THE RELEVANCE OF THE CONCEPT OF AUTONOMY FOR THE PROTECTION OF PERSONS BELONGING TO NATIONAL MINORITIES

Assistent professor Gabriel MICU, Ph.D
National School of Political and Administrative Studies, Bucharest, Romania
gmicu2004@yahoo.com

DOI: 10.51865/JOLAS.2025.23.08

Abstract:
In its evolution, the science of international relations has paid increased attention to the human being treated individually, often relegating to the background the fundamental importance of the group. Political life is based on conflict, but not every form of conflict. A particular situation is the conflict between the majority and the minority, which a responsible authority must resolve by avoiding those confrontations that lead to violent manifestations. For this, it is imperative to correctly identify the fundamental needs of the minority group, their relevance for the very preservation of its identity. The present study aims to highlight the aspects that must be taken into account in any approach towards establishing an autonomy regime.
Keywords*: national minority; human rights; self-determination: international intervention; humanitarian aid.*

Ancient and modern history has witnessed many efforts made by those lacking political power in order to gain as much control as possible over their own destinies. In this context, the designation of a human group as a *majority* or *minority* is irrelevant, since political power does not respect the rule of the majority, in the sense of modern democracy.

The struggles for power of dissident or anti-state groups, which are located on a territory defined by them, based on the fundamental principle of International Law entitled the right of peoples to self-determination, have always had as their objective the rejection of the governing authority, using as a pretext the principle of majority rule, in its numerical sense and not in the political sense.

Not in all cases of internal social and political conflicts can a solution be found through free and fair elections, these having rather the role of deepening the feeling of belonging of a certain population to a certain territory, which is most often achieved on

the basis of the existence of information, this being often difficult to support with indisputable evidence.

The position that a group adopts on a particular issue, on which it intends to organize a referendum, is inevitably influenced by notions about the actual population of a territory, the significance of population movements, in more distant or more recent times, and especially, whose rights will prevail. The establishment of the obligation for individuals not to have certain rights violated was achieved as a result of a long evolutionary process, during which anachronistic, elitist, and totalitarian concepts that opposed the recognition of human equality and the idea of respect for fundamental human rights and freedoms were overcome. [1]

In the 19th century, groups that were internationally recognized as nations with the right to establish new states became majorities, and aspirants who failed in the struggle for statehood remained in the minority.

Later, as will be analysed in this volume, persons belonging to these minority groups, who consented to remain on the territory of the new nation-states and contributed to the formation of a nation, precisely because of their membership in the respective nation were classified as *national minorities.*

The political concept of nation crystallized in the 20th century, with a great interest in its construction. Analysing recent history more deeply, it can be stated that nations are either destroyed or their relevance diminishes within the state, due to the governmental authority, which holds the legitimacy to use force, even against its own peoples under its jurisdiction.

All empires, throughout history, starting with the Egyptian, Greek or Roman and ending with the British, French, Ottoman or Tsarist, have encouraged political and legal theories through which they achieved the separation of *ethnicity* from *religion* and of the *nation* from the *authority of the government*.

Those empires that were not formed through a process of colonization have always wanted to impose only political or economic control over their subjects, even if their governments were naturally linked to a certain culture. An exception to this rule is the attempts made by missionaries, who aimed to religiously convert the population of the colonized territory.

The identification of the *nation* with the *state* took place at the end of the 19th century and the beginning of the 20th century, in the form of the political concept of the *nation-state*, which substantially changed the fate of empires, in a dramatic sense for the latter.

In the new political approach, the concept of a multi-ethnic state became *impossible to sustain*, since the central elements of the European concept of governance were represented by democracy and the theory of the social contract.

The political and legal state entities that were to be formed on the basis of the new concepts used the argument offered by the effects of the phenomenon of *ethnic* or *linguistic homogenization*, both in order to justify their separation from the empire to which they were subjected, and to legitimize the appetite for territorial expansion.

Examples of disintegration under the pressure of ethnic nationalism are both the Ottoman and the Austro-Hungarian Empires, whose disintegration process was also due to the aid given by their rival powers to the native population, instigating them to movements demanding self-determination.

If we accept the validity of the argument by which the new overseas empires justified their existence, namely the assessment that the peoples they ruled had levels of development that did not entitle them to organize themselves coherently into a state, it can be said that these peoples fought for the affirmation of statehood against European domination, more precisely the Great Powers that were leading the fate of the old continent.

National self-determination is a characteristic concept of the 19th century, which formed the basis for the development of *territorial self-determination*, specific to the 20th century.

In some cases, the *nationalism* of the new state was created exclusively on ideological grounds, while there were also situations of compatibility between attempts to transform the majority or dominant culture into that of the state as a whole. Such approaches to the establishment of a national culture can be noted in similar efforts made for the construction of post-war Europe.

In the general context of the undeniable influence of modern ideologies, such as national self-determination and the maintenance of territorial integrity, the new states, no

matter how artificially they were created, approached, in principle, a position of *rejection of the rights of persons belonging to national minorities*.

In both developed and developing countries in the 1950s and 1960s, the *centralization of state power* was a primary objective of political power, a phenomenon that led in some cases to a *forced assimilation* of minority groups and indigenous peoples.

Identifying progress in the process of national liberation, in the absence of logical, philosophical, or sociological limits to nationalism, becomes a matter of *political choice*. For many national minorities and indigenous peoples, this choice amounts to a return to the rhetoric of the *ethnolinguistic* state characteristic of the 19th century.

However, indigenous groups and national minorities have abandoned their ideal of forming a state populated by a single nation in order to maintain their own national identity, recognizing that *ethnic* or *cultural loyalty* cannot be affected by *political loyalty* to an existing state of which they are a part.

Consequently, indigenous groups and national minorities have reduced the level of their claims, utopian in the context of the direction in which the international community was evolving, replacing the standard they wanted by establishing an ideal nation-state with another, corresponding to *obtaining guarantees* for a life away from the threats that an obtuse state would represent, dangerous to their existence, in which the central or majority government would not recognize ethnic diversity and would thus generate division or fragmentation. [2]

Theoretically, the protection of current forms of national minorities and indigenous peoples should be achieved through the full exercise of ethnic self-determination on linguistic, religious or other grounds for self-definition.

However, practice indicates without hesitation that the prospect of the emergence of thousands of homogeneous but small independent states, defining themselves primarily in ethnic, linguistic or religious terms, should rather *inspire concern*, since shifting borders in order to create conditions for greater ethnic purity is much more likely to lead to an era of intolerance than to one characterized by mutual respect and tolerance.

There are also idyllic approaches of some peoples regarding the nature of their community, which are placed, in contradiction with their own principles, between the idea

of a supposedly ancestral community and the opposition to ethnic prejudice, which determines them to want to be fair to all other peoples.

It is obvious that both hypotheses cannot be followed at the same time. If a community was really ethnocentric and wanted to perpetuate itself as it really was, this approach would bring inevitable prejudices to foreigners, an aspect that affected the idyllic image mentioned. The Nazis also found themselves in such a contradiction, their problem being that they were much too consistent on this aspect.

The concept of self-determination does not recognize the right of the majority to impose its will in a *discretionary* manner, in a manner in which the *rights of others would be violated*. This interpretation is valid regardless of whether the society is secular, modern or pluralistic, promoting the assimilation of minority groups, or whether it is a homogeneous, traditional society, seeking to exclude various dissident minorities under the pretext of national, ethnic or religious purity.

It is obvious that, regardless of the care with which borders are drawn, individuals and minorities will continue to exist, and the individual cannot be forced to conform to the majority's conception in the name of a perfect society, since this approach would be as reprehensible as the destruction by dominant colonizers of so-called backward societies.

The idea of ethnic unity, in the context of the exercise of power by a state, must not materialize in the rejection of the legitimacy or importance of responding to the natural needs of identity or dignity of the group.

The evolution of the science of international relations, especially after the Second World War, has emphasized the human being taken individually, on the individual, moving into the background and, often, undermining the fundamental importance of the group.

In particular, in the collective mentality of Western states, the importance of maintaining smaller and more homogeneous societies has been diminished, which is in contradiction with the increased attention paid to the creation of small and homogeneous states, but which is the goal of the central governments of the states. [3]

It is well known that political life is based on *conflict*, but not every form of conflict. A responsible authority must avoid those confrontations that lead to violent manifestations, such as can occur between the majority and the minority, in the context of the problem of obtaining a certain form of autonomy.

The problem to be solved is not the existence of differences, the relative development of ethnic groups, but the way in which peoples and their governments know how to respond to these differences, to the fears and claims that accompany them. [4] The common feature of ethnic conflicts, which have led to serious violence, is the *violation of fundamental human rights*.

Human rights violations are often much more responsible for escalating existing conflicts than for creating divisions that did not exist before. Failure to respect fundamental human rights leads to the *exacerbation of political or economic differences*, by transforming them into open, violent conflicts.

An example in this sense is the discrimination committed against Catholics in Northern Ireland in the issue of securing housing and jobs, as well as the one that refers to the denial of the right of people to use the Kurdish language or to be able to recognize their Kurdish identity in Turkey.

There are also examples where people belonging to national minorities are the ones who cause violent confrontations, such as terrorism committed by minorities or guerrillas, which lead to the escalation of other types of conflicts, most often deliberately, even though most of these events only occur when state violence has reached a fairly high threshold.

The colonial period fuelled many ethnic conflicts, as the policies of the dominant power exacerbated existing ethnic divisions, adding an additional element of tension by introducing *new minorities* into territories that had previously been homogeneous.

Contrary to the declarative attitude of transforming poorly organized Asian and African societies into structures closer to the Western state model, the colonial powers did not really show their interest in developing a sense of nationhood among the colonized. Despite this, or perhaps precisely because of this, the peoples within the colonial borders found a common ground in their opposition to colonial rule.

Although colonialism practiced the classic policy of *divide et impera*, used by European colonists, thus emphasizing tribal divisions, it rarely provoked ethnic conflicts, and when it did, it occurred in territories where such confrontations had previously occurred.

There have been a few exceptions that have given rise to conflicts between groups that previously had only sporadic contact, such as the importation of foreign workers into an initially homogeneous society, the settlement of border issues, or the colonial policy practiced within them.

As can be seen from the analysis of European history, there are numerous examples that prove that the main cause of the outbreak of violent religious or ethnic conflict is not colonialism. In this sense, often, the basis of contemporary conflicts has been the *intervention of external factors*, often requested by interested dissident or minority groups.

Although this type of intervention can be decisive for the outcome of struggles in favor of autonomy, most often the effect of external intervention has been to repress, rather than encourage, minority or secessionist movements.

For example, the most common effects of international involvement in favour of separatists in a violent conflict are: ceasefires, armistices, or concessions made to autonomy or secession. “By opting for external aid, secessionists risk losing control over their destinies, in favour of states that have different, often much more limited, objectives. [5]

The most common form in which external intervention materializes is the agreement given to dissident groups to take refuge on the territory of the interventionist state, as a safe haven for them, as well as by offering weapons or training guerrilla groups.

Also, the state that supports the minority can relatively destabilize a rival or even neighbouring state, through specific instruments, which are intended to encourage their efforts. It is natural that minorities that are ethnically linked to a neighbouring state, receive the aid of that state, however, *active intervention in favour of the minority* in question is not a recommended procedure, although in history there have been cases, such as the intervention of Turkey in Cyprus, of India in Bangladesh or of the U.S. in Nicaragua.

If a minority group is supported from outside, the perception of altering the legitimacy of their claims is induced, in the sense that their wishes could be used as a means of maneuver in geopolitical struggles at another level.

International intervention is different from extra national intervention and may consist of promises made to minority or indigenous groups, even if multilateral support will have no effect on the recognition of the right to secession.

Attempts made after the end of the First World War to guarantee the rights of persons belonging to national minorities with the help of international supervisory forces have had partially some success.

However, contemporary initiatives belonging to the *United Nations*, regarding respect for Human Rights in general, as well as the rights of persons belonging to national minorities and indigenous peoples in particular, contribute to a better understanding and increased protection of weaker communities.

When resorting to international intervention, one must take into account the limits of persuasion within which the powers requested to intervene can act, given that this is the most effective instrument that international bodies have.

In this context, it must be highlighted that international doctrine and practice regarding the respect of Human Rights constantly discourage initiatives that lead to discussions about autonomy or the political rights of persons belonging to minorities.

In order to avoid reaching such extreme situations, the *Human Rights Committee* frequently uses the procedure of interviewing states in relation to the treatment they apply to ethnic or other minorities.

On the other hand, much more effective than the official approaches belonging to intergovernmental bodies are the pressures exerted through the international media and non-governmental organizations.

The Romanian Constitution declares the equal rights of citizens, irrespective of their race, nationality, ethnic origin, or language, without regard to their money or social background. This is due to the fact that individuals from various nationalities, including Hungarians, Roma, Germans, Serbs, Turks, Jews, and Armenians, have contributed to the realization of national ideals. [6]

Regional bodies may be more effective in such situations, depending on how states are more willing to discuss more delicate issues, such as the rights of persons belonging to national minorities, in a more restricted, more family-like setting.

On the other hand, regional bodies are naturally less interested in what is happening in third countries. In this regard, an example can be given of the attitude of European states, which did not analyse the provisions of the *European Convention on Human Rights* and, as a result, did not react to the treatment of the Kurds by the Turkish authorities.

A similar approach is taken by Latin American states, which are less interested in the rights of indigenous peoples in the opinion of their neighbours, given that numerous indigenous communities live on their territories.

Conclusions

The political-legal, but also historical, argumentation regarding the evolution of the concept of autonomy entitles us to affirm that the fundamental objective pursued by the applicants for an autonomy regime is control over the territory. On the other hand, the territorial integrity of the state and the unity of the political power of the nation represent a fundamental principle of international law that is at the basis of the current world order, being most often inseparable from that of self-determination.

The desire to own a territory is not an exclusive characteristic of the modern or contemporary era. It has manifested itself since ancient times within groups that felt threatened, as a universal necessity for the purpose of ensuring physical security.

Any regulation that a sovereign authority proposes to achieve on its territory of self-determination must have as its fundamental objective the achievement of a climate of peace and social security. National constitutions, at least of states with a democratic form of government, are the ones that place this desire at the rank of a fundamental principle of state organization and functioning. This logic also includes the granting of autonomy regimes, which thus becomes a political option of state power.

From what has already been mentioned, it follows that autonomy is a political instrument, through which other needs are guaranteed to be adequately addressed. Autonomy should not represent an end in itself, since its simple achievement is not able to guarantee progress or the preservation of a culture threatened with extinction. The form that a certain manifestation of autonomy can take will have to relate both to the goals of

the community that wishes to obtain this autonomy, and to the requirements of the national policy of the central authorities of the state.

In political or legal documents, but also in specialized works, the concepts of autonomy, self-government or self-management are frequently used, with the meaning of delegation or recognition of certain powers of local authorities, as well as a certain distribution of the attributes of state power between central and local bodies, through which a broader or narrower spectrum of competencies, necessary to solve problems of interest for the territorial units that make up the state, are left to the discretion of the latter

The application of the principles of local autonomy to the communities within its scope of exercise must also respect, at the same time, the principle of non-discrimination, an aspect that requires all administrative-territorial units of the state to have the same set of competencies, in order to establish some connection between the concept of local autonomy and that of the ethnic origin of the inhabitants of a territorial unit.

References:

[1] Pop, Mihaela, *Conceptual approaches regarding the respect due to the human being and its inherent rights*, The International Conference ”Education and creativity for a knowledge – based society”, XVIII ed., 2024, ISSN 2248-0064, ISBN 978-3-9503145-3-3, p. 66.
[2] Fenet, Alain, ”La question des minorités dans l’ordre du droit”, în *Les minorités à l’âge de l'État-Nation*, Paris, Groupement Pour Le Droit Des Minorités, Gérard Chaliand (director), Paris, Fayard, 1985, pp. 58-68.
[3] Dyke, Vernon van,”The individual, the state and ethnic communities in political theory”, în Kommers, Donald P. & Loescher, Gilburt D. (ed.), *Human Rights and American Foreign Policy*, Notre Dame, IN, Notre Dame University Press, 1979, pp. 36-62.
[4] Wainer, Myron, *Sons of the soil: Migration and Ethnic Conflict in India*, Princeton, NJ, Princeton University Press, 1978, p. 17.
[5] Horowitz, Donald, *Ethnic groups in conflict*, Berkeley, University of California Press, 1985, p. 277.
[6] Pop, Mihaela, *Constitutional principles governing the fundamental rights, freedoms and duties of Romanian citizens*, Journal of Law and Administrative Sciences, No.20/2023, ISSN 2392-8298, ISSN-L 2392-8298, p. 61.