1945 and the adoption of the Charter of the United Nations can be regarded as a turning point in the history of human rights developments. From this time onward, the concept of human rights was raised more prominently than before in the international relations system and even in the domestic systems of countries. This is the very point that Jack Donnelly also raises: after 1945, “human rights joined democracy and development in completing the triad of indicators of the legitimacy or illegitimacy of government.” The process of the internationalization of human rights was carried out through the adoption and entry into force of the Charter of the United Nations, the adoption of the Universal Declaration of Human Rights, the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and various global and regional treaties accepted by states. Human rights have been expressed in international treaties that are the result of negotiations among states. The specific human rights obligations of states in international law are based on treaties to which states are parties, as well as on principles of good-faith conduct established by states themselves for the preservation of peaceful relations and world order. In fact, international law recognizes state sovereignty, and sovereignty in turn recognizes that law.

The Duality of Structure and Human Rights:

Given the transformations of the final decade of the previous century and the first decade of the new century, it appears that fundamental human rights rules have become peremptory norms of international law in the new millennium. This is because the practice of political units in ratifying and implementing international conventions,

United Nations resolutions and declarations, international custom, judgments of the International Court of Justice, and regional human rights conventions, as well as the type of activity and practice of international non-governmental organizations, the United Nations Millennium Declaration, and the views of political and legal scholars all confirm the peremptory character of fundamental human rights rules in our present and future life (24). What is certain is, first, that human rights exist, and second, that every state is obliged to observe them from two perspectives: on the one hand, to preserve its political continuity and legitimacy, and on the other hand, to fulfill obligations it has accepted through domestic law, mainly constitutional law, and especially international law. The study of the trajectory of human rights developments and the transformation from specific and, of course, limited diplomatic protection to the broader and more expansive field of human rights protection through the adoption of universal declarations and the issuance of international instruments and sources for the protection of human beings, the globalization of the human question, and the narrow interpretations of the principle of non-intervention in the domestic affairs of states stated in Article 2(7) of the Charter of the United Nations, as well as the domain of states' domestic jurisdiction, also confirms this claim.

The human rights structure, as organized and transformative rules and resources, is one of the regular practices of world society and one of the deeply rooted features of contemporary world society. Although this legal system suffers from numerous and major problems in implementation, its importance for states and their legitimacy in the international relations system cannot be denied, even if not absolutely. As stated, the roots of the contemporary concept of human rights must be sought in the past, and attention must be paid to the foundations of human rights. However, after 1945, human rights entered a new phase that differed considerably from the period before 1945. Human and humanitarian motivations after 1945 greatly contributed to the growth of the movement for codifying and elevating human rights laws and regulations. During this period, we witnessed the adoption of the Universal Declaration of Human Rights, the two Covenants, and other conventions related to human rights issues, which today appear in the form of the international human rights system more prominently than at any other time. The three generations, and even four generations, of human rights are the product of developments in this field after World War II, which were gradually raised and accepted—constructed—in a stepwise manner across time and space. Their manifestation is evident in continuity and transformation in the sense of structuration and in interaction with the state.

Structuration concerns the reciprocal influence of agent and structure upon one another. The principal agents in adopting human rights treaties and declarations as the first and most important source of human rights and in recognizing the international human rights system have been states. With the end of World War II, new structures, in the objective sense, and new standards, in the sense of rules, were developed to strengthen and protect human rights. This occurred first and foremost through the United Nations and in the Charter of the United Nations and the Universal Declaration of Human Rights. Before World War II, international law had provided few and limited remedies for citizens who faced mistreatment by their own governments. Humanitarian interventions by other countries were limited and were often motivated by economic or political concerns rather than by concern for human interests and rights. Nevertheless, the end of World War II signaled transformation in the face of the international human rights system (25). Perhaps the clearest description of human rights and the process of structuration, in the sense of their creation and increasing prominence, can be summarized in one sentence: states have recognized human rights, and without the existence of the state, sovereignty, and supreme authority, the enforcement of human rights is impossible; the observance and guarantee of human rights require the presence of the state and, of course,

its protective responsibility. In fact, it must be said that human rights initially developed in opposition between the individual and absolute power and the state; however, over time, they have been presented alongside the state and as a factor contributing to its authority, legitimacy, and acceptability. In other words, the more the sanctity of absolute powers—the state—which was a fundamental factor in the opposition between human rights and the state, diminished, and the more emphasis was placed on the importance and value of the human being and the concept of human dignity, the more, through the reproduction of relations among agents and the formation of new social practices, the understanding between human rights and that absolute power—the state—increased. This is objectively observable in the 21st century. In the present context, we observe that the individual is the central subject of the state. For example, under the Inter-American Democratic Charter adopted by the Organization of American States in 2001, all American peoples have the right to democracy, and their governments have an obligation to promote, support, and defend it (26).

Human Rights and the Ontological Security of States: Duality

Ontological security refers to the subjective and psychological security and identity stability of the agent. Every agent attaches importance to existential and ontological security or to its identity. Therefore, the examination of agents' behavior cannot be comprehensive and precise without attention to and focus on this concept. In diagnosing why and how agents behave, their effort to preserve their identity must be taken into account. Ontological security is also part of Giddens's literature that has been used by scholars of International Relations.

States seek ontological security because they want their identity to be preserved coherently (27). In addition to physical security, states also consider ontological security important. The motive of ontological security, like its physical counterpart, is continuous; however, states may adhere to habits inflexibly or reflexively, and changes in the type of adherence have different meanings for security-seeking (28). Giddens places existential or ontological security in direct relation to ongoing and routinized everyday events and practices. If this ordinary routine changes, anxiety arising from an unknown future emerges in the agent. Ontological or existential security is the continuity of identity in time and space, and human rights have transformed the established personality of the state and Westphalian sovereignty, although they have not necessarily led, and will not necessarily lead, to the diminution of the supreme authority of the state.

Human rights, based on the definition of structure in Giddens's thought, are ordered practices that have expanded across time and space and through relations and interactions among agents. The international society of the 21st century is more than ever an advocate of guaranteeing human rights. One of the characteristics of the present century is the emergence of a wide spectrum of international organizations and regimes, non-state actors, transnational forums, and national pressure groups whose activities cover all domains. Non-state actors, or what James Rosenau calls sovereignty-free actors, affect the authority of the state in a condition of complex interdependence, and issues of world politics, or high politics, have become linked with economic, social, and environmental questions, or low politics. It is accordingly that human rights have acquired a different status in the contemporary world system and have become more prominent compared with the not-too-distant past. Thus, the concept of sovereignty has undergone a fundamental transformation, a transformation that has occurred through a transition from the concept of the nation-state, which was based on nationality and relied on race (7), to the point that, at present, human rights leave no room for the concept of nationality based on race.

What we witness today in relation to human rights is that at no time have we had such widespread demands for and presentation of this concept in various forms as we have at present. There are still extensive international debates concerning the moral standards that states must consider in their conduct and toward which they must move as part of the order of international society. Although states have committed, and will probably continue to commit, acts indicating that human rights are used as an instrument for political, economic, and ideological exploitation, and although, as Claudio Corradetti, professor at the University of Rome, argues, they may serve as a justification for new forms of ideological imperialism (29), despite all these criticisms and weaknesses, the third millennium can be regarded as a millennium in which human rights enjoy primary importance and priority in international politics and have been elevated from a software position to a hardware position. One of the principal factors behind this situation is the transformation of human rights rules into international custom and, ultimately, their acquisition of a peremptory character.

The contemporary issue of human rights is neither the codification nor the development of these rights. Rather, the fundamental question that must be answered is how human rights can be protected in a state environment that is incompatible with this idea. Are states really opposed to and incompatible with human rights? Can it not be said that human rights are a factor and component for strengthening the sovereignty and authority of states? These questions can be answered from a different perspective, not merely a realist one. Perhaps the first step on this difficult path is Alexander Wendt's famous statement that anarchy is what states make of it. By the same analogy, and by drawing on Anthony Giddens's structuration theory, human rights must be understood as a structure within which states exist and with which they live; that is, as something states construct. Human rights, as a social structure, bring with them the cognitive fears and initial anxieties of states, and this very fact causes them to encounter resistance in the early stages. Ultimately, however, states accept them willingly, and human rights, after passing through states' anxieties concerning their existential or ontological security, ultimately become part of their identity core—the human rights state.

Human rights debates, including the concept of the responsibility to protect, have produced transformation in the meaning of state sovereignty, a sovereignty that has undergone change and transformation in the context of time and space. From the absolute sovereignty emerging from the Treaty of Westphalia in 1648 to the French Revolution and revolt against the absolute sovereignty of the king—the state—and from the French Revolution to the emergence of the concept of the responsibility to protect, all have transformed the absolute face of sovereignty. However, this transformation does not mean the restriction of sovereignty; rather, it means its transformation and redefinition. In the contemporary world, and drawing on human rights debates, sovereignty is no longer immunity; it is responsibility. This is precisely what has resulted from the reciprocal actions and relations between agent and structure. From this perspective, it creates anxiety, distrust, and identity insecurity for absolutely sovereign states that are detached from democracy and lawful elections. It is not possible for all states to accompany and align themselves with this process and to proceed equally along this path, because states have each undergone different processes of socialization, and their conscious and unconscious dimensions are not the same. Ontological security addresses the question: Who am I? We saw that the who and what of the state were defined in the Treaty of Westphalia and within modernity. Therefore, the Westphalian state, in its encounter with human rights, has been compelled to transform itself and, with the emergence of human rights concepts, has undertaken a redefinition and a different reflection of its older form in order to preserve itself.

Statistical Analysis:

Statistical data indicate the type of behavior of countries in attending to concepts and in accepting and acceding to human rights conventions. As stated earlier, structure in Giddens's thought means transformative and organized rules and resources and serves as a feature of regular social practices, in such a way that it is regarded as an everyday matter. A brief look at international society, and specifically at Europe and the Middle East, shows that human rights in Europe have become an everyday matter and are presented as a feature of the political and legal systems of those states, whereas this is not the case in the Middle East, where human rights remain in the shadows and are raised only in limited cases unrelated to the hard core of power. Giddens regards the everyday as a routinized feature characterized by repetition.

The statistical analyses showing the frequency and percentage of participation by Middle Eastern countries in human rights conventions clearly confirm the hypothesis of the present article.

Oman, as a country in the Middle East, has had the lowest participation in human rights conventions due to concern about harm to its political sovereignty, whereas Turkey, because of its desire to join the European Union and the Europeans' claims regarding Turkey's violation of human rights, has had the highest participation in acceding to human rights conventions. It must, of course, be noted that mere membership in and acceptance of human rights conventions does not indicate adherence to them.

A comparison of the percentage frequency of Middle Eastern countries and members of the European Union up to 2002 and the beginning of the 21st century in participating in and acceding to human rights conventions confirms the claim that European Union countries, due to the liberal-democratic structure of their political sovereignty, pay greater attention to human rights. The participation of these countries in eight human rights conventions, including the two Covenants, is 100 percent. In fact, Europeans have accepted everything that is raised under the banner of human rights and in connection with their political sovereignty and their popular legitimacy and acceptability. By contrast, Middle Eastern countries have acceded more to conventions that do not threaten the axis of political sovereignty, including the Convention on the Rights of the Child with 100 percent participation and the Convention on the Elimination of Racial Discrimination with 94.74 percent participation (30).

Saudi Arabia, as one of the countries of the Middle East, has not held a favorable view since the formal and written presentation of human rights debates in the Universal Declaration of Human Rights. At that time, alongside the Soviet Union, it abstained on the Declaration; it has not yet acceded to the two Covenants; and despite two consecutive three-year terms of membership in the Human Rights Council from 2013 to 2019, and by acceding to non-political human rights conventions unrelated to political sovereignty, it has merely created a human rights image for itself through media propaganda. These conventions include the Convention on the Rights of the Child, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime, the Convention on the Rights of Persons with Disabilities, and the Convention on the Elimination of All Forms of Racial Discrimination. Despite this, Saudi Arabia has not yet acceded to political human rights conventions and instruments, and it continues to struggle with cognitive fears and initial anxieties arising from its encounter with a new situation and from being disembedded from the place to which it is attached—coercion and rigid sovereignty.

Another instance confirming this claim is the absence of human rights courts in the Middle East. Not only have human rights courts not yet been established in less developed regions such as the Middle East—which is

characterized by rigid sovereignties, artificial and imposed borders, ethnic-tribal governments, and abundant ethnic-religious tensions, the outcome of which has been the non-realization of national sovereignty, on the basis of which human rights are viewed as a cause of diminishing their domestic power and authority with emphasis on the mental and psychological backgrounds of the rulers of these countries—but even a supervisory mechanism has not been defined. This applies to all Middle Eastern countries, and there is no supervisory mechanism or judicial authority comparable to the European Court of Human Rights and the Inter-American Court of Human Rights.

Conclusion

Human rights norms, in the process of being internalized and transformed into organized rules and resources or a structure for states, bring existential anxieties to states. These anxieties arise from changes and transformations in the sovereign domain of these agents or from the transformation of their identity through the acceptance of human rights. Fear, anxiety, and apprehension resulting from an unknown future and arising from “disembedding” and abandoning ordinary affairs and repetitive routines produce the initial hostile approach of states and sovereignties toward human rights. In fact, states encounter human rights in a situation in which their sovereignty is absolute, while human rights have no purpose other than redefining and transforming this sovereignty. Sovereignty, in the sense of the exclusive use of the instruments of legitimate force—authority—within its own borders, is transformed through human rights and moves away from its initial definition. On this basis, anxiety and distress arise for sovereign units, namely states, and the initial trust of states is disrupted. In other words, states have become so accustomed to the concept of absolute sovereignty that fear of its transformation through human rights or other concepts places them in opposition to human rights or all those concepts. On this basis, in the initial stages of the emergence of human rights concepts, states were not—and are not—particularly inclined toward them, and there are still states that have little inclination toward them. However, over time and across different spatial contexts, this practice has changed and transformed, in such a way that in the countries known as the North, we witness the implementation of human rights and compliance with human rights rules. This practice is in its initial stages in the countries known as the South, where confrontation with human rights is observed.

As we observe in the developed world, the observance of human rights has been placed at the forefront of their actions. In fact, with emphasis on Anthony Giddens’s thought, it can be said that developed states have overcome the fears arising from their existential security and have succeeded in internalizing human rights norms and accepting them as a structure. This is while this process has not fully occurred in the countries of the South or in developing countries; however, it is in the process of becoming, and structuration theory can describe and explain this process. In fact, developing and underdeveloped countries regard human rights rules not only as a challenge, but also as a crisis that reveals the value system of developed countries and serves as an instrument for intervention in their domestic affairs. This crisis is rooted in distrust as one of the most fundamental concepts of ontological security.

Therefore, no general judgment can currently be issued regarding the effect of human rights on state sovereignty, given the elements of time and space. However, it can be said that the inevitable outcome of the expansion of human rights in the 21st century will lead to the strengthening of state sovereignty. The experience of Northern states can be regarded as evidence of a transition beyond the initial anxieties arising from confrontation with human rights, in such a way that at present they regard the observance of human rights principles and concepts—at least in the domestic sphere and in relation to their own subjects—as the basis of their legitimacy and are increasingly

striving to observe them. The situation of Southern, developing, or underdeveloped states can be seen as one that evokes fear and anxiety arising from confrontation with a new situation and its unpredictable consequences. These countries suffer from anxiety arising from a lack of knowledge of the new conditions that human rights bring with them, and on this basis they have adopted a hostile stance toward this process. In our view, and on the basis of Anthony Giddens's views, the state will remain an enduring phenomenon in the domestic and international spheres, and its power may even have increased through processes of globalization. Nevertheless, it can be said that state sovereignty has also acquired a different meaning. In this transformation, the concept of "responsibility" has emerged and become recognized as an inseparable suffix of the state and sovereignty—responsible sovereignty—in reciprocal action with human rights and other agents of the international system.

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