

Babes Bolyai University
Doctoral Scholl of International Relations and Security
Studies

Integration of “Responsibility to Protect” principle in foreign action of European Union; analysis on the relation between humanitarian operations and EU’s foreign policy objectives; Case studies: Occupied Palestinian Territories; South Sudan.

DOCTORAL DISSERTATION - SUMMARY

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- CFSP; "Responsibility to Protect"; security; humanitarian operations; conditionality; European Union; peace building; state building; sustainability.

RESEARCH HYPOTHESIS

Humanitarian intervention's classic perception states that in the case of an armed conflict between two parties, conflict that generates a humanitarian crisis, the only viable solution for solving the crisis is a military intervention. This view does not acknowledge all possible negative scenarios related with the conducting of a military operation in a space already affected by a crisis in terms of access to primary resources, infrastructure damages and facilitating a unsecure environment. If we choose the classic approach of humanitarian intervention conducted through military means, it must be assumed that the results cannot be anticipated, and humanitarian intervention's success is often short term bases, contextual and lacks the possibility of generating the framework for recovery and development.

In this paper we will try to indicate that the myth of humanitarian intervention in the form of a military process is not appropriated in the 21st century global context, and cannot offer viable and sustainable solutions solving the crisis, recovery and development. Humanitarian intervention, as limitative form military operations based, represents a minimalistic view that ignores the negative effects that a military intervention generates upon a humanitarian crisis. Given the specific context of international relations, humanitarian interventions are not exclusively characterized by the presence of a military operation, but they include any given political and economic instrument that is integrated in a comprehensive framework used with the purpose of reconciliation, reconstruction and development to further prevent the emergence of a new crisis. Expanding the view of humanitarian intervention supports two different aspects: intervention means any external action that has the purpose of altering actor's behavior using positive or negative conditionality; a humanitarian action's success is given, not by the short term addressing of victim's suffering, but rather by the capacity of creating long term sustainable conditions to prevent reemerging of the crisis.

From this point of view, humanitarian intervention represents the global actions of a third party with the purpose of altering a local actor's behavior to solve a humanitarian crisis and to develop a general framework to guarantee that this crisis will not break out again.

Demilitarization of humanitarian interventions is a condition that results from the analysis of recent military humanitarian interventions and of the incapacity of offering sustainable solutions to stop the crisis and to start a long term process of reconstruction and development.

Our second general hypothesis is related with the dual nature of humanitarian intervention. Humanitarian intervention's classic minimalistic approaches often refer only to the process of addressing the suffering of the people affected by the crisis. We consider that this approach is not a viable approach because it does not aim towards solving the crisis but rather just towards easing suffering. Knowing that the main goal of a humanitarian intervention is to stop the crisis and to create the context to prevent further crisis in the future, just easing suffering, although a necessary activity, does not serve the main goal of humanitarian intervention. In this paper we will assume that the EU runs its humanitarian interventions acting in two stages: emergency humanitarian assistance and assistance for reconstruction and conflict management.

Our third general hypothesis states that European Union uses its humanitarian operations as foreign policy objectives. Analyzing European Union's foreign policy objectives, as they were defined in the Lisbon Treaty, and analyzing humanitarian operation's objectives, as defined in European Consensus on Humanitarian Assistance and other relevant documents, we consider that EU uses humanitarian interventions as foreign policy instrument with the purpose of promoting specific interests and consolidating the relations with third world countries. We propose the concept of altruistic realism, through which will describe the motivation that fundamentals European Union's operations. Through altruistic realism we refer to the dual nature of EU's motivation in the humanitarian field, on one side as a result of a solidarity generated by the affiliation to an international community, and on the other side, as a result of specific foreign policy interests that serve foreign and security policy objectives that EU defined in the treaties.

STRUCTURE OF THE DISERTATION

Chapter 1

In this chapter we will focus on the relationship between humanitarian intervention's theory and political practice trying to identify and present the main theoretical approaches in the field of humanitarian interventions. Also, giving the conflict between the idea of intervention and the concept of sovereignty, we will focus on the ethic of humanitarian interventions considering

liberal value's ethic that suggest the importance of preserving life, and also considering state's ethic anchored in the discourse of national interest and foreign policy objectives. The debate regarding humanitarian intervention's legitimacy cannot ignore the deep rooted State tradition with its surrounding concepts as national sovereignty, territorial integrity, border security and self determination. Modern policy has shown that the State is not always a drag in the way of humanitarian intervention considering the fact that humanitarianism approach is a doctrine supported by the force of human rights international law in the international system.

The legal framework of humanitarian interventions consists of a varied range of treaties, resolutions and guidelines from different subfields of international law , together forming a legal framework for humanitarian actions, framework that offers guidance on the methods of addressing humanitarian crises and also offers the tools for preserving security for the affected population. The legal framework of humanitarian operations consists of humanitarian international law, human rights international law, refugee international law, criminal international law and disaster relief international law.

International humanitarian law has the role of protecting conflict or human rights abuse victims; it is valid only in the case of armed conflicts and it applies to all parties involved in the conflict. The key treaties that fundament humanitarian international law are Hague Convention from 1907, Geneva Conventions from 1949, to which are added judicial decisions or relevant bodies, especially International Court of Justice. The main aspects relevant for humanitarian human law are: necessity and proportionality principle, non discrimination principle, the obligation of an occupying power to assure the basic need of occupied population, forbidding starvation as a war method, the obligation of the states to protect humanitarian personal, respecting rules regarding access delivery of humanitarian assistance.

As defined in International Commission on Intervention and State Sovereignty Report from 2001, the principle responsibility to protect is based on three pillars: responsibility to prevent, responsibility to react and responsibility to rebuild. The essential principles that fundament the concept are: 1) state sovereignty implies responsibility, and state's first responsibility is to offer protection for its citizens, 2) in the case in which the population suffers from internal conflicts or repression, and the state is not willing or proves incapable to stop sufferance, the principle of non intervention is replaced international responsibility to protect. The foundations of responsibility to protect principle are anchored in the obligations given by the

concept of sovereignty, Security Council responsibility under the provisions of article 24 of UN Charter regarding maintaining international peace and security, and specific obligations related with the declarations regarding human right protection, humanitarian international law and national law.

Chapter 2

In this chapter we will focus on the analysis and the description of European Union's institutional framework for external action and, in a specific approach, for EU's humanitarian operations.

Article 21st of the Lisbon Treaty states that European Union's foreign action will be governed by principles as democracy, rule of law, universality and the indivisibility of basic freedoms and human rights, on the principles of solidarity and equality and also on the respect for international law. The goals of European Union's foreign policy are: preserving EU's values, its fundamental interests, of security, independence and integrity; consolidating and supporting democracy, the rule of law, human rights and the principles of international law; preserving peace, preventing conflicts and enhance global security, promoting economic development, social development, social and environment development in third world countries with the purpose of fighting against poverty; supporting the integration of all states in a global economy through gradual abolition of trade restrictions; assisting the populations of the states and regions that confront with natural disasters or manmade crises. Lisbon Treaty integrates a series of commitments for offering assistance, support and protection for the victims of natural disasters or manmade crises, and also to coordinate State Member's civil protection mechanisms. Through article 214, Lisbon Treaty integrates humanitarian international law and its principles. The second paragraph of article 214 states that all humanitarian operations will be conducted with respect for international principles of impartiality, neutrality and non-discrimination.

The main document to regulate humanitarian operation is European Consensus on Humanitarian Assistance signed on December 18, 2007. The Consensus establishes a common practical European approach to better assist the person affected by humanitarian crises. European Consensus states the commitment to promote and support fundamental humanitarian principles as humanity, neutrality, impartiality and independence, stating the respect for international humanitarian law, human rights and refugee rights. According to the Consensus, European Union's primary objectives are >1) offering crisis emergency responses, 2) preserving and

protecting life, 3) preventing and easing suffering, 4) protecting human dignity. Given that partnership for implementing commitments are essential accordingly to the Consensus, European Union values the idea of developing relationships with humanitarian aid implementing and delivering partners (UN, NGO-s, Red Cross).

In this chapter we will also try to point out and demonstrated the relationship between EU's humanitarian operations and EU's foreign policy objectives, showing that humanitarian operations represent a type of foreign policy instruments that serves the general foreign policy objectives as defined in the Lisbon Treaty.

Chapter 3

The third chapter follows the analysis of the relationship between European Union's legal and operational framework in the field of humanitarian action, and the principle "responsibility to protect"(RtoP).

Analyzing EU's external action in the last ten years shows that RtoP principle represents a rhetoric of the EU, and in a smaller degree a form of action in the international environment, especially because EU never invoke the use of this principle in its foreign action. Even so, assuming that European Union does not apply the RtoP principle, means ignoring declared foreign policy objectives and the instruments used in the external action. Because is a civilian power EU aims towards mainly using diplomatic and economic means, as we will show in the case studies of this paper. Also, European Union applies mainly first and third pillars of RtoP principle, rarely approaching the second pillar; the possibility of acting inside the second pillar is limited to a series of diplomatic and economic means (sanctions).

Also in this chapter we will include a series of considerations concerning the necessity of implementing RtoP principle, in relation with the relationship between security at EU's borders and EU's internal security. Principle responsibility to protect becomes the responsibility to protect others to protect the EU. Protecting humanitarian crises exposed persons help dealing with a series of potential security threats that helps protecting EU's internal security and its own citizens. European Union's obligation to protect its citizens is realized by assuming the responsibility to protect persons outside EU; ignoring this responsibility would cause a series of negative effects upon European Union's citizen's security, with would alter the sovereign responsibility of the EU to protect its citizens.

Chapter 4

In this chapter we will identify the way in which RtoP principle is operationalized inside humanitarian operations. To a better stand of this we will focus on two case studies: Palestine and South Sudan. We chose these two case studies because they represent two of the worse humanitarian crises in current international environment where EU manifested a strong involvement. Also, a similar point that determined choosing these particular case studies is the specific statehood character; while Palestine is not a real state but functions with institutions build with EU support, South Sudan is a fragile state with high challenges concerning legitimacy of governance on the entire territory. Choosing the two specific case studies, we will focus on identifying the causes that started the humanitarian crisis and also on the relationship of each individual actor with EU in term of legal cooperation and EU's humanitarian operations intensity. To this extend, this chapter will identify and analyze legal, financial, political or other instruments used by the European Union to solve the humanitarian crisis.

Humanitarian assistance is correlated with a certain type of conditionality, given that; EU has created a general functional framework that will make assistance efficient. Although European Union offers humanitarian assistance as an emergency response to humanitarian crisis respecting the universal humanitarian law principles regarding universality, impartiality and neutrality, in the post crisis period, European Union uses positive conditionality to generate institutional changes as a guarantee of long term development. Conditionality implies a certain kind of incentives that allows a long term reforming strategy that prevents re-emerging of the humanitarian crisis.

Also we will focus on measuring the way in which EU's instrument can be included in one of the three pillars of RtoP principle and the way in which the serve in the process of conducting foreign policy objectives. Given the poor statehood character of the actors we will try to show if humanitarian operations can contribute to a state building process, a process essential for securing international security and cooperation with third world countries.

Conclusions

The analysis of the success of a humanitarian intervention can be done in regard with the evolutions that the intervention generated upon the humanitarian crisis, evolution that they would not occur in the absence of the intervention. In this way, a humanitarian intervention must generate positive evolutions that cannot be reached without outside intervention. Quantification

of positive evolution generated some dilemmas. Firstly, humanitarian intervention's evaluation is made in regard with short and long term generated effects; a humanitarian intervention can bring an end to a humanitarian crisis on a short term, but can also generate the background for a new humanitarian crisis on a long term. As example, military intervention against a military group can save life on a short term, but on a long term can generate two different scenarios: if the military presence last for a long time can alter the sovereignty of the state and encourage local forms of resistance against what could be seen as an occupation reign, generating new security challenges and violence; is the military presence is short term, it can create a context of repressions and retaliation of the defeated part, provoking a new humanitarian crisis. A military intervention can provoke the escalation of violence with damaging effects on access to resources and security. Negative scenarios generated by the military interventions with humanitarian goals, makes it necessary to introduce a new approach accordingly to the RtoP principle, an approach centered on prevention, reacting through non-military means and reconstruction.

The European Union action in the humanitarian field keeps the 2-stages intervention pattern presented above, thus taking into account not only the mere improvement of the humanitarian situation, but also to develop a comprehensive program for development, reconciliation and reconstruction that would guarantee the context of peace keeping and security in the region. The European Union puts special emphasis on promoting, in the second stage of the humanitarian interventions, the democratic values like the rule of law, respecting the human rights and the fundamental freedoms, promoting the principles of good-governance and economic development; these aspects are considered essential for the efforts to secure a region and to prevent the outbreak of a humanitarian crisis, considering that the democratic values establish a system where the humanitarian crisis cannot appear because negotiation and mediation represent the tools for solving internal conflicts.

Also, the European Union puts special emphasis on strengthening security, proof being the EU POL type missions that provide assistance in the judicial field. A democratic judicial field guarantees the fundamental human rights and supports the efforts to prevent a new humanitarian crisis.

From the point of view of the transition from one stage to another in humanitarian interventions, it is very important to identify the timely moment when the local actors can be integrated in the

reconstruction and development process. It is desirable to prevent the humanitarian intervention's stage I extension, the one when emergency humanitarian assistance is provided, for a long period of time, in order to prevent creating any dependences on this type of assistance; instead, it is desired to integrate the local actors in the reconstruction and development process as soon as possible, but also by gradual sharing of the responsibilities in order to finish the humanitarian intervention with a sustainable exit-out strategy.

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