

Diplomacy law and it's role in overcoming migration crisis

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DOI: 10.29322/IJSRP.14.05.2024.p14915
[10.29322/IJSRP.14.05.2023.p14915](https://doi.org/10.29322/IJSRP.14.05.2023.p14915)

Paper Received Date: 4th April 2024
Paper Acceptance Date: 09th May 2024
Paper Publication Date: 15th May 2024

Abstract- If diplomats who write about diplomacy are to be believed, diplomacy is both distinct from and opposed to war. It is the „art of resolving negotiations peacefully.” Similarly, many scholars of diplomacy distinguish diplomacy from war and align diplomacy with peace. After a war breaks out, what factors influence warring parties’ decisions about whether to offer talks, and when may their position on war time diplomacy change? Decision makers and academics tend to believe that the transition from pure fighting to “talking while fighting” is progress, but both tend to overlook or misunderstand how we get from one to the other. Alongside war, there has always been diplomacy; alongside the warlord, the diplomat seeking a nonmilitary solution. Diplomatic efforts have shortened some of our worst wars and exacerbated others.

Index Terms- Diplomacy.international.migration.solution.law

I. INTRODUCTION

The interaction of war and diplomacy is a theme avidly studied worldwide, considered by political and military strategists, and watched over by all those interested in international affairs. As today a military threat can be applied without deploying vast armies and, conversely, can be reduced with pressure from international organizations rather than from an individual warlord, so the public’s awareness of military conflict is now heightened by instantaneous broadcasts to worldwide audiences and by loud calls for diplomatic intervention. Regarding media and military affairs, therefore, evidence suggests the metaphoric pen can indeed be mightier than the sword.

The arms trade has become the most important, i.e., one of the most frequently used instruments by arms supplier countries and has led to the "surpassing" of traditional instruments in the field of security and diplomacy, such as formal alliances, the deployment of military forces abroad and the threat of military intervention by intervention. Today's leading world economic and military powers are less likely to choose to directly intervene with their armed forces in a particular country that is considered hostile, compared to a model that involves arming a friendly country by providing weapons. The factor that contributes to the increase in the application of the mentioned model is the reduction of other classical instruments of diplomacy, such as development aid to a

friendly country, in order to counter hostile threats and attempts on its own.

Numerous countries in the world have publicly acknowledged the existence of cooperation between state institutions and civil society in the negotiation process, as key to the adoption of the Arms Trade Treaty in 2013. The aim of arms trade control is to limit the number of arms in use and to regulate their use on the basis of bilateral or multilateral agreements or arrangements. On the other hand, the process of disarmament aims to eliminate a whole range of categories of weapon systems. The proliferation of weapons of mass destruction in the world represents a serious threat to global security.

II. MODERN ARMED CONFLICTS, NATIONAL SECURITY AND FOREIGN POLICY

Armed conflicts in modern times the world is characterized by unconventionality and distance in relation to the wars defined by the theory, i.e. "classic" armed conflicts, which were dominant during the twentieth century. Based on the analysis of contemporary conflicts, it can be concluded that they are determined by a form that is focused on dominantly unarmed activities, that is, that the armed forces are used in a selective manner, and that their predominant role is to deter potential aggressors. In the conditions of globalization, i.e. the growing interdependence of the market, there are numerous factors that have an impact on the nature of relations that are associated with the dominance of the economic, media, cyber and energy elite, which is increasingly outside the ownership and control of the state, i.e. the nation.

Consequently, there is a separation of interests and goals of foreign power centers, which are not always aligned and compatible with national interests. Under the given conditions, „hybrid threats to national security have different forms, which are conditionally called hybrid warfare, but do not represent war in the classical sense. Namely, under hybrid forms of violation of security, we mean unarmed forms of action that violate the defense

and other strategic capabilities of the state in resisting aggression.”¹

„At the state level, there are three key categories that are the link between the economy, national security and foreign policy. First, economic well-being is one of the primary state interests. Second, economic potential is directly related to power, and therefore, to national security. Finally, economic needs are one of the powerful internal sources of foreign policy, and, on the other hand, economic power is used to achieve important foreign policy goals.”²

Economic security can be viewed from two aspects, namely:

- from the aspect of the individual and
- from the aspect of the state.

In relation to economic security, the elementary values that are protected and controlled are economic and material goods. Namely, the mentioned values are protected, because poor or ruined economic conditions can have a negative effect on the internal political stability in a certain country, with possible far-reaching consequences in terms of national security. The problem of economic security from the individual level will compound and increase to the level of becoming a serious security problem for individual and national security. An obvious example is the current migrant crisis, i.e. the wave of „economic migrants and immigrants” from the southern part of the planet, who, in search of a better life, try to reach the northern parts of the planet by any means.

The degree of poverty in the countries of the so-called Third World was further increased by the departure of migrants and their families, primarily in search of work in more industrially developed countries. This, on the other hand, brings about the appearance of nationalist and xenophobic activities by the resident population towards newcomers, especially in the countries of Western Europe, due to the working middle class, which is afraid for its own existence, that is, it is afraid of possible job loss.

Conditions of constant political dissatisfaction and instability in poor parts of the world can pose a threat to the economic security of the richest countries and communities in the world. The leading production and marketing sectors of the United States of America, the European Union and Japan are fundamentally determined by the existence of trade links with a large number of developing countries. „Finally, suffering and economically backward countries, because of the misery of their desperately impoverished inhabitants, have no desire to be partners in international cooperative systems, which require the maintenance of the world's basic ecosystems.”³

Economic power can be transformed into security power, including military power. Namely, it is known that weapons are paid for with money. The economic system of a given country produces material goods and provides the financial resources needed for the military, whose task is to protect national security. Economic power of a certain state is usually based on these elements:

- natural resources;
- material goods;
- intellectual or protected goods,
- capital and
- human resources.

The importance of these mentioned components, as the basis of state power, changed during development periods of human community.

III. ECONOMIC POWER AND THE FOREIGN POLICY

Economic power can be defined as „functional substrate of military power, both for offensive and defensive purposes. Economic instruments are important means of the state formed to realize its national interests. Especially in the era of interdependence, with these means, economically strong countries have the opportunity to influence in order to change the attitudes and behavior of other countries. In practice, states most often use economic instruments to reward or punish a state, to induce or force it to behave in a certain way.

Countries with a strong economy, in addition to the ability to strengthen the armed forces, also have a greater range of instruments for exercising influence. The growing interdependence of the international economic system provides more opportunities for the application of economic instruments that influence others, and a strong economy provides greater capacity for the successful application of these instruments.”⁴

Economic coercion is a means that, among other things, involves the application of state power, such as the use of force, to ensure the achievement of political goals. There is a high degree of correlation between the power of the national economy and the achievement of influence on other countries. In other words, the greater the ability to exert influence on other states, the greater the ability to defend against the imposition of influence by other states. The model of economic war can be applied in the case of the need to disable the economy of the enemy state, both through the use of military potential, and in the case of economic blockade or economic sanctions.

Within the framework of numerous comparative analyzes of the basic elements of the foreign policies of countries in the world, one of the key issues is the decision-making process in the field of foreign policy in a certain country and the role of the creator of such policy in the given process.

The main questions are those related to who creates foreign policy and who implements it and in what way. Within the analysis of the issue in question, Modelski states that "creation is at the core of foreign policy, because policy makers are an essential component of foreign policy creation, and in their absence, no organized relationship between states could be continued." Policy makers perform a crucial role as representative agents or mediators. Although they are not neutral mediators, because their primary duties belong to the community, they form

¹ Mitrović M., (2018), "Public diplomacy in the paradigm of the hybrid concept of conflict", Ministry of Defense of the Republic of Serbia, Institute for Strategic Research, VOJNO DELO, 2/2018, p. 309.

² Terriff, Terry, etc., (1999). „Security Studies Today“, Blackwell Publishers Inc., Malden, pp. 136, 137.

³ Klare, Michael T. (1998). Chandrani, Yogesh, “World Security – Challenges for a new century”, Third Edition, St. Martin s Press., pp. 163-182.

⁴ Terriff, Terry, etc., (1999). „Security Studies Today“, Blackwell Publishers Inc., Malden, pp. 136-148.

the essence of an instrument whose function is mediation between that community and the outside world." ⁵

He goes on to state „how in a broader sense, through the prism of community interests, it can be said that the function of creating policy is the members of the wider social community (from members of political parties, taxpayers, soldiers, weapons manufacturers, groups or individuals who express their needs, etc.)” However, this author singles out the actual policy makers, who differ from everyone else on several grounds. First of all, he states that policy-making requires full employment, since for many of those who are not policy-makers, the function of carrying out foreign policy is not a central part of their activities. Then, what makes policy makers different, according to Modelski, is their representative status and function, their ability to act and their responsibility to work on behalf of their community.

A functioning community in a state, and the way it functions, cannot have more than one team of policy makers speaking and acting on its behalf. Again, this team consists of a limited number of persons of „higher authority”, who due to their position are able to determine the overall direction of the policy, who can manage the activities of subordinate institutions and reconcile any disagreements between them, who can override the decisions of the lower instance which are in conflict with the general policy and which actually take responsibility for what is taking place, so that they can be blamed for failures and praised for successes. ⁶

Various number of means within the framework of foreign policy procedures, which are related to the economy and can be classified into those that are applied when relations between states are normal, and coercive economic means. Within coercive means, the most commonly used are those that can be called, in general, economic sanctions or embargoes.

IV. ECONOMIC SANCTIONS AS FOREIGN POLICY TOOL OR WEAPON

Professor Prvulović states that „in recent times, economic sanctions have often been applied as a foreign policy tool for solving certain international issues, for various reasons (unilaterally by certain countries or regional organizations, or multilaterally by decisions of the Security Council).” ⁷

The character of economic sanctions can range from the interruption or suspension of bilateral relations that one country introduces to another, the complete cessation of cooperation only in a certain specific part or suspension by certain organizations, such as the blockade or isolation of a country, sanctions on the import of weapons and strategic products, up to complete isolation, i.e. interruption of all economic communications and traffic, including the cultural and sports areas (an example is the

sanctions of the international community, i.e. the Security Council and the EU against the Federal Republic of Yugoslavia in 1992).

„The reasons for introducing sanctions are quite different from previous examples from practice, from punishing racist laws and apartheid (South Africa), the inadmissibility of internal arrangements or an alliance with another competing power, which is declared a threat to national interests (Cuba), aggression against a neighboring country (Iraq), non-acceptance of the elected president (Haiti), human rights issues (FRY). It is only part of the list.” ⁸

„In the economic sphere, it can be opposition to the process of globalization, refusal to accept a certain customs regime and other rules of world trade, etc.” ⁹ Prvulović further states "that sanctions due to abuse and a colorful list of reasons are often unacceptable for the state in question, especially when a group of interested states can influence certain bodies to make such a decision (e.g. in the Security Council).” ¹⁰ „Risks of policy and practice of sanctions that contradict the adopted principles of international relations, sovereign equality, equality, respect for sovereignty and territorial integrity and non-interference in internal affairs, are enormous.” ¹¹

"Due to the drastic use of this powerful instrument, for sometimes bizarre reasons, because they affect even the broadest strata more often than the reason for which they are introduced (for example, the unacceptable personality of the president), it would be desirable to use the extremely restrictive possibilities outlined in Chapter 7 of the Charter of the United nation, because the founders of the Charter may not have had in mind that these organizations can become a lever for realizing the interests of a certain group, partial interests of states.” ¹²

„Also, these funds are used voluntaristically and selectively according to the choice of powerful countries and their interests.” ¹³

„The most common political reasons are the overthrow of a government, economic when a country needs to be punished for its market penetration or for the protection of its own production, and among the military-strategic reasons are the preservation of the monopoly of arms production, the weakening of foreign military capacities and the prevention of sales to third countries, etc.” ¹⁴

Another type of coercion is armed rebellion. „Rebellion is a mass action by the number of an unspecified group of people for the violent overthrow of a social or state system or for the purpose of opposing some body or some measure of state power. It is a sharp form of political struggle, and it comes about because of strained social relations and harsh actions of the state government, and it is often caused by an extremely unpopular government measure. Rebellion is often called a conflict between a nationally oppressed ethnic group and the state or national community in which it lives, or even a form of resistance to

⁵ Modelski, G., (1962). "A Theory of Foreign Policy", Pall Mall Press, London, pp. 4-11.

⁶ Ibid

⁷ Prvulović V., (2001). "Economic Diplomacy", Megatrend University, Belgrade., p. 150.

⁸ Ibid, p. 151.

⁹ Ibid, p. 152.

¹⁰ Prvulović V., (2001). "Economic Diplomacy", Megatrend University, Belgrade., p. 152.

¹¹ Ibid

¹² Prvulović V., (2001). "Economic Diplomacy", Megatrend University, Belgrade., p. 152.

¹³ Ibid, p. 153.

¹⁴ Stajić Lj., (2003). "Basics of Security", Police Academy, Belgrade, p. 190.

imperialist and colonial policies. A rebellion is armed if its participants, all or in part, are equipped with weapons or tools suitable for attack and defense. If the rebellion is led by the army, then it is a military rebellion.”¹⁵

„Civil war is an armed struggle between class, national, political or other antagonistic groups within one state, for the achievement of certain political and economic goals”.¹⁶

Weapons or military force at the local level, when we talk about relations of certain individuals or groups towards others, cannot be completely excluded, so, accordingly, it is necessary to work out what it means to interfere in the internal affairs of a certain state, what is violence and that similarly. It is necessary to strive for every person on the planet to have a place to live, to harmonize relations between people, to make available to every person what is essential for a normal life: water, food, a healthy environment, energy, etc.

„In science, one can find views on the relationship between foreign policy and defense-military components, in the view that in a period of peace, the military-defense complex contributes to foreign policy, and in a period of war, it becomes foreign policy.”¹⁷

Seen through a historical prism, „weapons and military equipment were the sole means of soldiers who achieved political goals by force. However, in the modern age, weapons and military equipment are an exceptional instrument of diplomacy, more specifically defense diplomacy. Trade in arms and military equipment represents a kind of link between defense and diplomacy that, under certain conditions, can be used for discreet diplomatic pressure and strengthening of political influence abroad. In addition to the undoubted economic benefit from the export of weapons and military equipment, the dedicated industry also represents a kind of link between diplomacy and the defense system. However, trade in arms and military equipment imposes many problems on political structures, because the interests and positions of the ministries of foreign affairs and defense do not always have to be identical in relation to export permits.”¹⁸

V. CONCLUSION

War, primarily, represents a kind of antithesis to diplomacy. Nevertheless, both forms of manifestation of the political will of the state and its attitude towards abroad have the same final goal, i.e. both forms aim at imposing their own political will on the opposite side. The logic of war and the logic of diplomacy are essentially opposed, but they are harmonized to the extent that both serve to achieve the foreign policy goals of a particular state. War achieves those goals that could not be achieved through diplomacy, and they are waged as long as their purpose exists. When the war loses its purpose, then diplomacy is put back into operation, which ends the war and establishes a status that meets the foreign policy needs of a particular state.

The Vienna Convention on Diplomatic Rights and Immunities, which represents a kind of documentation of

diplomatic law, on which the organization of modern diplomacy is based, was adopted under the auspices of the United Nations. It is safe to say that in contemporary foreign political relations, the saying that "capital makes the world go round" dominates.

The dilemmas opened up by the international arms trade and faced by decision-making authorities (primarily governments) relating to arms trade requests stem from the difficulties in the decision-making process as to whether a particular arms transfer will be "positive" or "negative". The above can be best illustrated by analyzing the justifications that are usually given for selling weapons or donating weapons to a certain state. Arms trade forms a kind of link between defense and diplomacy, which can be used for the creation and development of often indirect diplomatic pressures and the strengthening of influence in the field of politics abroad.

Apart from the economic benefits brought by the export of weapons, the defense industry is also a link between diplomacy and the defense system of a particular country. However, the arms trade also brings a large number of problems to the representatives of the political establishment, considering that the interests and attitudes of the ministries of foreign affairs and the ministry of defense of a country do not have to be the same in every situation, especially with regard to the issuance of licenses for the export of weapons.

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