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Connection between human rights and the state capacity in Somalia

ABSTRACT

This thesis is about human rights and states. To be more specific, condition of human rights in Somalia. Human rights are universal moral laws of a fundamental nature, belonging to any individual in its relations with the state. Literature treats state as a main protector of human rights and at the same time as a main violator. When protector turns into major threat? Does the state capacity matter? My analysis provides support for my hypothesis that the stronger the state, the better condition of human rights. Strong state is able to protect its citizens, while weak states lack capacity to provide security. The main purpose of this thesis is to investigate whether Somalia as a failed state has capacity to protect human rights.

Keywords: human rights, state capacity, Somalia, Africa

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1. INTRODUCTION

First of all, I would like to briefly explain why Human Rights and what made me choose exactly this area. My interest in the human rights arose during high school years thanks to history lessons where the transatlantic slave trade was discussed. Since then, I have been concerned with the human rights condition. I decided to write my thesis about human rights because of the recent real-world events which I might indicate as my inspiration. As a person who has always been interested in Asian culture, I am especially concerned about human rights condition on that continent. I recalled this year's Nobel Prize which was awarded China dissident Liu Xiaobo.[1] He has been called a symbol of the human rights struggle in China. This in turn made me start thinking about human rights in general. The ideas of equality and fundamental freedoms, which are one of many human rights, are still not known all around the world even though the world has entered twenty-first century some time ago. Even if the idea of human rights is on our mind, the full realization of human rights worldwide is a difficult, and probably impossible as well, task. The concern for a peace in the world seems to be far too theoretical and general to guarantee its good functioning. Words and ideas are not enough to create peaceful world where human rights will not be violated. Despite the great influence on internationalization and institutionalization of the issue of human rights there are still states which still lacks in human rights area. This is where I started wondering if there is any particular reason for that.

At the beginning I wanted to concentrate on human rights in Asia, but as I went through annual reports of Amnesty International or Human Rights Watch, I decided to choose different region. I found out that most of the states which are included in the annual reports on human rights are rather small and weak. I also noticed that almost every year, Somalia is placed on the top of list of the countries with the worst human rights condition. I recalled incidents which took place in 2008 and drew worldwide attention. On 25 of September Somalia's pirates hijacked the Ukrainian ship MV Faina carrying 33 tanks to Kenya T-72, worth about 30 million of dollars. [2]As I was reading about this case, I got interested in current situation in that state and found out some terrifying facts. I learnt that the northern part of the

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[1] *Nobel Peace Prize awarded to China dissident Liu Xiaobo,* "BBC News", [online], 2010, available on the Internet: http://www.bbc.co.uk/news/world-europe-11499098

[2] Alf R., *Somalia – Pirates break records of temerity,* 2008, available on the Internet: http://www.stosunkimiedzynarodowe.info/artykul,262,Somalia_piraci_bija_rekordy_zuchwalosci

country in 1991 declared independence as Somaliland. Somalia is now considered to be a failed state.[3]

My hypothesis is that the capacity of the state is linked to the condition of Human Rights. In this thesis I would like to find out if I am actually right. From my previous studies of International Relations, I learnt that state is principle protector of human rights but at the same time also a major threat to them. We can observe this regularity while going through human rights reports published by various human rights organizations that tend to criticize states for violations of human rights or incapability of prevention of such events. However, if there is a connection between the state capacity and condition of human rights, then there should be taken action other than just criticism.

1.1 Problem and Purpose

Although there were many statements and reports regarding human rights and its condition, there are not much detailed analysis of the connection between capacity of the state and condition of human rights. Due to limited extent of this paper and my own research interest, I focus mainly on the condition of human rights in certain state which in this case is Somalia. I hope that through analysis of material which I gathered, I was able to make the problem more visible and easier to understand.

Somalia has exceptionally poor human rights conditions and is one of the African countries that is by all NGOs considered to be not free. This country located in the north-eastern Africa, has not had an effective central government since President Siad Barre was overthrown in 1991.[4] Somalia's disintegration can be observed everywhere and in daily life. While many African citizens are becoming healthier and have better access to economic opportunities than a couple years ago, some states still have to struggle with many domestic difficulties. Somalia is the best example of such situation. Its citizens are now even less physically secure and their

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[3] *The Failed States Index 2010, "*Foreign Policy", [online], 2010, available on the Internet:
http://www.foreignpolicy.com/failedstates
[4] *Somalia Country Profile, "*BBC News", [online], 2010, available on the Internet:
http://news.bbc.co.uk/2/hi/africa/country_profiles/1072592.stm

rights are continuously violated. Many states are weak and thus unable to coordinate policy on their territories. Even if the state has good intentions and do not intend to violate human rights, weakness may be the reason for the disability to prevent abuses by powerful private actors such as corporations or criminals. Increasing corruption, especially among police and lack of judicial independence is also a serious problem for controlling state's own agents. If human rights violations are linked with the state capacity, it is important to not only blame states but also try to find a solution and help them remedy domestic issues.

The main purpose of this essay is to investigate whether human rights condition is connected with the state capacity. In order to do this, I provide an analysis of human rights in different perspectives referring to reports on human rights in Somalia published by various organizations, such as Amnesty International or Human Rights Watch. I examine the case of Somalia, which has one of the worst human rights conditions in the world. In 2009, Somalia taken the first place in the ranking of countries with the most difficult conditions of life. Somalia has been placed on position for the second year in a row.

I hope, that with the help of empirical material which I found and analyzed as well as conceptual framework I will be able to answer my research question:

Does the capacity of state matter when it comes to protection of Human Rights in Somalia?

1.2 Formulation of the thesis' structure

This thesis is divided into five main chapters. After having described the main aims and core areas of this thesis in the first chapter, further I develop methodological and theoretical approaches of my paper, focusing on human rights and its violations. In the second chapter of my thesis I provide definition of human rights and its historical background, as well as definition of the state capacity for further understanding. Before moving on to the main part of my research it is important to briefly describe main concepts that I face in this paper. In the third chapter of my paper, before examining case of Somalia, I briefly present background to the current situation in state. This African state is recognized to be a failed state where no government exists, thus I assume that is the reason for human rights abusing. Further, in the main part of my thesis I provide an analysis of human rights in Somalia and its actual capacity in order to answer my research question which I posed in the introductory chapter. The last chapter rounds up and concludes results of analysis.

1.3 Methodology and materials

This thesis is a thesis in international relations with a special focus on human rights. The focus of analysis is, however, not primarily on human rights but rather on the interactions between human rights and politics.

In this thesis I investigate whether there is a connection between human rights condition and the state capacity on the basis of a case study of Somalia. Robert K. Yin explains that "case studies can be done using either qualitative or quantitative evidence. The evidence may come from fieldwork, archival records, verbal reports, observations, or any combination of these".[5]

In my research I am concentrating on specific country, situation and problem with its real-life context. I decided that the most suitable method for my research would be qualitative

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[5] Yin K. Robert, *The Case Study Crisis: Some Answers,* "Administrative Science Quarterly, Vol. 26, No. 1, 1981, p. 58-65

method. I hoped that this method would help me answer certain research question more effectively. Even though with this method I concentrate on specific phenomenon, event and situation, it helps to obtain more complex result and more precise view. It gives information on particular case that one intend to study and conclusions may be adequate only for particular phenomenon. Still, I find it more effective because this method goes deeper. I focus on interpretation of gathered material instead of quantification. In my work I concentrate on analysis of materials and documents and it does not involve measurement or statistics.

Firstly, I sought to answer my research question. Secondly, I realized that my case study involves data collection from multiple sources and that is why I went through various types of organizations such as Amnesty International, Human Rights Watch or organizations that focuses on governance in Africa in order to find proper information. As a result I was able to collect materials for my further work. Thirdly, I analyzed gathered materials and produced findings that hopefully helped me reach proper conclusions and find an answer for question posed at the beginning. When doing my analysis I looked for violations of human rights of all three categories. I highlighted human rights from first category with one colour and then I did the same with other categories. That helped me digest all violations.

To realize my aims, I look at important human rights reports published by various organizations, such as Human Rights Watch and Amnesty International, but media articles available on the Internet have been used in this paper as well. I used Human Rights Watch reports from 1990, 1993 and 2010, as well as Amnesty International reports from 2009 and 2010. Beside reports on human rights, for my work I also used the Ibrahim Index of African Governance which attempts to monitor levels of African governances using statistical data. Its main goal is to compare increases or declines in governance in African states year by year. This Index uses 84 indicators that are grouped into four broad categories such as: safety and rule of law, participation and human rights, sustainable economic opportunity, and human development.[6] Ibrahim Index were used in order to see whether Somalia has some level of capacity.

Thanks to materials which I was able to gather and detailed analysis I hope I was able to create an useful database for my work on this case study. However, the source which I found, do not include direct observation which may be essential for deeper understanding of the problem.

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[6] The Ibrahim Index information available on the Internet: http://www.moibrahimfoundation.org/en/section/the-ibrahim-index

In addition, sometimes it was difficult to use the latest available data for every indicator. As far as I know, there is no organization in Somalia which would collect information regarding state. That is why even though most of the materials used by me are reliable source for my investigation, lack of data in some cases may be a serious obstacle for full understanding of the problem which I am facing.

As a theoretical approach for my case study I conduct the basics of human rights theory. The main purpose of the theoretical approach is to show what are human rights, what are modern standards included in the Universal Declaration of Human Rights and thus to make us able to reach a conclusion how to recognize situation where they are violated.

1.3.1 Delimitations

In this study I concentrate on the capacity of Somalia and its human rights condition. State on which I am focusing is now in a serious crisis and that is why it is difficult to receive reliable and complete information. Due to limited space of this paper, my own interest and available information, I provide analysis of human rights only in this specific country in limited period of time.

The data which I was able to collect concentrate only on the case of Somalia and thus it may be difficult to determine if my predictions fit in wider scale. It would be impossible to fit the results with other states because each of them differ and each case is different and perhaps even more complex.

I wanted to use the NGOs' reports starting from 1991, because since then Somalia has not had an effective central government, however, while looking for suitable information, I noticed that some of them are missing. For example, Human Rights Watch reports starts in 1990 and I assumed that it would be no problem to find proper data. Unfortunately, Human Rights Watch published reports on Somalia in year 1990, which consists analysis of the conflict in the north of the country, and from 1992-1994. Then for a couple of years there is no information about human rights condition in Somalia, till year 2007 when Human Rights Watch published their annual reports that include Somalia's situation. In addition to the general lack of information, what is available is often outdated and where data is available, it

is often incomplete. I assume that is because the situation in Somalia changes frequently and thus information while collecting the data is not accessible.

Analysis of this case was difficult but I tried and in my opinion I've done my best.

1.4 Previous Studies

Since the end of II World War when human rights were recognized in the global international law, there have been published many studies and researches on this topic. The issue of human rights and its protection occupied a large number of scholars. Also, the third world countries have become an area of special interests probably because of worsening situation. However, most of the analyses of human rights in the third world countries have focused on economic development and governmental policy.[7] Odikalu focuses on human rights on the African continent in general. He points out that it is more important to focus on vectors and cause which of human rights violations. It is essential to learn how African state should develop capacity to fulfill international human rights responsibilities.[8] I treat it as a base for my paper because I think that building capacity of the state is one of the most important solutions to human rights violations, especially in African countries that are still too weak which is a result of colonialism.

Many of the previous published materials remarked the role of the state in protection of human rights.[9] According to them state is responsible for ensuring basic rights and promoting them among society. In my paper I agree with that statement, but I also concentrate on the state capacity do to that and its impact on human rights condition. Others observe connection between human rights abuses and corruption.[10] According to Berenbeim,

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[7] Evans G.D., "Human Rights and State Fragility:Conceptual Foundations and Strategic Directions for State-Building", *Journal of Human Rights Practice,* Vol.1, No.2, p.181-207

[8] Odinkalu A. C., „Back to the Future: The Imperative of Prioritizing for the Protection of Human Rights in Africa", *Journal of African Law,* Vol.47, No.1, p.1-37

[9]Ibid.

corruption have an impact on human rights and may be the reason for many issues regarding human rights in certain state.

Cullen S. Hendrix [11] has already studied the state capacity and its measurement. He put much emphasis on studies of civil conflicts, whereas I want to focus on the connection between condition of human rights and capacity of the state. Also David Sobek[12] published article about state capacity and its role in outset and performance of civil wars.

State capacity is multi-dimensional concept but all studies that I have been able to find have overlooked other factors that all together shape state capacity and influence human rights condition. This is something I have not been able to find much information about when I was looking at previous studies within the field of human rights and capacity of the state. I found out that there is a gap when it comes to human rights studies and the state capacity. As I stated before, it seems that publishers, if there are any, concentrates only on governance and development. My purpose is to fill this gap through an analysis in my further work by investigating connection between human rights condition and capacity of the state based on case study of Somalia. That way the importance of building state's capacity can be shown.

2. THEORETICAL FRAMEWORK

This part of my thesis tries to outline a basics of human rights that are important for further understanding. In this chapter I concentrate on the theory of human rights which in ethics and politics is usually thought to be the most typical expression of universalism.

Firstly, before I can discus my thesis' topic, I should explain what we mean when speaking about human rights. This term is used rather often but is not always properly understood. We may present several definitions of human rights because there no single definition, however I concentrate mainly on the UN understanding of human rights. Secondly,

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[10] Berenbeim R., *Linking Human Rights to Anti-Corruption,* Delivered at the 7th Meeting of The Global Compact Working Group , United Nations, New York, December 2010

[11] Hendrix C. S., "Measuring state capacity: Theoretical and empirical implications for the study of civil conflict", *Journal of Peace Research,* Vol. 47, No.3, 2010, p. 273–285.

[12] Sobek D., "Master of their domains: The role of state capacity in civil wars", *Journal of Peace Research",* Vol.47, No.3, p. 267-271

I briefly depict history of the idea of human rights and then, I write basic information about the most important document which established international human rights regime – the Universal Declaration of Human Rights. It is obligatory for every country which is willing to become a member of the United Nations, to sign this Declaration. In this sense, human rights are almost universally accepted by signatory states but unfortunately sometimes only in words or as an ideal standards. Some of human rights concepts still invoke discussions and disputes. Many sees it as just loose talk and treat is just as theory. Many states use cultural differences as an excuse of violations.

In the last part of this chapter, I provide a definition of state and capacity, as well as an explanation what makes state capable. It is important to do this to make possible understanding of main concepts that I am using in this thesis. Without proper explanation, investigation would be useless and I would not be able to answer my research question. Before I proceed to analysis and answering my research question, I need to know what human rights and state capacity are in order to be aware what are modern standards of human rights and thus be able to recognize violation. As for state capacity, I need to know its meaning in order to find presumptive connection.

In my opinion, it is essential to start with basics before going on to the main point, that is why I start with definition of human rights.

2.1 Defining Human Rights

According to Kofi Annan, the Secretary-General of the United Nations, "Human rights are the foundation of human existence… Human rights are universal, indivisible and interdependent… It is the universality of human rights that gives them their strength. It endows them with the power to cross any border, climb any wall, defy any force".[13]

In other words, we may define them as a basic rights and freedoms that all people are entitled to, regardless of nationality, sex, national or ethnic origin, race, religion, language or other status. They are considered to be fundamental moral rights of the person that are necessary for

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[13] Annan Kofi, *Address at the University of Teheran on Human Rights Day,* UN document SG/SM/6419, 1997

a life with dignity.[14] These are rights that one has because of being human. They are equal because one has the same rights as everyone else. Human rights are inalienable because one cannot stop being human no matter what. And they are universal because we consider everyone human being and thus they should be respected everywhere, regardless geographical location or culture in which certain state exists. [15] However, some states differ in a view of human rights. We can easily observe that a number of authoritarian governments especially in the Islamic world but also in Asia criticize the western view of human rights.

The fundamental nature of human rights lies in the fact that they do not require justification.[16] According to United Nations Information Center in Warsaw, the first category of human rights includes political and civil rights. Political rights guarantee free participation in the state's affairs, such as right to citizenship, right to vote and be elected, freedom of press, expression, association and assembly. Civil rights include rights, such as right to life, liberty, personal security and right to religious freedom. The second category includes economical, social and cultural rights. They relate to access to education, health and social care, as well as access to food, water, housing, work, adequate standard of living. The third category constitute what is usually called as solidarity rights which include rights to development, right to self-determination, right to economic and social development, right to healthy environment, right to natural resources, right to participation in cultural heritage. [17]

Even though it is common to divide human rights into three main categories, it is contentious issue whether it is possible to distinguish accurately civic, political and economic rights, social and cultural rights.[18] It is undeniable that they complement each other and together form a directory of human rights belonging to every individual living in a society.

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[14] Forsythe D. P., *Human Rights in International Relations,* Cambrdge: Cambridge University Press, 2002, p. 3

[15] Donnelly J., *Human Rights in Theory and Practice,* New York: Corrnell University Press, 2003, p. 10

[16] Osiatyński W., *Introduction to Human Rights,* available at:
http://www.hfhrpol.waw.pl/pliki/WOsiatynski_HistIFilo.pdf

[17] UN *Categories of Human Rights*, available at: http://www.unic.un.org.pl/prawa_czlowieka/pcz_kategorie.php

[18] Ibid.

2.2 Brief history of Human Rights

The universality of human rights has its roots in Christianity and Roman law. However, the "human rights" term first came into life in the Enlightenment period and was for the first time used in the United States *Bill of Rights* in 1776. At that time it meant primal rights towards the state and society.[19] Modern understanding of human rights can be found in the age of Enlightenment and was developed by figures such as John Locke and Immanuel Kant.

Human Rights have a long history in theory, however, it was French revolution in eighteen century that definitively ie. in normative acts, regulated package of human and citizen rights. In 1789 Declaration of the Rights of Man and Citizen was adopted. It contained a directory of rights and freedoms which are in force even today in many state systems. The Declaration was supposed to not only fight for political but also social changes. Declaration can be undoubtedly described as an act that served as a basis for many future initiatives for protection of human rights. However, the enlightenment idea of human rights was limited. Political rights were granted to only handful of owners, ignoring women, children and people of colour.[20] Historical events and legal decisions which I presented up till now were mainly related to political rights. Problems connected with democratic, economic and social affairs have been realized in XIX-XX centuries. In Europe the notion of rights included also protection of basic economic and social needs of all people.[21] People believed that social progress and improvement of living standards is an essential condition for protection of human rights.

In 1919, after I World War, League of Nations came into life and is said to have been the precursor to the United Nations. League of Nations regulated issues in the area of human rights and freedoms such as protection of national minorities in certain European countries and the protection of the indigenous inhabitants of mandated territories of the League. Later on, Versailles system of protection of minorities was created. [22] Organization had its contribution to international labour law. [23]

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[19] Banaszak B., *Prawa jednostki i systemy ich ochrony*, Wrocław, 1995, p. 6.
[20] Osiatyński W., *Introduction to Human Rights,* available at:
http://www.hfhrpol.waw.pl/pliki/WOsiatynski_HistIFilo.pdf
[21] Supra note 15
[22] Gawlik M., *Krótkie dzieje praw człowieka,* available on the Internet: www.racjonalista.pl/kk.php/s,5089#_f9
[23] League of Nations, *Covenant of the League of Nations,* art. XXIII, available on the Internet:
http://www.grocjusz.edu.pl/Documents/pln.html

The idea of human rights has evolved over the years, especially after II World War. Before that occurrence human rights were rarely discussed in international politics and were rather viewed as a domestic matter dependent on certain state.[24] As a result, human rights were regularly violated by most states around the world, regardless of the type of political regime. After II World War human rights were eventually recognized in the global international law.

The historic breakthrough of major importance for the accomplishment in the field of human rights and freedoms in the world was the adoption of the Universal Declaration of Human Rights in 1948. The Universal Declaration which I describe in the second part of this chapter, was the key document for protection of human rights. It was soon followed by other more legally binding documents, such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Both documents came into force in 1966. Together with other future documents, they have created the international legal system of human rights which usually divide human rights into three groups, categories or generations.

The International Covenant on Civil and Political Rights defines nations' rights to self-determination, outlines directory of Civil and Political rights, prohibits discrimination based on race, sex, religion, language and origin, and also provides mechanism of execution. The International Covenant on Economic, Social and Cultural Rights outlines directory of rights regarding right to work in fair conditions, an adequate level of welfare and health care, access to education and the prevalence of the use of culture. [25] In subsequent years the UN system of protection of human rights has been supplemented by a further international treaties on certain aspects, such as prohibition of discrimination based on race, the prohibition of discrimination against women, the prohibition of torture and other degrading and inhuman forms of punishment, child rights, the rights of workers - migrants.

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[24] Donnelly J., *International Human Rights,* Boulder : Westview Press, 1998, p. 3
[25] Minałto M., *Universal Declaration of Human Rights of United Nations,* available on the Internet:
http://historia.gazeta.pl/historia/1,99550,6896573,Powszechna_Deklaracja_Praw_Czlowieka_ONZ.html

2.2.1 Universal Declaration of Human Rights

As it was stated before, human rights are universal and are entitled to everyone. However, before II World War these values were not popularly respected.

Adolf Hitler and his racist politics highlighted how human rights violations and lack of response of the international community can spread to neighbouring countries and further, to a significant part of the world. During II World War the war crimes were committed on a bigger scale than ever before. Rafał Lemkin, Polish lawyer of Jewish descent, created a concept of "genocide".[26] Soon these atrocities included also the threat that was carried with the destructive force of the atom bomb and the post-war arms race.

Human rights requires everyone's commitment, effort and support. The United Nations took first step in protection of human rights with the Universal Declaration in 1948, formulating internationally defined norms which all states and people should obey.[27] Authors of this document, who came from different cultures made sure that the Universal Declaration has become common vision of more just and peaceful world. It became first international document which is based on the assumption that human rights and fundamental freedoms apply to every person in every place. The Declaration was adopted through an unique consensus which has been achieved at the time of unusual tensions and political conflicts. It was an act written on ruins and nameless cemeteries, such as Auschwitz.[28]

This document shaped the modern understanding of human rights, covering fundamental rights of a general nature. The Universal Declaration proclaims itself a "common standard of achievement for all peoples and nations".[29]

Although the Declaration has been non-binding and un-enforceable, the document itself has served as a basis for the development of other regional human rights agreements, such as the European Social Charter, the African Charter of Human and Peoples Rights, and the Helsinki Accords.[30] The UN Charter came into force in 1945 on the conference in San Francisco. This

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[26] R.S., *Rafał Lemkin,* "Rzeczpospolita", [online], 1999, available at:
http://newarch.rp.pl/artykul/239416_Rafal_Lemkin.html
[27] Claude R. P., Weston B. H., *Human Rights in the World Community,* Philadeplhia: University of Pennsylvania Press, 2006
[28] Kochanowski J., *Everyone is entitled to rights,* "Rzeczpospolita", [online], 2008, available at:
http://www.rp.pl/artykul/228405.html
[29] UN, *Universal Declaration of Human Rights*, pmbl
[30] Supra note 17

document brings to life the Organization and sets its system. Even though, the Charter does not contain fundamental rights, it refers to issues related to human rights. [31]

Article 1 of the Charter of the United Nations declares "promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion"[32] which is one of the purposes of the Organization. In sum, thirty articles of the Declaration universalized global concern for a set of inalienable human rights, including the basic right to life, to liberty and security of the person, safety from unfair persecution, to the freedom of thought, expression and religion, and to more culturally based rights pertaining to marriage, employment, education and shelter.[33]

For many people that document was the most important in the twentieth century and was seen as an optimistic sign of the possibilities of a better and more peaceful world. According to Donnely this document "provides the most authoritative statement of international human rights norms".[34] To quote after Nelson Mandela: "For those who had to fight for theory emancipation, such as ourselves, who, with your help, had to free ourselves from the criminal apartheid system, the Universal Declaration of Human Rights served as the vindication of the justice of our cause."[35] Nonetheless, after over 50 years later we can observe that human rights violations are still prevalent. In many countries in the world we may observe various examples of human rights violations. I believe we could find legal, political, economic and cultural reasons. Many states do not participate in covenants finding them too limitative or unfair. Although the world is becoming more civilized and is increasingly governed by the rules of democracy, there are still authoritarian regimes that prevent realization of rights or recognize them only on paper. Undeveloped states have really poor human rights condition due to lack of capacity and awareness of citizens, unable to enforce their rights. What is more, human rights have roots in west culture and developed in the most developed countries. Hence, to a lesser extent they take into account religions, laws and traditions of other cultures. However, cultural differences should not be an excuse for human rights violations. All that show that we are still far from living in the peaceful world to which the United Nation aspired.

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[31] UN, *Charter of the United Nations,* available on the Internet:
http://www.un.org/en/documents/charter/index.shtml
[32] UN, *UDHR,* art.1
[33] UN, *UDHR*
[34] Donnelly J., *International Human Rights*, Boulder: Westview Press, 1998, p. 5
[35] Mandela Nelson in address to the UN General Assemblly in September 1998, available at:
http://www.un.org/en/events/mandeladay/pdfs/Mandela%20In%20his%20words%20WEB.pdf

2.3 The Concept of the State Capacity

While staying in the sphere of terminology, in this section I analyze concept of the state. As I stated before, my hypothesis is that the state capacity is connected with condition of human rights. When state have enough strength to be capable of doing certain tasks and fulfill main responsibilities characteristic for state, there is big possibility that human rights will be respected or violations will occur less often.

Before an analysis, which hopefully helps me answer my research question, it's necessary to first understand the concept and theory of state capacity.

The state is considered to be basic form of organization of political life of people. We can distinguish five types of definition of the state: functional, structural and elemental, psychological, sociological, class. According to many scholars, one advantage of this method of determining the concept of the state, is better explanation of its essence. However, at the same time some important characteristics may be omitted and as a result it might be difficult to tell apart the state from other social organizations. In this paper I provide most common and simple definition of the state. By this term we usually understand "community, union of people who inhabit specific territory and come under supreme authority".[36] There are different interpretations of its creation and development. Among them, some describes its creation by the natural development of society, its organizing for defense purposes, the social contract, as well as God's creation. [37] Since elementary school we learn that first states came into being in Near East and North Africa, to be more specific, in Egypt in XL century BC. On the European continent first states were created in Greece in XXX century BC and in Rome in XX century BC.[38]

The state possess four main features that define it as such. It is a political, mandatory, territorial and sovereign organization. It means that as a political organization, the state refers to a social activity which is connected with the exercise of authority. The state is a mandatory organization which means that the state cannot exist without coercion that is indispensable for

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[36] Chodubski A., *Indyvidual, Nation, State,* [in:] Szmulik B., Żmigrodzki M. (ed.), "Introduction to the Study of State and Politics", Lublin: University of Marii Curie-Skłodowska, 2007, p. 163
[37] Ibid., p. 164
[38] Supra note 32, p.164

establishment of order in the state and realization of its tasks. A basic condition for existence of the state is possession of territory which comes under a supreme authority. Last but not least, the state is a sovereign organization when it possesses supreme authority over its territory and population. The state can be recognized as a sovereign state when is able to voluntarily establish equal relations with other countries and be a member of international organizations. It is also important for the state to freely create its socio-economic system and form of the state. [39] These features are linked with the state capacity. To be classed as a state there must be number of people inhabiting certain territory. State must be capable of establishing order and law in its society which should come under its authority. That authority must be supreme and sole. To do that there must be government that works effectively.

I should explain what does the capacity of state mean. The concept of the capacity is difficult to define and measure as well. Usually while talking about the state capacity, we understand the state's ability to do certain tasks.

The state capacity can be defined in different ways. We may look at the state capacity from a number of angles such as military capacity or bureaucratic/administrative capacity. Capacity of the state may be also mirrored by economical situation, level of corruption. As we can see this concept has many different dimensions and that is why it is difficult to capture it in a single measure. [40]

We acknowledge that state's ability to impose its power over citizens is an important aspect, however, it is not enough to understand what the state capacity is. This concept is much more complex.

As I stated before we may look at the state capacity from an angle of military capacity. Strength of the state is the ability of the state to deter its own territory and fight off challenges to its authority. [41] It may be measured by the military expenditure[42], military personnel per capita or even amount of iron and steel production. Funds earmarked for army, number of soldiers, tanks, naval vessels and munitions have always been a reflection of state power. Big, expensive and well-trained armies win wars and deter state's territory from potential aggressors.

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[39] Ibid., p. 20

[40] Hendrix, C. S., "Measuring state capacity: Theoretical and empirical implications for the study of civil conflict", *Journal of Peace Research,* Vol. 47, No.3, 2010, p. 273–285.

[41] Ibid.

[42] Military expenditure is defined as the total military budget for a state for a certain year.

States also seek to keep the monopoly of the use of force for establishing domestic order which is one of the attributes of modern state. In well functioning state no competing power exercise control in areas where these activities belong to the state.[43] However, while some states succeed, other fail. Weak state tends to pose serious threat to its citizens because it is unable to protect them, and at the same time is exposing them to the violence of non-state actors. The capacity of the state also means that the state is able to provide for needs of the society and protect it in ways that does not include political violence. It is essential, because it determine citizens approval of the state government.

Strength may be also linked with the type of political regime. We may assume that when the state strength is a problem, democracy is the cure, however, it is not that simple. Most of the scholars concentrated on the form of government and political regime. However, Samuel Huntington argues that "the most important political distinction among countries concerns not their form of government but their degree of government". [44] Without capacity which is necessary to fulfill basic responsibilities of the government, any state, even democratic may be at risk of failing. The lack of governing capacity may be a factor in increase of violence and thus human rights violations. What is more, the lack of the state capacity may account for many serious problems such as civil wars, piracy (Somalia can be an example here), terrorism, ethnic cleansing, famine, migration of refugee or general failure of economy.

As it was mentioned above, the state capacity is also characterized by the quality of the governmental bureaucracy. In the Weberian tradition, strength is related to a professional and autonomous bureaucracy.[45] Such bureaucracy is based on clear rules for making decisions, impartiality and professional personnel.[46] To accomplish all its aims and fulfill all tasks and responsibilities, high level of autonomy is needed. The quality of bureaucracy includes its effectiveness and levels of corruption which is a serious threat to the state capacity. Lack of quality or high corruption cut down state's ability to implement its political goals. Even though, corruption cannot probably be a direct and the most important measure for the state capacity, its high level may be the reason for ineffectiveness of the government and as a result lead to weakness.

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[43] Supra note 22, p. 3

[44] Huntington S., *Political Order in Changing Societies*, New Haven, London: Yale University Press, (1968) 2006, p. 1

[45] Supra note 31

[46] Schmitter P. C., *Democratization and State Capacity,* 2005, available on the Internet:
http://unpan1.un.org/intradoc/groups/public/documents/CLAD/clad0052201.pdf

The income that state has might be a source of strength. State must have some financial resources in order to govern effectively and to deal with unexpected emergencies such as natural disasters. These resources gives the government the ability to shape political arena. However, firstly state have to prepare tax base for the government because without a steady flow of revenue, there is no national unity, no control, no organization: in sum, there is no government".[47]

The state capacity is also usually measured by the economic development level of the country which in return is measured by the GDP per capita.[48] The access to this indicator is easy and is available for a large number of countries all over the world. The GDP may be considered a cause as well as a effect of the state bureaucracy quality.

Also in this part the concept of failed state should be presented in order to understand the seriousness of the problem which Somalia is facing. Failed State has internal and endogenous problems. Politically failed state faces collapse of internal law and order. In addition, failed sates lack authority which is capable of representing, negotiating and enforcing its interests on the international stage.[49] Failed state possesses no control over the use of force by its institutions, no effective governmental authority and is not able to guarantee security for its citizens.

I believe that the connection between the state capacity and the condition of human rights is straightforward. Some level of capacity is must be possessed by state in order to fulfill responsibilities and effectively provide for people's needs. Capable state is able to protect its citizens and thus their rights are in better condition with rare or non abuses.

2.4 Finding Connection

The Universal Declaration of Human Rights and the UN Charter together set modern standards for human rights protection. However, the international human rights theory still have to face many problems. Even though, the UDHR is one of the most important documents for human rights, ratification or simply bringing covenants into force do not guarantee

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[47] Kugler J., Domke W., "Comparing the Strength of Nations" *Comparative Political Studies,* Vol.19, No.1, 1986, p. 39- 69
[48] Supra note 37
[49] Thürer D., *The "Failed State" and International Law,* "International Review of the Red Cross", [online], 1999, available on the Internet: http://www.icrc.org/eng/resources/documents/misc/57jq6u.htm

acceptance and protection for rights. Some states despite they willingness, may not be able to fulfill responsibilities. As I stated before, my hypothesis is that the capacity of the state is linked to the condition of Human Rights.

As I stated before, state is a community of people who come under supreme of certain authority. The word "people" may be the most important because without them there would be no state, so it seems obvious that the main role of the state should be providing for their needs and protection of their lives. Also in human rights people come first above everything else. According to the UDHR every human being has right to live in such social and international environment where his or her rights and freedoms can be fully realized.[50]

I chose case of Somalia because as far as I know, the environment in that state does not fit the UDHR standards. Somalia's people lack proper education and as a result they are not aware of their rights and thus are not able to enforce them. State is not able to provide for need of the society, what is more, human rights are not respected. This phenomena needs more precise investigation which I provide in my analysis chapter in order to see whether the state capacity has an impact on human rights condition. I provided brief description of human rights included in the UDHR in order to show what human rights look like in theory and then to see how do they look in practice, in my case, in Somalia.

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[50] UN, UDHR, art. 28

3. BACKGROUND

In this chapter of my thesis, I will briefly present background to the current situation in Somalia because it is essential in further understanding of the problem.

3.1 Background to the Current Situation in Somalia

Somalia's history has been marked by permanent violence, military coups, murders and radical Islamic militancy. In this part of my paper I provide only background to the current situation concentrating on the events before and in the 1991 that led to chaos and failure of the state.

Somalia gained independence in 1960 when Somaliland, a former British protectorate, united with Italian Somaliland, a former colony, to form a Somali republic. Despite very different colonial experiences these regions were culturally and ethincally homogenous and shared common religion, Islam.

In 1969 Major-General Mohamed Siad Barre overthrew the democratic government in bloodless coup.[51] Barre abolished constitution and established an oppressive military dictatorship and ruled until 1991 when Somalia's government collapsed. The state invested in building its military. Most of the assistance which Somalia got from the USA was devoted to military structures, even though internal problems of the state weakened the economy and deepened disunity of the citizens. [52] For that reason, there were few resources left for investment in public goods such as health, education, infrastructure. Political actors and bureaucrats appropriated state funds. Even with government, the state were in chaos.

In 1988 civil in the northern part of the country (Somaliland) war broke out, and become the beginning of the end of government in Somalia. In 1991 dictator was overthrown by opposing clans and the country descended into decades of sustained anarchy because they failed to agree on a replacement.[53] Opposing fractions immediately plunged the country into

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[51] Hawk K. H., *Constructing the Stable State : Goals for Intervention and Peacebuilding,* Greenwood Press, 2002, p. 32

[52] Ibid., p. 33

[53] Supra note 22, p. 33

civil war. This war which at the beginning was a struggle for control of the state, quickly turned into permanent looting and occupation of the state by clans. It was estimated that around 250000 Somalis died in this war and famine.[54] In addition to the internal chaos, the northern region announced its secession from Somalia and declared independence the same year. Somaliland was impressively successful in shaping regional administration. The territory's independence is not recognized by international bodies but has enjoyed relative stability.[55]

The constant absence of authority in the country has led to widespread lawlessness, including an increase in piracy off the Somali coast that is weakening local fishing economy.[56] Pirates became a major threat to international shipping in the area and forced NATO to take the steps in an anti-piracy operation. Somalia is now in situation which might not be easy to change in the near future.

4. ANALYSIS

In this chapter of my thesis, I will investigate the connection between the capacity of state and violations of human rights, while analyzing gathered material. As I wrote before, I started wondering if there is any particular reason for violations of human rights in certain state. The significance of the state capacity and its impact on human rights condition requires detailed investigation. To achieve my aim, I should firstly outline capacity of the state which I chose as an example. In the first part of this chapter I will concentrate on Somalia and its capacity. Further, I will look through annual reports to investigate the human rights' condition in this country.

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[54] *Conflict in Somalia: Drivers and Dynamics,* available on the Internet:
http://siteresources.worldbank.org/INTSOMALIA/Resources/conflictinsomalia.pdf
[55] Supra note 22, p. 34
[56] Ibid.

4.1 Somalia's Capacity

After Barre's government collapsed in 1991, rival fractions plunged the country into civil war, each attempting to become new dictator. None was successful and Somalia remained chaotic. Even though many governments in exile were created, none of them was able to establish rule of law over the country. [57] Civil war after collapsing of the government hurt the economy and lowered standards of life.

According to "Foreign Policy" and the Fund for Peace Failed States Index Somalia has been on the top of the ranking for three years.[58] This index uses a number of various indictors such as refugee flows, economic implosion, human rights violations and security threats to measure how stable or unstable certain state is.

When we look at the Somalia's state capacity from a different angles we may observe how devastated the country actually is. I should perhaps start with bureaucratic/administrative dimension. There have not been made any efforts to build an effective organizational structure. However, at the political level, the current Somalia's government appears to have a working cabinet. Unfortunately in reality its activity has no real effects.[59] Somalia's government is weak in policy, law-making and implementation. In addition, lacks funds and is mostly characterized by corruption and criminality.[60] The level of corruption is the highest among African countries. Somalia received no points in the category of Accountability of Public Officials which shows that the state is characterized with the lack of ability to implement any political decisions. All indicators used in this report are low or there is no information available which, as I observed, is a common situation. In addition to lack of government's effectiveness, Somalia wasn't able to establish domestic order and law and as a result have no independent judicial system. Citizens have no right to fair trial or possibility of appeal before impartial court.

When we look at the Somalia's capacity from an angle of military capacity, we realize that there is no monopoly of the state of the use of force. Country still lacks military force and in that area relies mostly on help of UN and international community. There is no police force

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[57]Supra note 4

[58] Failed State Index 2010 available on the Internet: http://www.foreignpolicy.com/failedstates

[59] Freedom House Report 2010

[60] Worldwide Governance Indicators, Data Report for Somalia 1996-2009, available on the Internet: http://info.worldbank.org/governance/wgi/pdf/c199.pdf

to maintain law and order within country. Most clans have their own militias that are used in combat with each other in order to seize power in the country.[61] State is unable to protect its own citizens and as a result they are exposed to the violence of non-state actors. What is more, violent crime is really common and has been increasing since 2006. Personal safety has been decreasing since 2000 and it looks like the situation will not get better in the future as long as there is no stable government. According to the Ibrahim Index, National Security is in bad condition although it has gotten better in recent year.

As I stated before, the state capacity is mostly defined by the effectiveness of the government. In this case, Somalia performs really poorly and is placed at the bottom of African countries.

When proceeding to economical situation we observe that the Somalia's economy reached crisis at the same time that politics has turned into violent race to power. Before the civil war in 1991, Somalia was highly dependent on foreign aid, especially from USA.[62] Even today Somalia remains one of the poorest countries in the world. Almost forty percent of Somalia's GDP and sixty-five percent of its export earnings come from livestock. Somalia has maintained a steady growth rate of approximately 2,6%. GDP per capita amount to U.S. $ 600, yet still is one of the lowest in the world.[63] According to Ibrahim Index from 2010, Sustainable Economic Opportunity is increasing year by year and it might be a good sign for the future of the country's economy. [64]

Most citizens are semi-pastoralists or nomads. The economy is largely dependent on agriculture, with livestock accounting for 40% of GDP and approximately 65% of export earnings.[65]

There is no information available regarding rate of inflation in Somalia which might also be an indicator of economic level.

As I stated before, level of corruption probably cannot be used as a direct measurement of state capacity, however, still is important indicator. To find out how corrupted public sector in Somalia is, I use Transparency International Index. This Index measures the degree of corruption in public sector which exists among 178 countries around

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[61] Fund for Peace country profile, available on the Internet:
http://www.fundforpeace.org/web/index.php?option=com_content&task=view&id=449&Itemid=901
[62] Menkhaus K., "U.S. Foreign Assistance to Somalia: Phoenix from the Ashes?", *Middle East Policy*, Vol. 5, no.1, January 1997, p. 1
[63] Central Intelligence Agency, *The World Factbook,* 2010, available on the Internet:
https://www.cia.gov/library/publications/the-world-factbook/geos/so.html
[64] The Ibrahim Index information available on the Internet: http://www.moibrahimfoundation.org/en/section/the-ibrahim-index
[65] Ibid.

the world. It scores countries on a scale from 10 which means that the public sector is very clean, to 0 which means high corruption.

According to Transparency International Corruption Perceptions Index from 2010[66], Somalia has once again been ranked the world's most corrupt country with 1.1 points which means that there is very high level of corruption in the state. The situation has not changed since 2007, although the scores varies through the years. Also in Ibrahim Index from 2010[67] Somalia is placed at the bottom of the list according to the level of governance. In this index Somalia got 0 points for corruption from year 2000 to 2008 which proves what was included in the Transparency International Index.

Somalia lacks the capacity necessary to provide respect for the rule of the law and security of citizens. Ineffective government has been unable to fight corruption and violence in the country. This in turn takes effect in piracy, terrorist activity and human rights violations. Somalia as a failed state has been most likely unable to combat piracy within its waters due to lack of central governance. Region is troubled with absence of the rule of law. Somalia has experienced almost constant conflict since the collapse of its central government in 1991. The ongoing civil war in Somalia led to internal displacement of millions citizens which made the state a shelter for terrorist organizations. At the same time, poverty is still increasing and more people are suffering from the lack of security. It leads to conclusion that human rights are not protected by the state and they are overall in really bad condition. This, however, needs more detailed analysis.

4.2 Human Rights in Somalia

My analysis of human rights condition in Somalia starts with first category of human rights, ie. political and civil rights.

Somalia has extremely poor human rights condition. The situation is characterized by constant violence and frequent attacks on civilians which includes arbitrary arrests. In the Political

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[66] Transparency International Corruption Perceptions Index available on the Internet:
http://www.transparency.org/policy_research/surveys_indices/cpi/2010/results
[67] Supra note 48

Terror Scale Somalia received 5 points out of 5 and according to the results, "Terror has expanded to the whole population. The leaders of these societies place no limits on the means or thoroughness with which they pursue personal or ideological goals." [68] "Terror" refers to state-sanctioned killings, torture, disappearance and political imprisonment that is measured.

Somalia has been included in the Freedom House report as one of the worst countries in the world according to human rights condition for the fourth year in a row. Somalia received rating of 7 for political rights and for civil liberties, where 7 on the scale represents the worst condition, and situation has been getting worse since 2000. Somalia is not a free country, where freedom of speech and the press as well as freedom of assembly is not respected. Somalia remains one of the world's most dangerous countries for journalists who along with human rights defenders are threatened and suffer from severe abuse and violence.[69]

According to Human Rights Watch from 1990[70], international human rights groups such as Amnesty International could not get access to the country. Citizens have been arrested and sentenced without fair trial. Among arrested were oppositional activist that in some way criticized government's actions regarding human rights, economic policies and detailed steps toward national reconciliation. Political detainees were hold in jails and unofficial detention centers with criminals, and were treated in inhumane way. It was really difficult to estimate how many prisoners and detainees have been held in such jails due to refusal of government to publish such information. However, unofficial source says that the number could even reach 10 000.

Since year 1991 Somalia has no effective central government. The state has been corrupted and violent. Independent institutions that were capable of challenging the government's power were eliminated, politicians seen as a potential rivals were arrested, any form of political opposition was prohibited and independent civic organizations were forbidden by law. Due to absence of functioning institutions, perpetrators of human rights abuses were rarely punished.

Even though, Somaliland has been able to maintain relative stability, yet still has been unable to resolve problems regarding human rights such as illegal imprisoning of people, including children.

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[68] Gibney, M., Cornett, L., & Wood, R., (2009), *Political Terror Scale 1976-2006,* available on the Internet: http://www.politicalterrorscale.org/
[69] Human Rights Watch 2010
[70]Human Rights Watch Report 1990 available on the Internet: http://www.unhcr.org/refworld/country,,,HRW,,SOM,,467fca2b13,0.html

After concentrating on first category of human rights, I proceed with my analysis going to second category which includes economic, social and cultural rights.

War which broke out in 1988 has destroyed the state's infrastructure and at the same time most of the assistance received from USA were devoted for strengthening the army. Random killing by soldiers were common at those times. In addition to the sustained fear, people were suffering hunger and diseases.

Many civilians were murdered on basis of their clan identity, as well as discrimination against religious minorities. War and famine kept Somalia in the cycle of violence and suffering.[71] People were suffering hunger because of the scarcity of food which was a result of the destroying power of war. This in turn made people steal internationally donated food and led to even more hunger. This led to situation where those who control food are powerful and are able to decide about everything.

Only between November 1991 and the end of February 1992 14 000 people were killed and 27 000 injured in the capital city of Somalia, Mogadishu.[72] While medical care was needed as never before, medical facilities were inaccessible and those who needed help were neglected. In 1993 the humanitarian situation improved after international arena recognized the seriousness of Somalia's domestic issues and UN concentrated on the intervention by sending its forces. However, in recent years we can observe that as the internal conflict lasts, the situation of civilians is getting worse again. The worsening humanitarian crisis has been aggravated by poor economic performance. The UN's Food Security and Nutrition Analysis Unit (FSNAU) reports approximately 27% of Somalia's population need humanitarian assistance and/or livelihood support.[73] However, they are not permitted to receive help from aid agencies due to insecurity and killings of humanitarian workers, threatening and restrictions.[74]

Southern and central Somalia suffer from conflicts and increasing insecurity which results in people casualties and displacement of people within the country.[75] In addition, health conditions in Somalia are also one of the worst in the world. Infants and maternal

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[71] Human Rights Watch , *Somalia- Beyond Warlords. The Need for a Verdict on Human Rights Abuses,*1993, [online], Vol. 5, No. 2., available on the Internet: http://www.hrw.org/legacy/reports/1993/somalia/
[72] Human Rights Watch 1993, available on the Internet: http://www.hrw.org/legacy/reports/1993/WR93/Afw-08.htm#P365_144767
[73] FSNAU Quarterly Brief September 2010, available on the Internet: http://www.fsnau.org/downloads/FSNAU-Post-Gu-10-Special-Brief-September-2010.pdf
[74] Amnesty International Report 2010
[75] FSNAU Quarterly Brief December 2010, available on the Internet: http://www.fsnau.org/downloads/FSNAU-Quarterly-Brief-Post-Deyr-Early-Warning-December-2010.pdf

mortality rates are really high.[76] Women are discriminated and sexual violent, also towards young girls, is increasing. Child abuse, including child labour and human trafficking is a problem. Many children are forced to join military and become a soldiers that can be used in the war.[77] Lack of hygiene and access to safe clean water and high quality food together account for diseases and casualties in human.

When it comes to third category of human rights, it is not easy to find much particular information. It was said before that the situation of Somalia's people is getting worse again. Everyone has a right to economic and social development which in this case is not respected. Many of Somalia's citizens are not permitted to participate in cultural heritage due to exile to other countries.

Most of the human rights reports concentrates mostly on first and second category of human rights and that is why we may only assume that also other rights from third category are violated.

Almost all articles of the Universal Declaration of Human Rights have been violated. Every human has rights for life, liberty and security, however, people in Somalia are dying every day and those who somehow manage to survive cannot feel safe due to permanent fear or imprisonment. Even though some of the prisoners were released, it is impossible to estimate how many detainees are kept in the secret prisons in horrible, inhuman conditions. It is even worse because children also are kept in such prisons. Most of the people were sent to the prison in arbitrary way, without fair trial or possibility of appeal before impartial court. Such organs does not exist and there is no possibility to fight for one's rights.

What is more, Somalia's citizens are not educated enough to be aware of their rights. Parents do not want to send their children to school because they are afraid that they will be forced to join military. Every human being have rights to free education, however only in theory. According to the UDHR everyone has a right to some standard of living and special care and assistance but still in Somalia people suffer hunger and live in poverty. At the same time they do not receive any special help because hospitals do not have proper equipment.

Citizens were not able to chance their government through peaceful and democratic way, due to continued conflicts, clan small arms and absence of effective institutions and rule of law.

It is extremely hard or even impossible to measure brutality towards Somalia's citizens. Even before wars human rights of Somali citizens were violated systematically. The

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[76] Supra note 47

[77] *Child Soldiers Being Recruited in Somalia, Say Humanitarian Agencies,* available on the Internet: http://www.voanews.com/english/news/africa/a-13-2007-01-12-voa29.html

costs are extremely high in any terms. Massive human rights abuses resulted in disintegration of the nation and flight of hundreds of thousands of refugees to Ethiopia or Europe, and similar amount of people who were displaced within the country. By the late year 2008, more than 1.2 million Somalis were displaced within the country.[78]

It is not difficult to notice that human rights in this country are in danger. Somalia's citizens are not protected by its authorities and the state is not fulfilling its responsibilities. State ought to care about its people, yet is not capable enough to do that.

5. CONCLUSIONS

This research was very interesting and instructive. I learnt a lot about situation not only in Somalia but also on the whole continent. I knew how important the capacity of the state is but now I find it even more complex. I am more aware of how bad is actually the condition of human rights, not only in Africa, and how difficult it is to promote the idea of rights and freedoms all over the world.

After examination of a number of different human rights reports, I find that state capacity predicts human rights practices. According to my investigation, the state capacity does matter when it comes to protection of human rights. The stronger the state, the better condition of human rights. We may observe that tendency in most of the human rights reports.

Failed states has no capacity which is required for effective governance. Lack of capacity results in ineffective protection of human rights and thus their condition is very poor. As I wrote before in the previous section of my thesis, human rights have been recognized in the global international law after II World War and eventually were incorporated into international treaties. Since then many regional institutions and treaties came into being in order to protect human rights. Protection of human rights is, however, bound up with proper functioning of the state and thus if the state is failed it may be impossible.

Somalia is a failed state and fits this model well. Human rights of all three categories have been violated for a long time. We can observe rise in violence (political and criminal),

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[78] Amnesty International report 2009

tensions among citizens regarding ethnicity, religion or culture. Infrastructure has been destroyed by civil wars, health system is really weak with high level of infant mortality and low life expectancy, while education system is supported by international organizations. At the same time there are no signs of improvement or development of social or economic situation.

We may look at the state capacity from a number of angles but no matter what there is still noticeable lack of it in Somalia. Whether it is military capacity, bureaucratic/administrative capacity, economy or level of corruption, there is still much to improve.

Effective government is considered necessary to prevent violence and supply public goods such as roads, schools or hospitals. As show materials which I analyzed, Somalia infrastructure is destroyed, schools if exists, are dangerous for young students and medical facilities are inaccessible. State's main task is also providing law, order, and people security.

According to information that can be found, its economy is rather weak and GDP per capita is still one of the lowest in the world. People suffer from hunger and devastating poverty while clans fight with each other. The state has been in chaos for a long time and it results in increasing crime and violence.

It should have monopoly of the use of force, it is one of its attributes that define it as a state but Somalia has no military forces and as a result is not able to provide any domestic order or even deter its own territory. If state cannot realize its tasks and fulfill its responsibilities, cannot be recognized as a state with capacity. Somalia's citizens cannot feel safe nor can they enforce their own rights.

State capacity has an important impact on human rights, but that impact varies depending on specific rights. If the state is non-democratic mostly political and civil rights will probably be in danger of violation. Unfortunately most of the African states are struggling with domestic issues that are results of European colonialism which had a devastating impact on the continent. Somalia is one of those states. What is more, unfair international trade and economic arrangements haven't brought benefit the African people. Increasing poverty and debts make Africa unable to develop. It is easy to criticize, however something should be done to promote human rights all over the world. The universal Declaration of Human Rights provide norms of human rights and can be definitely defined as first significant achievement in protection of human rights. However, it is just a theory of human rights, practice is the key. In order to promote and protect human rights, we need to strengthen state capacity to make them able provide for its citizens needs and organize order

within the country. However, rebuilding society that has been devastated socially, politically and economically will be a very difficult task. One of the greatest obstacles may be clan system and ongoing conflicts among them.

Somalia is a post-colonial state where historical factors prevented it from being able to play a role of main guarantor of basic human rights. As a failed state, Somalia has no capacity which is necessary for human rights protection. State is not able to provide environment where basic rights and freedoms are fully realized. At this point, modern standards contained in the Universal Declaration of Human Rights are not realized.

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