



NATO'S POLICIES AND STRATEGIES FOR PROTECTING HUMAN RIGHTS

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Abstract: International protection of human rights, established from a normative point of view, especially after the Second World War, is marked by a set of characteristics widely accepted in the doctrine. It highlights in equal measure both the universal nature of human rights, as well as the quality of the individual as a subject of international law in this area, and it can be said that the issue of human rights is not an internal issue of a certain state, but it is one of the central problems of the contemporary world. The issue of compliance and enforcement of international human rights law is proof of the power of understanding and cooperation of States and nations, with a view to the adoption of those measures that foster freedom, understanding, democracy, and cooperation between all nations and states.

Keywords: international human rights law; humanitarian law; international; international humanitarian law; international organizations; NATO.

1. NATO and the international human rights law

Set up by the North Atlantic Treaty signed on 4th of April, 1949, in Washington, NATO has established itself in the field of international relations as a political-military organization for peacekeeping and defending the independence of the member States, asserting itself over the decades as a defensive military force, capable of responding promptly to any external forces attacks. If until the collapse of Communist regimes in Central and Eastern Europe, the role and missions of the Alliance remained generally the same, during the decade 1990-2000 NATO entered into a new stage of its evolution in which new challenges posed by globalization and the accelerating phenomenon of conflict escalation resulted in a reconfiguration of the mission and strategy of the "new NATO" on the international arena.

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This change in strategy for the Alliance was made possible due to the disappearance of the bipolar system, the transformation of power relations at the global level, the fact that the role of hegemony was taken over by the USA, which remained the only global superpower, but also the most important economic and military contributor in NATO. Since the last decade of the past century, the area of risks and threats specific to the field of security has widened, thus the North Atlantic Alliance was called to find appropriate solutions.

The revolutionary and spectacular transformations in Eastern Europe had put the Alliance "on guard", having in regard a high danger of social turbulence spreading in the regions bordering the Atlantic alliance. In this regard, since the 1990-1991 a plan of a new strategic vision has been brought in debate, a problem in which NATO was called upon as a redoubtable actor of continental security, but also as an organization able to carry out missions on the basis of a mandate from the United Nations. From this point of view, along with other significant issues that have been found on the agenda of the Organization since 1990, the issue of human rights is particularly important to the North Atlantic Alliance, especially due to the mission NATO had began to undertake after the fall of the iron curtain, and the entering into another stage in terms of global security.

The NATO Summit in Lisbon (November 2010) reaffirmed that: "NATO Member States form a community of values which is committed to defend the principles of individual freedom, democracy, human rights and rule of law". Even if apparently certain progress in recent years could be highlighted, the issue of respect for human rights remains one of the particularly sensitive issues of international law. The debate around the concept of humanitarian intervention remains extremely controversial, and the fact that it is analyzed and interpreted by many experts in international law, "packaged" with the concepts of sovereignty and territorial integrity of the State, make this matter remain open to more debate and interpretation.

The efforts to promote human rights are routinely criticized by Governments that have poor scores in compliance and which consider these rules as interference in internal affairs. It is no less true that a number of States have vehemently condemned the policy of military intervention in the territory of a State under the reason of *non-compliance with "human rights"*; a policy promoted by the main actors on the international scene.

The process of accelerated globalization, whose consequences have become



more and more accentuated since the '90s, generates new risks and threats to international security, which have led the North Atlantic Alliance to adapting strategies in accordance with these developments. The global security environment of the last two decades has brought in a series of topical events that the international community did not see in previous periods. It no longer captured the fact that the world was more interconnected and interdependent than ever. The abuses of some Governments towards their citizens can ignite ethnic conflicts, undermine the moral norms of decency and may threaten the peace and stability of the international community. „This state of affairs led to the adoption of the strategy of NATO's transformation since the early years after the end of the cold war, confirming the necessity of renewal of this institution”.

NATO looks at human rights from a comprehensive perspective. Thus, the policies and strategies of the North-Atlantic Alliance, developed by the structures of political and military leadership, cover various situations: when humanitarian catastrophe occurs in the surrounding areas of the Alliance space; in the case of conflicts of a religious or ethnic nature; crisis management; in the event of natural disasters etc. Apart from situations of this kind, the NATO has strategic actions in theatres of operations, contributing to the improvement of the living conditions of the civilian population in the conduct of military operations, and thereby the fulfillment of at least minimum standards relating to human rights. This kind of actions pertain to post-conflict operations, known in NATO terminology as “operations other than war” (Operations Other Than War and OOTW).

The Alliance's imperatives regarding human rights can be found as well in the form of mandatory requirements which have to be met by the candidate countries, within the framework of NATO'S enlargement promoted from the last decade of the twentieth century. Such as, the action plan on NATO membership (MAP), launched in April 1999 NATO summit in Washington, was referring to the precise criteria that candidate States to the integration in the Alliance had to meet in the pre-accession period in the political, economic, defense, resource, security-related and legal fields. As regards, human rights MAP obliged the candidate States to “peacefully resolve any ethnic or external conflicts; to demonstrate the commitment to respect the law and human rights “.

Another sub-domain that the Alliance has in mind when addressing the human rights refers to the observance of human rights by State authorities of NATO member states in relation to the citizens of the allied States.



Humanitarian intervention is another "chapter" that NATO has in mind in a situation in which the international community finds serious violations of human rights in a given State, especially when events occur in the vicinity of Allied space. NATO's involvement in military terms, *on the basis of a mandate from the United Nations, in resolving conflicts/humanitarian crisis, outside the area of responsibility of the allies, when the Alliance's security interests are affected*, is an imperative in the new Strategic Concept of NATO.

In this sense, the debates on Kosovo about the legitimacy of humanitarian intervention carried out by NATO in Yugoslavia singled out at least two aspects. Firstly, it was claimed that humanitarian intervention by the Alliance had no legitimate coverage from the point of view of international law, NATO military operations are not covered by article 51 of the UN Charter that grants the right of individual or collective self-defense if an armed attack occurs against a member of the United Nations. Secondly, the fact that Europe, and the world in general, were in a "new era" in which USA, as the main power on a global scale, required other principles relating to the use of force, and introduced a "new world, inclined to eradicate inhumane acts", a world in which it was intended, to put an end to conflicts. Maybe that's why, when considering the case of Kosovo, security studies, from the point of view of the legitimacy of humanitarian intervention, it uses the phrase "illegal, but legitimate".

It is certain, however, that the lessons resulting from subsequent analysis of the situation that generated the intervention in Kosovo, as well as the effects of the intervention had the merit of sketching better humanitarian intervention, as a way of resolving a crisis situation: "practice has proved that the military interventions in humanitarian purpose are dangerous. They can give rise to perverse effects. Therefore, it is necessary to define rigorously what needs to be done, and not launch without a thorough justification in such operations".

Both in the case of Kosovo, and on other occasions humanitarian interventions that have taken place in recent years, the debates that have been generated around the idea of "the legitimacy of intervention" have put the international community in the face of problems. The problems still have not received convincing answers from the international organizations responsible, primarily from the United Nations. The absence of such replies is due, according to experts in international law, to the practice of "double standards" for similar situations, which led to a drop in confidence in the morality of international organizations, including the UN,



relating to the question of humanitarian intervention. At the same time, there is a clear disagreement between the functions of the national sovereign State and the international community's requirements concerning internal and external "conduct" of states, from the perspective of the need for security at the global level, but also at a regional level. It's from this point of view, Jean-Francois Revel said: "our age has realized that it is impossible to perpetuate the absolutism of the sovereign State, especially from the perspective of protecting human rights and minorities".

The Alliance's post-conflict operations conducted in various theaters of operations are often confronted with specific issues regarding the scope of human rights. Such operations are generally oriented towards peace-building, humanitarian aid and the reconstruction of infrastructure and civil institutions. NATO experts' points out the existence of the five types of operations that are part of post-conflict operations, but from the point of view of human rights, "humanitarian operations" are the relevant issues. According to the Alliance, the strategies are geared towards meeting the three types of missions: assistance in disaster relief, refugee assistance and humanitarian assistance. Thus, through structures/specialized noncombatant units made available by States, the allied forces prepare these units to be deployed to theatres of operations. The Alliance helps the socio-economic development of certain regions/municipalities located near the area of military operations. Specialists in providing "humanitarian assistance", which come from outside the military structures, are of the opinion that military forces participating in these actions supplement the work of traditional humanitarian agencies, but do not replace these agencies which have their own well-defined role. Myriame Bollen, PhD, Professor at the Military Academy of the Netherlands is of the opinion that "the military can create a framework for protection of global stability in which civil populations are protected and that humanitarian activities are carried out". NATO contributes in this kind of action in the implementation of minimum standards relating to the health of civilian populations from certain areas, environmental protection, education, etc., development standards;

NATO's enlargement policy is another important area for the Allied leadership structures, when considering the theme of human rights. NATO's expansion, by receiving new Member States belonging to the European continent, provided the settings for the candidate States to meet minimum standards. Among these conditions, respect for human rights by the States concerned, along with the standards regarding the construction of a democratic society and a functioning market economy, are



some of the key imperatives of collective security organizations for any European State which aims to integrate into the Alliance. Besides, these standards imposed by the NATO candidate States – respect for human rights – along with other imperatives of the Alliance’s leadership, were found in the “package” of EU requirements for States that had association agreements with a view to integration into the European Community. The Treaty that created the North Atlantic Alliance foresaw from the beginning that the members of this organization are determined to defend freedom, “shared values and civilization of their people, founded on the principles of democracy, individual liberty and the rule of law”.

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Through its enlargement policy, referring to NATO’s standards it has imposed in the field of human rights, it can be said that the Alliance did solve problems in some ethnic communities in the former Communist states-Hungary, Slovakia, Romania, Bulgaria. The NATO Summit in Lisbon disproved some rumors on a possible stagnation in the issue of enlargement and reaffirmed the willingness of the Organization to develop partnerships with States that want to integrate into the Alliance: “NATO reiterates its firm commitment to preserve the Alliance’s door is open to all European democracies that meet the standards of accession, because the expansion will contribute to our objective to build freedom and peace in Europe”. It is a very clear signal that the enlargement policy, imposing political, economic, social, military standards will contribute in subsequent years to solving important problems concerning human rights in the States that want to join the organization.

The attitude of the North-Atlantic Alliance concerning human rights violations in some Member States, infringements which may degenerate into conflict, is also important for the Alliance in terms of finding solutions for these problems. Referring to the NATO standards concerning integration of new members during the cold war, it is clear that they contained no restrictions regarding the observance of human rights. In those circumstances, an attachment to the values of liberal democracy and adversity toward the Communist system was paramount. But the addition of new States to the North Atlantic Alliance has been subject to the requirement of solving the internal problems with regard to human rights, including minority,



ethnic, linguistic, religious rights; taking into account the two different historical periods in which the North-Atlantic Alliance was built (the cold war and since the end of the East-West confrontation). It is, the opponents of the Alliance say, one of the sensitive points of NATO, the organization being criticized for applying double standards concerning humanitarian interventions, similar situations being analyzed and interpreted in other units of measure, and receiving various solutions to the decision-making structures of the NATO military alliance. It can be said that the interference of NATO in the internal affairs of a certain State (even member-State), does not meet the requirements of the fundamental documents that underlie the establishment and functioning of collective security organizations. This aspect, it is considered together with humanitarian situations in which the Alliance could intervene complement, unfortunately, many problems of morality in the sphere of international relations, fueling numerous debates in political and academic environment, without significant progress.

The mutipolarity of future world will require that the serious problems arising from non-compliance with human rights and humanitarian crises arising in this way be analyzed from a perspective different from that of the sole hegemony. Problem-solving solutions will have to rely more heavily on co-operation among the main actors of the global and regional security, and NATO will have to bear in mind and respect the rules of international humanitarian law (the "King of human rights", which we will describe below).

2. NATO and international humanitarian law

The economy of the Treaty establishing the Alliance does not make explicit reference to international humanitarian law, just the determination to defend their people's freedom, common heritage and civilization based on the principles of democracy, individual freedoms and the rule of law so that international peace and security and justice will not be in danger. Also, none of the documents adopted by the NATO summit in Washington April 24, 1999 refer to international humanitarian law, but they do contain general references to defending humanitarian values and human rights (paragraphs 21 and 23).

Even though at one time they appreciated that after the demise of the Warsaw Pact, which represented the potential opponent, they ought to proceed with the dissolution of NATO, the Alliance has not only developed, but has continued to evolve and also developed a new strategic concept. Along with this, the idea of



security expanded even more. Traditionally, the treaties concerning international security and peacekeeping included provisions limiting the military potential, non-use of weapons of a particular type, limiting recourse to force. The end of the twentieth century brought new elements within the concept of security in the Alliance, namely those of environmental security and observance of norms of international humanitarian law, even if the reference to the latter was not explicit. Also in the sphere of international security, in the last half of the 20th century, it was considered that threats to international security are not generated only by international conflicts, but also by internal conflicts. The Second Additional Protocol to the Geneva Convention of 1949, adopted in 1977, is considering just protection of the victims of internal conflicts, in recognition of the fact that it is the dominant form of warfare in our time.

Referring strictly to the subject of our debate, we can highlight that within NATO there are specific instruments of international humanitarian law, although the organization is not a signatory to the humanitarian conventions and, therefore, has no formal obligations in this regard. As a Security Alliance which prepares and carries out military actions, NATO could not ignore the existence of international humanitarian law. In addition to the obligations NATO's Member States have, the application of international humanitarian law is carried out via the legal advisers which have to comply with and follow procedures of international humanitarian law; investigation and prosecution of serious crimes against humanitarian conventions are the responsibility of the States contributing with troops, but they are reported to the allied commandement. Note that for a legal adviser of NATO, the applicability of international humanitarian law is somewhat complicated by the fact that not all Member States are parties to the same international instruments, and this lack of homogeneity has created major problems in reality, apart from some singular situations such as that during the conflict in the former Yugoslavia (Kosovo). However, it was the reason for which Standardization Agreements (STANAG) have been elaborated for questioning prisoners of war, the procedures for holding prisoners of war, the identification of goods, services, health assessment and exploitation of materials and documents captured by the opponent, the use of air transport by the health service in combat areas.

The experts therefore consider that, through its fundamental doctrine of military planning, NATO should have a military plan of action that takes into account the requirements of humanitarian law, giving up the pretense of having



“zero casualties of war” and the overconfidence in the near-exclusive use of air power as a way of fighting a war (a way which inevitably generates multiple losses and collateral civilian damage). Zero casualties of war is a term which does not exist in the Geneva Convention and its Protocols (1949, 1977).

The concept of “zero casualties” (zero death war) appeared in the mass media, but as it is well known, it is performing a type of war, requiring a minimum cost – even NULL – in lives. Finally, triggering such operations raises numerous questions of international humanitarian law norms regarding warfare operations, notably those laid down in Protocol I Additional to the Geneva Conventions, such as the methods and means of combat (article 51), military objectives (article 52), environmental protection (art. 55) precautions in attack (art. 56), the use of certain categories of weapons that are prohibited (art. 35, point 2), the issue of refugees (Protocol II, article 17, 74). We believe that presenting with the force of law arguments to respect and apply international humanitarian law, we can arrive at the next result – no effort is too great when it’s about man and about respect for his dignity.

3. Conclusions

In view of the preceding, we appreciate that the international protection of human rights, established from a normative point of view, especially after the Second World War, is marked by a set of characteristics widely accepted in the doctrine. It highlights in equal measure both the universal nature of human rights, as well as the quality of the individual as a subject of international law in this area, and it can be said that the issue of human rights is not an internal issue of a certain state, but it is one of the central problems of the contemporary world. The issue of compliance and enforcement of international human rights law is proof of the power of understanding and cooperation of States and nations, with a view to the adoption of those measures that foster freedom, understanding, democracy, and cooperation between all nations and states.

We cannot forget that “Force without law is blind, and the law without force is empty” (Kant) and that “one cannot speak of a humanization of the rule of law, if there is no respect, in every circumstance and in every place, for the dignity of the person (the pontifical Counsel Filibeck-Bien), whereas “sometimes I go in my mind through the strange idea that humankind’s degeneration has to do with the fact that our lives are increasingly prosperous and more comfortable. But a prosperous and comfortable lifestyle is the main objective humanity is struggling to obtain, and it is



one that must be reached, which would inevitably bring forth a deep contradiction that is pushing fear in bones: for humanity removes with its own effort some of its most important qualities" (Mo Yan).

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