

## HUMANITARIAN INTERVENTION AS A TOOL OF PROMOTING OBJECTIVES OF FOREIGN POLITICS AND NATIONAL SECURITY

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*Defense of human values and civil rights were frequently invoked to justify military interventions in crisis situations. But behind the notion of humanitarian intervention there were other political or military interests, the term being applied in a forced interpretation or using double standards for the sides involved. To analyze these situations and possible inconsistencies in the approaches of the international community in general, and the great powers, in particular, we aim to illustrate the double standards used by comparing some actions carried out under the pretext of humanitarian intervention. We will analyze which are or should be the limits of such an intervention, and determine the criteria for such an action. Finally, there is also the issue of who is to decide whether such an intervention is justified or not, and what are the measures necessary in order to match the international juridical regulations for the intervention to be legal and not an act of aggression or an intervention into the affairs of another state.*

**Keywords:** humanitarian intervention; responsibility to protect; NATO; UN.

The international community has failed so far to issue a universally accepted definition of humanitarian intervention, but generally, it is considered to be the use of force by a state or group of states, in order to protect the citizens of another country that are deprived of the internationally recognized rights or who are subject to genocide or crimes against humanity<sup>1</sup>. This is an approximate but fairly comprehensive definition of the concept of "humanitarian intervention", yet it fails to address the details of the problem.

Also, there is no legal framework for the humanitarian intervention. Some technical and doctrinal issues are far from being clarified, such as: if

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<sup>1</sup> Dinah L. Shelton, *Encyclopedia of Genocide and Crimes Against Humanity*, (vol I), Thomson Gale Publishing, 2005, p. 465.

the action must take place without the consent of the country in which the action takes place; if it should limit itself to punitive actions; whether it can take place only in with an explicit agreement from the UN Security Council<sup>2</sup>.

From a theoretical perspective a number of components of the humanitarian intervention enjoy a fairly wide support and acceptance. The most important are: the threat to use force and use it as a central element; an intervention in the internal affairs of a sovereign state by sending troops into its territory, its territorial waters or airspace, while the country attacked has not committed a act of aggression against another state; the intervention is a response to a situation that is not necessarily a threat to the states that intervene, being motivated by means of a humanitarian nature. Humanitarian intervention is and probably will continue to be a thorny issue because it puts into contradiction two fundamental rules of international law: the principle of state sovereignty (a principle of the international system created by the UN) and defense of the international laws related to human rights (another pillar of the UN rules)<sup>3</sup>.

The existence of these two principles has created tensions, controversies and interpretations for all the cases of humanitarian interventions that have occurred over time. Since all humanitarian interventions require UN Security Council approval to be legal, the two principles of international law offer solid arguments both to those who oppose or support an intervention. The ambiguity of the international law is further complicated by the composition of the UN Security Council, which is dominated by states with opposing interests, an issue that will be discussed later.

In 2000, under the auspices of the UN and the initiative of Canada the International Commission on Intervention and States Sovereignty was created, which presented its final report in December 2001<sup>4</sup>. Although the UN has not transposed the report into law, it still represents a valuable element that introduced for the first time the "principle of responsibility to protect", along with a number of criteria to be respected during a humanitarian interventions. The report stipulated that "where a population is seriously suffering because of civil war, insurgency, repression or state failure, and the state in question is unwilling or unable to stop this suffering, the principle of non intervention is to give priority to the Responsibility to Protect"<sup>5</sup>. The

<sup>2</sup> Jennifer Welsh, *Humanitarian Intervention and International Relations*, Oxford University Press, New York, 2004, p. 35.

<sup>3</sup> Shashi Tharoon, Sam Daws, *Humanitarian Intervention: Getting Past the Reefs*, în *World Policy Journal*, 2011.

<sup>4</sup> *Ce este, de fapt, un război just?*, în *Foreign Policy România*, november-december 2011, p. 14.

<sup>5</sup> International Commission on Intervention and State Sovereignty (2001), *The Responsibility to Protect*, Ottawa: International Development Research Centre, p. 30.

main constituent for an intervention is considered to be the existence of a just cause that aims at removing the actions that cause an irreparable harm to people in a particular region. Among these are listed the widespread killings (whether or not they have the character of genocide) organized by state actors, or in response to the dissolution of the central authorities<sup>6</sup>. Generous as they are, these principles have many shortcomings, the most important being the high degree of interpretability of the threshold that would justify or not a humanitarian intervention.

Humanitarian intervention should be a means of ending the suffering of civilians. For this reason it should not be used until all other peaceful means of solving the dispute have been exhausted. The extent, duration and intensity of the intervention must be proportionate to the situation on the ground. The humanitarian interventions should be initiated only if it has real chances of success, so that the consequences of action are not worse than those of inaction<sup>7</sup>. The humanitarian intervention should have a clear and unambiguous mandate and the means to achieve its objectives. Also, during their actions, the troops that intervene should not limit themselves to self-defense. If the intervention is performed by a group of states, they must ensure unified command and communication channels. Not least, the intervening forces must be aware that their objective is limited to protect people, not to remove political regimes or completely defeat of the sides.

The recommendations were almost never respected, most interventions resulting in the complete defeat of one party and changes of political regimes. This reality is rooted in the fact that most humanitarian interventions were intended as means by which states have sought to promote their own foreign policy interests and national security. However, one must accept that the interventions in an armed conflict which prevents one of the parties to win a conclusive victory merely perpetuate a state of insecurity and tension, delaying the outcome without offering long-term peace solution<sup>8</sup>.

Since its invention, the humanitarian intervention became a means used in order to achieve foreign policy and security objectives. As an example, all European powers, and especially Russia, have frequently cited the need to protect the Christian population of the Ottoman Empire to justify wars against it. Such a pretext was invoked in order to start de 1877-1878 war, at the end of which Romania achieved independence.

From a legal perspective, the UN Charter, to which all countries of the world have adhered, strictly prohibits any act of war, except in self-defense

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<sup>6</sup> *Ibidem*, p. 32.

<sup>7</sup> *Idem*, pp. 35-37.

<sup>8</sup> Teodor Frunzeti, *Conflictele internaționale și gestionarea crizelor*, C.T.E.A. Publishing, Bucharest, 2006, p. 100.

and those authorized by the UN Security Council when there is "a threat to peace". We believe that these restrictive situations practically make illegal the humanitarian intervention, if we take into consideration that the majority of the crisis situations where such an intervention is taken into consideration do not represent acts of international aggression, and therefore the intervention can not be considered as an act of self-defense than by forced interpretations. In such cases the countries that had an interest in doing so, have tried numerous legal tricks, such as the need to protect their own citizens located in the war zone (e.g. a situation of self-defense) or came up with exaggerated interpretations of the side effects (e.g. refugee flows, and the risk of spreading ethnic or interconfessionare disorders) to request approval of the UN Security Council to intervene.

The structure of the UN Security Council, where the five permanent members have veto power and divergent interests, make difficult and often impossible the issuing of resolutions for humanitarian interventions. This was clear on several occasions, most recently Kosovo (1999), Libya (2011) and Syria, where the divergent interests of the great powers prevent an agreement or solution.

Given the difficulty of the decision-making process at the UN, has created a new trend of opinion which believes that the UN Charter was not intended to protect oppressive regimes, and as a consequence the interventions in such cases should be considered as legitimate, even if technically they are outside the law<sup>9</sup>. In the absence of an approval from the UN Security Council, they consider that green light should be obtained from the UN General Assembly, regional or sub-regional organizations. Even without these approvals it is possible that such a humanitarian intervention is not considered illegal.

There are some disputes whether an intervention in a failed state, where the central authority entered into dissolution, needs to follow the legal steps and respected international law. The argument of those who argue that it is unnecessary assumes that if the state structures disintegrate, the crisis in such a state no longer meets the conditions of a conflict as stipulated in international treaties. Also, the enforcement of public international law and humanitarian law requires civil and military state structures that can respect them. So far this opinion has had limited success, but his appearance highlighted the limits of the current treaties and regulations, which are adapted conventional wars<sup>10</sup>.

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<sup>9</sup> Dinah L. Shelta, *op.cit.*, p. 467.

<sup>10</sup> Steial Scăunaș, *Introducere în studiul dreptului internațional umanitar*, Burg Publishing, Sibiu, 2008, p. 75.

An agreement could only be reached in relation to the components of the intervention itself, but not regarding the reasons which can cause such an intervention, which remain subject to a high level of arbitrariness and political negotiations. For this reason we believe that there is no real political will to define and develop a clear legal framework governing humanitarian intervention. The current ambiguous framework offers the possibility to legitimate foreign policy actions that otherwise would have been classified otherwise not be considered interferences in the internal affairs of sovereign states or acts of aggression. Thus the degree of legality or illegality of an intervention is often dictated by the status and force the states that organize or support it and not in accordance to technical and legal aspects.

As a recent example we can mention the NATO intervention in Kosovo (March 23 - June 10, 1999). Although its stated purpose was to end abuses and ethnic cleansing committed against Albanian population by Serb troops, the intervention was marked by numerous abuses and violations of international humanitarian law. The main thing that stands out is the absence of a resolution of the UN Security Council, which could not be adopted because of the opposition from Russia and China. To achieve its objectives the Alliance violated several rules of humanitarian law without having to bear any consequence, those issues being quickly overlooked. This situation was perceived by many as a justice of the victor, which is allowed to decide which facts are to be incriminated and which can interpret laws in accordance to its interests, using double standards. Such accusations appeared after every humanitarian intervention, being more or less justified by developments in the field during and after the conflict. Some of the international humanitarian law violations committed by NATO in Kosovo include: breach of the principle of discrimination by attacking civilians and apparently dual-use objectives<sup>11</sup>; not keeping a balance between civilian and military losses; systematic destruction of water supply facilities and other civilian targets that negatively affected the living conditions of the population; use of weapons such as fragmentation bombs, which cause collateral damage than exceed the military needs and ammunition with depleted uranium, which affects on long-term the civilian population and the environment<sup>12</sup>.

While generous, the idea of responsibility to protect has many ambiguities. The language leaves room for various interpretations of the level

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<sup>11</sup> The excessive use of air power by NATO proved to be not very effective, affecting indiscriminately civilian property and military objectives. Thus, purely civilian targets such as roads, bridges, railways, factories and power plants without military utility, Yugoslav television headquarters and the Ministry of the Interior, or private property of members of the regime in Belgrade were hit.

<sup>12</sup> Deputy V. Kroning report, presented to NATO, cited by Steial Scăunaș, *op. cit.*, pp. 72-73.

of public rights violations that authorize intervention from the international community. Thus, depending on the interest it will be applied restrictively considering that any violation of human rights is not acceptable or may result in a more permissive approach that can result in a nonintervention. The inclusion of all causes that can generate humanitarian crises (civil war, insurgency, and repression or state failure) is welcome because it creates a broad base for intervention to help the civilian population. Yet these situations will offer an opportunity to those that have an interest to justify a military intervention in another state, since it is unlikely that any of the situations listed above do not cause serious humanitarian problems. We must also observe that no limits regulate the amount of force that can be used by a regime in order to defend its-self against internal complainants and maintain order, (e.g. which is the level of the protests beyond which a regime loses its legitimacy). This too leaves room for interpretation. Also, nothing stipulates how much force or what means a government can employ to prevent or fight internal disorders.

The suspicion that the great powers pursue their own interests under the cover of humanitarian intervention was generated by arbitrary interventions, use of ambiguous and unconvincing arguments in order to legitimize them and use of double standards to justify interventions. The military intervention in Kosovo in 1998 resulted in the independence of the province and the emergence of a state created along ethnic lines. The subsequent declarations stating that that particular action could not be invoked as a precedent were unrealistic, being a good example of double standards.

A comparative evaluation of humanitarian interventions conducted so far shows that they occurred only in areas important from a geostrategic point of view or rich in natural resources. Peripheral areas and those that lack resources have never been the object of an intervention, being left to fend for themselves<sup>13</sup>.

China, along with Russia is a country that has consistently opposed any kind of intervention in the internal affairs of other countries, considering that regimes should not be changed in the street, under the pressure of the crowd. Chinese officials have consistently had a negative attitude towards any intervention aimed at supporting the insurgents that challenge the central authority. In 1999, after the NATO intervention in Kosovo, Chinese representatives have warned that international system will suffer if human rights will become more important than sovereignty and humanitarian intervention will become a trend. More recently, after the intervention in Libya (2011), China said that the principle of responsibility to protect should

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<sup>13</sup> George Friedman, *The Next Decade*, Doubleday Publishing, New York, 2011, p. 221.

be used in conjunction with the need to protect with responsibly. China's attitude is motivated by its own internal problems posed by the existence of separatist movements. An identical approach and for partially similar reasons is used by Russia, although in its case, the decision to oppose interventions aims at protecting its own sphere of influence and international prestige

The situation that brought again to the attention of the public opinion and the international community the issue of humanitarian intervention and the responsibility to protect was the 2011 intervention in Libya, against the regime of Muammar Gaddafi, engaged in battle with its internal opponents. Insistent demands and pressures from France, lead on March 17 2011 to the adoption of the 1973 Resolution by the UN Security Council, invoking for the first time the principle of responsibility to protect by imposing a no-fly zone over Libyan territory. The decision was aimed at blocking Libyan forces loyal to Muammar Gaddafi to use their military air superiority against the rebels. On its terms NATO engaged not only Libyan air forces, but also ground facilities, arguing that the aim of the attacks was to protect Allied aircrafts executing missions over Libyan territory. The engagement of ground Libyan forces caused much controversy and accusations that these actions exceeded the UN mandate, being a direct support to opposition forces. This situation forced Gareth Evans, the politician who in 2000 chaired the commission who created the concept of responsibility to protect, to say that military action aimed at removing Gaddafi regime or support the rebels were not allowed neither by the explicit terms of the 1973 Resolution nor by the responsibility to protect<sup>14</sup>.

Beyond the intervention itself and its legal basis, its main challengers claim that in a similar situation, the Syrian crisis, the international community does not intervene. Comparing the existing situations in Syria and the one that existed in Libya at the time of the intervention we conclude that they are similar, in both cases the security forces loyal to the ruling regime being engaged in an attempt to quell armed opposition protests. The situation in Syria is even worse, the fights dragging for a longer period and the number of victims is bigger.

Russia and China, countries with veto power in the UN Security Council, strongly oppose an intervention against the Assad regime, in whatever form, considering that the other countries have abused their goodwill showed in the case of Libya (at that time Russia and China agreed to the creation of a no fly zone over Libya). Russia's fierce opposition is based on a series of geopolitical calculations. Syria is presently in its sphere of influence, the Russian army has a naval base in this country and a possible

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<sup>14</sup> *Ce este, de fapt, un război just?*, p. 15.

regime change could make Moscow lose the privileges it currently enjoys. Russia and China's attitude stems in the perception that the revolutions in the Arab world are encouraged by the U.S. and some Western countries, and their aim is to trigger a domino effect that would destabilize Iran or even Russia. In this context, it is considered that Syria is the place to stop them. Lately there are indications that Moscow fears that the domino effect of movements in the Arab world will not stop in Iran, but might spread to Russia. These fears arose after the protests that followed the presidential elections in Russia (spring 2012). Currently Russian power structures and Russian intelligence services (especially the Federal Security Service/FSB) exhibit clumsiness in controlling the Internet in order to block opposition sites and its messages. FSB also face the problem of young people who have not lived under communism and who do not know how the KGB acted, so do not fear it, unlike older people who still have this fear rooted. As an element of irony, young people who have benefited from the regime established after the collapse of the USSR (by raising living standards and freedom of movement) are now the main challengers of the regime.

Unlike Libya, the regime in Damascus still enjoy real support of a large part of the population, so removing it without direct foreign intervention will be difficult. An intervention in this case is complicated by peculiarities in Syria fighting between the government and its opponents, held exclusively in urban areas, so the opposing forces are difficult to distinguish and the risk to harm the civilian population is high. In Libya, most battles were fought in the open, so it was easy to differentiate the parties.

### **Conclusions**

Analyzing the situations exposed above we conclude that humanitarian intervention is a political tool available for major powers to pursue and achieve their own interests. An additional argument is that most interventions carried out under the name of "humanitarian" took place in areas where the intervening powers had strategic interests and in most cases resulted in the overthrow of the regimes in power. Other arguments are based on the principle of analogy and comparison, pointing to the numerous instances of non intervention although such an action could be justified (Syria, Rwanda and Sudan, to end the humanitarian crisis in Darfur region).

This situation is based on a number of political and organizational aspects, as it is easier to intervene against a regime engaged in repressing its internal contestants than a tribal or ethnic conflict. The first case has the advantage that the enemy forces can be clearly identified and engaged, and the result is rather tangible, that is the removal of the regime. In the second case any intervention is hampered by the fact that the party against whom it occurs is more difficult to identify, being mostly composed of militia. Also,

the results and benefits at a political level are not so important. Intervention against political regimes creates the opportunity to replace them with a new one, accepted by the states that have intervened, in order to secure their long-term interests. In the second case, the benefits are usually limited to obtaining a good image, a situation that does not justify the financial and military effort.

It should be noted that interventions that result in the overthrow of regimes are followed by periods of instability and anarchy, all opposition groups fighting to take power. In such situations people have a lot to suffer, lacking central government support.

In addition to the states that organize and run a humanitarian interventions in order to promote the foreign policy interests there is also another group of countries, those who align themselves or support the actions although they do not have direct or immediate interests. Their goal is to gain visibility and the good will of the powers that initiated the action. They also hope to get economic and strategic advantages as a result of the redistribution of the spheres of influence in the economy of the state where the intervention took place and from reconstruction contracts.

To conclude, we can say that humanitarian intervention is a principle of the public international law that is useful in order to protect human rights and prevent humanitarian crises, but often diverted due to the geostrategic interests of the great powers. This is caused by incomplete and perfectible regulations. However, even if the legislation will be improved, we believe that this practice will continue as humanitarian intervention in its purest form is almost nonexistent.

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