Corvinus University of Budapest

Doctoral School of International Relations and Political Science

Double Standard Policies of Great Powers – Comparing and Contrasting China, the USA and Russia in Current International Disputes

Supervisor: Dr Tamás Hoffmann

Viktória Laura Herczegh

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Abbreviations

COC – Code of Conduct

PRC – People's Republic of China

ROC – Republic of China

UNCLOS – United Nations Convention on the Law of the Sea

SCS – South China Sea

US – United States

PCA – Permanent Court of Arbitration

EEZ – Exclusive Economic Zone

MENA – Middle East and North Africa

UN – United Nations

LNG – liquefied natural gas

ICJ – International Court of Justice

CCP – Chinese Communist Party

ASEAN – Association of Southeast Asian Nations

UT – Union Treaty

USSR – Union of Soviet Socialist Republics

PLA – People's Liberation Army

NATO – North Atlantic Treaty Organisation

USSR – Union of Soviet Socialist Prepublics

BSSR – Byelorussian Soviet Socialist Republic

UNC – United Nations Charter

ISAF – International Security Assistance Force

OEF – Operation Enduring Freedom

CIA – Central Intelligence Agency

EA – East Asia

ICC – International Criminal Court

WTO – World Trade Organization

GDP – gross domestic product

GNP – gross national product

DOC – Declaration on the Conduct of Parties

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Chapter (1)

Introduction

1.1. The research problem

With the arrival of the 21st century, bi- and multipolar relations and negotiations between states have gained exceptional importance in the global order, as smaller and bigger states and other actors try to navigate the international stage, with goals of maintaining and securing their position or gaining influence within their region or even in a global sense.

Following the Cold War, the United States became the only global superpower, its influence on all regions of the world appearing solid and stable. However, power and influence does not always prevail. Since 2008, the US has not retained dominance, only primacy, as other regional powers have risen to global status. China and Russia are the two large regional leader countries that have been attempting to reach the position of the United States, and they have indeed managed to achieve global significance. (Womack 2010). However, in the past few years, some major issues – China's economic downturn and Russia's war in Ukraine – have greatly hindered them in getting to the US' level of power.

A great power possesses economic, diplomatic, and military strength and influence, and its interests extend beyond its own borders. The number of great powers at any time is considered a key feature of the international system, important in determining the level and nature of war. A great power is also any country that could mount a serious defense against any other country in the world - even if it may not defeat the other country, it could force a war of attrition. In a world of nuclear-armed countries, nuclear weapons are a necessary but insufficient condition for great power status (Lawfare – Who are you calling great power? *https://www.lawfaremedia.org/article/who-are-you-calling-great-power*). Furthermore, according to Kenneth Waltz's definition, great powers must be able to not just ensure their security but also support that defense capacity over time. That requires territory that can be defended, an economy that can support the military and other essential government expenses, a population to staff the private sector and provide the national defense, and the political stability and competence for it all to function (Waltz 1993).

Taking the aspects mentioned into consideration, a person that lived three centuries ago could just as easily determine which states were considered great in their period of time as we, being alive

now in the 21st century, are able to. One thing is certain: the nations that held great power status back then were not the same ones that hold such a status now. What is more, the great powers of the previous century were different from our current ones. The status of a great power has never truly been immovable. Although it is true that a state considered to be a global leading power probably does not have to fight for survival (like many smaller, softer states of the world have to), yet them being on top for lots of years to come is not a given – it is something they need to constantly work hard for.

Ever since international relations have been in existence in any way or form, one element is a definitive constant: the states of the world have been profoundly unequal regarding their power and influence in global affairs. Such asymmetric relationships are characteristic for multiple regions on the globe: the emergence of a regional leader out of a group of states situated in the same geographical area is a natural process that can be traced back to many centuries before our time. Although perhaps not as evident, other types of asymmetry also exist, as a state wielding significant power in a certain region can after a certain period of time reach for a global status, projecting its influence on other states of the world out of their geographical scope. This latter type of asymmetrical relationship often becomes more relevant and along with that more problematic in situations of dispute or conflict. The management of such cases plays a major role in determining why and how power matters in the current era.

Describing inequality between states, Brantly Womack argues that an asymmetric relationship is one in which the weaker side is significantly more exposed to interactions than the larger side because of the disparity between their overall capabilities, and yet the larger is not able to dictate unilaterally the terms of the relationship (Womack 2016).

Unequal relationships can be bilateral as well as multilateral. In cases of multilateral asymmetry– generally meaning a regional power having smaller, weaker states within its scope of influence -, uncertainty is characteristically more common from the beginning of the relations and the situations might come to a fragile *status quo* that sets off the ideal balance of the world order. Bilateral inequality can be designated as a „natural phenomenon" of international relations, as international politics has always been seen as a game played by the great powers and a game in which the lesser powers have no substantial say. Smaller states

are always characterized as a weaker part in an asymmetric relationship, powerless actors unable to change the nature or functioning of the relationship on their own (Archer, Bailes and Wivel, 2014).

The different types of inequality described above have been present from the very beginning of the existence of international relations, therefore it is evident that they have had consequences. Out of the „natural" inequality, another phenomenon has emerged, one that is now just as much a part of the great game between powerful and weak states as the inequality itself. That phenomenon is none other than that of double standards, typically used in a plural form when it comes to international relations (Jorgensen 2017).

A double standard – valid and carrying the same meaning in its singular form as well - is aconcept that can take various different interpretations according to the field of science it is mentioned in. Even within the discipline of international relations, it does not have just one meaning – depending on the situation, several aspects of one basic attitude can be placed into the category of double standards. It is not mandatory to differentiate sub-categories when analyzing double standards, but for the sake of better understanding and being able to distinguish certain cases in this study containing double standards, it is necessary to have a basic knowledge of certain the categories (Kaleck 2015).

In the field of international relations, three different types of double standard projection exist. All of them are connected to the same interests of the international actor – regional or global power - projecting it. These are the following:

a. The actor (in an international conflict situation) fully or partially ignores the rules and regulations of international law (that are applicable to the conflict in question), yet expects other actors to wholly comply with those same rules and regulations.
b. The actor (in an international conflict situation) re-interprets or freely interprets the rules and regulations of international law (that are applicable to the conflict in question) in a way that those rules and regulations serve the actor's interests or purposes within the conflict.
c. The actor promotes or publicizes international norms, rules, regulations or values while itself generally does not (fully) comply with those same norms, rules, regulations or values.

The types of behavior listed above are mainly characteristic of countries holding a higher status in the hierarchy of powers, meaning that they are global or at least regional powers,

always the superior actor in the unequal relationship. It is increasingly common for such powers to project double standards on smaller, less powerful states that are often within their political or geostrategical sphere of influence. That sort of line-up makes the application of a double standard – or even multiple at the same time - easy and many times even indiscernible (Archer, Bailes and Wivel, 2014).

Beside the most evident example, according to another definition of double standards, it can also occur that a great power projects double standard behavior on another great power. However, in such cases the application is considerably less easy and oftentimes quite well-perceivable by other states as well as other actors within international relations, for instance international organizations (Kaleck 2015).

Double standards are highly questionable from the point of view of international law. That is so not only because they go against the norm of „all states are equal and should be treated equally", but because of the open and oftentimes obvious disrespect towards rules and regulations: re-interpretation, free interpretation or straight-up ignorance. Even the existence of international law is often ignored when it comes to great powers' desire to enforce their will on smaller states – or equal ones - through the application of double standards. It is essential to consider here the fact that not all states have the same traditions and the same general understanding of what law is and how legislation works. For the United States and Europe, the rules and regulations of international law might be evident, but for statesin the Middle East or in the Asia Pacific region, it is not. The Western concept of international inequality been determinative for non-Western states, and as it has been formulated in a completely different region, it is characteristically perceived as a means to put Western states in a superior position. When one state – or region - considers the internal ideas of justice existing in another state – or region - as a threat, there is no basis for dialogue of a diplomatic or legal nature, and questionable or illegitimate instruments come into play (Kissinger 1956).

Double standard projection by great powers – be it on less powerful states or similarly powerful ones, Western or non-Western actors – is always without any legal consequence. Double standards – and accusations of double standards by one state towards another - are a deeply rooted element within international relations, something that can now be considered just as natural as asymmetry and inequality in relations between states. When they are mentioned in any shape or form during a legal conflict situation between states, double standards and double standard accusations are denied or ignored by international law –just like states applying double standards – at least partially or momentarily – ignore the rules and regulations of international law.

The focus of this research is the nature of the states applying double standards, respectively, the specific reasons behind the application of double standards and the reasons behind states accusing other states with the application of double standards. Whether they have a right to exist or not, they are firmly rooted in international relations, even though at times they are difficult to perceive and analyze (Kissinger 1956). The theory presented in this research through case studies is that no matter which state applies a certain double standard or accuses another state of their application, there is a generally characteristic goal behind the act, something that can be utilized for describing the behavior of powerful states. Also, along those lines, there is no „justifiable" way to apply double standards – none of the powerful states actually have the right to use them, still, all of them do.

1.1. The subject of analysis and the significance of the research

Looking at examples of bi- or multilateral conflict situations, it can be assumed that the application of double standards is very much present as a characteristic behavior of great powers in the field of international relations. As multiple different categories and sub-categories of double standards exist, the „preferred" types differ according to the bi- or multilateral clash or conflict in question. Similarly to the double standards themselves, accusations towards other states of using double standards are also a fairly common tool when it comes to great powers' desire to endorse their international objectives.

Although double standard elements are frequently noticeable when looking at asymmetrical relations between states or even symmetrical ones (take two great powers, for instance), their existence is not as well-processed by researchers as many other typical behaviors projected by great powers. Double standards and accusations related to double standards are often overlooked or fully ignored. In some cases that is because applying double standards appear to be such a natural sort of conduct by a bigger, more powerful state towardsa weaker, lesser one that there does not seem to be a „remedy" for it. In other cases, double standards are identified, strongly criticized, deemed unlawful, there are also rare events when they are brought up at legal proceedings, but their use never truly draws any negative consequence.

The main purpose of my research is to thoroughly analyze the behavior of great powers which entails the application of double standards as well as the accusations towards other state actors of using them. The concept of double standards used to be essential in international legal literature, having been used frequently to analyze certain conflict cases (Franck 1984). At the beginning of the 21st century double standards lost some of their relevance in conflict analysis, however, with the emergence of China as a rival to the United States, as well as with Russia's military activities, they regained traction, once again becoming an important asset for better understanding the dynamic between nations. Despite their reemergence, double standards have not been thoroughly and comprehensively analyzed – this is where the novelty and significance of this work lies.

The main subjects of the analysis are of course some powerful states on today's stage of international relations: China, Russia and the United States of America. When looking at a phenomenon generally present in the conduct of a certain category of international actors, especially one that has not been explored deeply enough, observing case studies is the ideal way of research. The case studies chosen for this work are all recent, therefore the double standards in them have either not been identified yet, or if they have been identified, they have

not been focused on in terms of studying a behavioral pattern typical of great powers.

The nations that we now consider global leading powers are the same that held that status 10 or 15 years ago, however, states that were not known to be striving even for regional leadership can be seen emerging into the „second tier" now, gaining the attention of the world and of the nations already in great power status. Of course, none of the emerging nations are there with the great powers yet, but thinking ahead a few decades, their growth may become a threat for the current great powers. Although it is true that a state considered as a global leading power probably does not have to fight for survival (like many smaller, softer states of the world have to), yet them being on top for lots of years to come is not a given – it is something they need to constantly work hard for.

Other than being among the very first comprehensive analyses of double standard projection, the significance of this research also lies in the fact that through identifying and analyzing double standards, one can get a lot clearer picture of the conduct dynamic of great powers, their intentions, constraints, purposes and the way they navigate conflict situations in order to maintain a solid leadership position.

1.2. Research question and hypothesis

Research question I.

„Can a common pattern be identified in the reasons why and the way great powers use double standards as a bi- or multilateral conflict situation?"

Double standards are a part of a characteristic behavior projected by powerful state actors, something that those states utilize in order to gain the best position possible in case of an international issue. The fact that double standards are used can already be called a sort of a pattern, as no great power is exempt from applying them occasionally. However, just like great powers share a lot of similarities, separate conflict cases show that they are also completely different from each other in many aspects. Their geographic location, the way they came to the power they currently wield, the way their people perceive national identity and the fact their country is „great", the country's perception by surrounding smaller states as well as other states of the world – these are all factors that shape and mold each great power. Of course, there are also the „evident" aspects of national history, political system, economic priorities and geostrategic imperatives and constraints. These are the things most of us would think of when intending to categorize great powers, and for good reason, as they are essential and defining points, but when the main goal is the analysis of double standards, the smaller, more nuanced aspects can tell more than the obvious ones. Furthermore, in order to really and truly recognize what the category of great power entails, we have to know exactly when – and why countries become great powers, when – and why - they stop being great powers, what processes bring about these changes, and whether these processes change over time. For now, neither the study of international politics nor the practice of diplomacy offers anything but after-the-fact explanations. (Waltz 2010).

Great powers differ from each other from various aspects – that is one reason why it becomes increasingly difficult to look at them as one group of states and analyze them as a whole, without making a distinction between for instance Eastern and Western great powers, or newly emerged and „older" ones.

What is currently considered essential literature on the foreign policy behavior of great powers – i.e. the works of Mearsheimer, Waltz or Womack - discusses distinct ways of defining great powers. Specifically, the debate over defining great power status has focused on whether a great power should be defined solely on its physical capabilities, or also on intangible factors, such as its foreign policy interests or whether the state is recognized as a great power by others in the international system. Furthermore, there are some questions of whether great powers have to be military powers or

whether economic superiority is enough to classify a state as a great power. There is also the issue of regional powers: states that are clearly military, economic, and political leaders within a limited geographic scope, but not at the global level. All those things might be important, but more so for theory than practice – they do not provide any substantial help to the issues stemming from the inherent asymmetry between great powers and „lesser" ones.

Hypothesis I.

The hypothesis I have for this work is that there is indeed a characteristic pattern in the way great powers use double standards and in the events when one great power accuses another with using double standards. Identifying such a common, easily recognizable pattern in their reasoning behind the double standards and the manner in which they apply them could provide substantial help in really knowing what a great power exactly is. Also, it could help in understanding what „great power behavior" consists of – a conduct typical of all states that currently fall into the „great power" category, no matter what their location or other traits are. That way, great powers could be better molded into one category, something that is a lot easier to read and analyze. Through identifying a pattern, the steps a great power could take in an unequal conflict situation can be more calculable, making it easier for a smaller state – or multiple smaller states in case of a multilateral issue – easier to respond. That way, at least part of the inherent asymmetry and inequality could be taken away from the situation, making it somewhat more symmetrical and equal.

What is more, identifying such a pattern could also be of help when it comes to resolving a conflict by legal means – knowing the typical „great power reactions" would provide significant help to the legislation to conduct the proceedings accordingly and apply the means that would leave less space for double standards as well as for accusations related to the use of double standards.

Research question II.

„Do double standards have a potential to coexist with the rules, regulations and norms of international law?"

Each and every state possesses a distinct set of rights and obligations. In a horizontal order where law is generated by the consent of actors, some states may do what others may not. The norms of international law do not necessarily require that every State be held to the same standard. Where homogenous obligations are shared, some breaches are tolerated while others aren't. These distinctions mean that subjects of international law sometimes exempt themselves or others in the formulation and application of rules.

That kind of „systemic freedom", even though it has always been so in international relations, makes legislation increasingly difficult. Legal proceedings are often stalled due to a state refusing to comply with certain rules, pulling itself out mid-process or being very selective in deciding which rules to respect and which ones to ignore. Even when a legal decision is finally made in a case of conflict, for instance a territorial one, there is no immediate and real result, because an actor – typically a great power – refuses to accept the verdict. With that, an uncomfortable and fragile *status quo* is created, a situation that might not be better in any sense than the conflict itself.

It can be stated that application of double standards as a characteristic conduct of great powers has been greatly hindering legal decision-making. Despite that, double standards are firmly „stuck" in international relations, and what is more, their presence has now, in the 21st century become more prominent than ever before. Double standards do indeed exist together with international law, but the „mixture" of the two appears to be a toxic one. Therefore, the question I pose at this point of my work is whether the application of double standards can somehow be fully eradicated from legislation.

Hypothesis II.

My hypothesis is that double standards, justifiable or not, are an inherent part of great power behavior, therefore they are something that cannot be fully wiped out of the field of international relations. One main reason for that is the fact that there are numerous different ways in which double standards can be applied, some of which often go unnoticed. Double standards have for long served as a tool for powerful states to maintain, solidify or enhance their position in cases of international conflict or legal debate, and they have more often than not proven to be highly successful. In addition, great powers genuinely feel like – as they are above smaller, lesser states - it is their right to do things that lesser actors are not allowed to do, for instance apply double standards or evade the rules and regulations of international law in other not easily perceptible ways. As long as asymmetry between nations exists in international relations, states having great power are bound to feel superior and conduct themselves accordingly.

My hypothesis concerning the relation between double standards and international law is that international legislation always has the means to come up with a well-structured, thoroughly constructed framework on how to identify and eradicate double standards from legal proceedings. However, the application of double standards will always evolve and re-appear as a means for great powers to maneuver their way out of not so favorable situations or constraints that block the assertion of their will or their other objectives similar in nature. As

long as certain states – great, global and regional powers above all – treat international law as barely more than guidance, double standards are here to stay, therefore their study is necessary.

According to the theory I present in this work, identifying and researching double standards is fundamental specifically because their presence is unavoidable. Knowing the reasons behind their use and the different ways of their application can be of great use when it comes to handling them during the legal proceedings of a bi- or multilateral conflict situation.

Chapter (2)

Literature review

2.1. Theoretical framework

2.1.1. Realism

Power is real, but it does not always prevail. The main notion of my research originates from the concept of asymmetry in international relations and the way such disparity has been shaping bi- and multilateral relations between states, creating an intense need in great powers to not just maintain, but secure their superior position, resulting in the phenomenon of the application of double standards as well as accusations related to their application.

In the core understanding of the balance of power theory, states are major actors in international affairs, and the great powers are regarded as the most important players (Shifrinson 2020). The International Relations Theory of Realism has much explored the role of power in international relations. The first and principal assumption of realism is that the nation-state (generally abbreviated to 'state') is the most significant actor in international relations. Other actors exist, of course, such as individuals and organizations, but their power is limited compared to that of the nation-state. Also, the state is a unitary actor. National interests, especially in times of war, lead the state to speak and act with one voice. Additionally, decision-makers are rational actors in the sense that rational decision-making leads to the pursuit of the national interest. According to realism, states exist within an anarchic international system in which they are ultimately dependent on their own capabilities, or power, to further their national interests (Guzzini 1998).

Here, taking actions that would make your state weak or vulnerable would not be an act of rational nature. Realism suggests that all leaders, no matter what their political stance, recognize this as they attempt to manage their state's affairs in order to survive in a competitive environment (Cozzette, 2008). Finally, states live in an anarchical context – that is, in the absence of anyone being in charge internationally. The often-used analogy of there being 'no one to call' in an international emergency helps to underline this point. Internationally, there is no clear expectation of anyone or any sort of institution 'doing something' as there is no established hierarchy. Therefore, states can ultimately only rely on

themselves in order to reach their goals in the field of international relations – the main goal according to my research being securing their international position of superiority (Mearsheimer 2013).

Realists believe that, as long as the world is divided into nation-states in an anarchic setting, national interest will remain the essence of international politics.

2.1.2. Structural realism or neorealism

In *Theory of International Politics* (1979), Kenneth Waltz modernized IR theory. His theoretical contribution was termed 'neorealism' or 'structural realism' because he emphasized the concept of structure in his explanation of the theory. It can be distinguished from the older, „more classic" theory principally by its attempt to be more explicitly theoretical, in a manner somewhat similar to economics. Neorealism is also termed "structural realism," and a few neorealist writers from time to time refer to their theories simply as "realist" to highlight the continuity between their own and older views. Its main theoretical claim is that in international politics, war is a possibility at any time. The international system is viewed as completely and eternally anarchic. While norms, laws and institutions, ideologies, and other factors are acknowledged as influencing the behavior of individual governments, neorealists typically insist that they do not in any way alter the central role that war plays in international politics (Dyson 2010). The theory purports to concentrate on the way "international structure" - by which it means primarily the distribution of capabilities, especially among the leading powers - shapes outcomes. It also sometimes treats weapons technology (i.e., who possesses nuclear weapons) as another important "systemic" property.

Neorealism can be usefully differentiated from what might be called "classical" realist theory through several ideas that it highlight, among them

(1) the claim of complete and persistent anarchy; governments as pursuing (at least in some versions of the theory) relative rather than total gains
(2) natural selection of states or governments' alleged concern (in other versions) for survival as the ultimate arbiter of wise policy choices
(3) imitation as a supplement to selection; the irrelevance of smaller states
(4) and international law and institutions as epiphenomena of the desires of great powers (they affect the behavior of nation-states, but only because great powers use them to do this) (Waltz 1979).

This specific version of realism recommends researchers to examine the characteristics of the international system, its potential flaws and inherent characteristics, traits that have significant influence in the behavior of great powers (Schweller 2016). That is exactly what I intend to do in this work – examine the nature of double standards, which I consider to be inherent traits of global and regional leading powers.

The case studies I present in the following chapters of my work focus on one of the central strategies in the management of international affairs – a concept designated 'the balance of power'. This describes a situation in which states are continuously making choices to increase their own capabilities while undermining the capabilities of others. This generates a 'balance' of sorts as – theoretically - no state is permitted to get too powerful within the international system. This balance of power system is one of the reasons why no single state has been able to become a global power and unite the world under its direct rule. Consequently, realism talks frequently about the importance of flexible alliances and flexibility in general as a way of ensuring the survival of a state.

The concepts of flexibility, flexible alliances and flexible self-positioning in international relations as a behavior of states can entail many things, most of them typical of great powers, as they always have a lot more space to move themselves towards the most ideal international position. Among others, there is the characteristic behavior of ignoring, partially ignoring or re-interpreting the rules and regulations of international law in order to secure an ideal – or at least safe - position within the global order. Therefore, applying double standards fits right into the theory of structural realism, and within that, into 'balance of power'. According to my theory, great powers do not apply double standards with the aim of rising above or becoming a sole ruling force within the international order, only with the desire of having the upper hand in a certain conflict situation or just subtly improving their international position, for instance with strengthening an alliance that appears beneficial for all actors involved. That way, 'balance of power' can be easily aligned with the concept of double standards.

2.1.3. Offensive and defensive realism

Structural realism as developed by Waltz argues that the anarchic system and the distribution of capabilities are powerful constraints and inducements which produce "sameness" in the behavior of states. For Waltz, international relations are anarchic and not hierarchical, populated by functionally similar units, and the structure of the international system or polarity varies based on the distribution of capabilities.

Derived from Waltz's structural realism, structural realist theorists can be divided into two competing versions with distinct assumptions and prescriptions of different policies: the sub-theories of offensive realism and defensive realism. The most significant difference between these two versions of realism is the role the anarchic international system takes and whether it encourages states to maximize their security or to maximize their power and influence over smaller, weaker actors.

Classical realists (such as Thucydides, E.H. Carr, Arnold Wolfers, and Hans Morgenthau) and offensive realists share the assumption that states seek to maximize their power, in other words, they have the tendency to be relentless seekers of power and influence. Specifically, for classical realists, nations expand their political interests abroad when their relative power increases. For offensive realists, the anarchic international system and the distribution of power, and not human nature, is the invisible hand that shapes and inspires all great powers to maximize power and influence despite their domestic or unit-level differences (Gilpin 1981).

Kenneth Waltz is probably the biggest inspiration for supporters of the defensive realism sub-theory. Waltz argues that in anarchy, security is the highest end. Only if survival is assured can states safely seek such other goals as tranquility, peace, profit, and power. In a response to realists who contend that states always seek to maximize their power and influence, he explains that the first concern of states is not to maximize power but to maintain their positions in the system. Defensive realists largely build their beliefs on Waltz's neorealist-based balance-of- power theory. Specifically, defensive realists start to shape their theory with the supposition that balances of power recurrently form in the international system and that periods of sustained hegemony are not durable or stable (Walt 2002).

Also, for defensive realists, maximization of power through conquest rarely pays off. The cost of expansion usually exceeds the benefits; therefore expansion is often explained by non-systemic forces or domestic and unit-level pathologies. Also, the offense–defense military balance often favors defenders and the defensive side over the offensive side. Additionally, defensive realists argue that socialization and lessons from history teach states that expansion and the pursuit of hegemony are often misguided because they provoke counterbalancing rather than bandwagoning behavior (Gilpin 1981).

Defensive realists argue that the international system above all encourages moderate behavior and wielding enough power - anything else must be explained at some other level of analysis, through another theory of IR. For defensive realists, projecting truly aggressive behavior is rare because states balance against aggressors and the balance between offense and defense generally favors the defense thereby making conquest more difficult. Therefore, great powers are more often than not fairly satisfied with the existing balance of power, thus they rarely have intentions to change it through military force, security is abundant rather than scarce, and states have little incentive to seek additional power (Walt 2002).

My assumption is that the idea of regionally or globally powerful states applying double standards can be tied into the concept of the defensive realism sub-theory. As the case studies in this work will demonstrate, great powers generally do not use double standards for power maximization, but to stabilize or slightly improve their position in a given conflict situation, be it political or even military. Double standards can be inserted into the categories of soft and also smart power – a fact suggesting that through using them, a state would not even be capable to maximize its capabilities, only to maneuver itself to a slightly better stance, for example one where its wrongful actions are not in the center of international attention anymore or one where its overall reputation has somewhat improved.

2.1.4. Constructivism

The next theory applicable to the concept of great powers using double standards is that of constructivism, which first emerged as a challenger to rationalist models of political action, especially liberalism and realism and as an important corrective to the methodological individualism and materialism that have come to dominate much of international relations. Constructivism argues that the social world is one of our making. Actors (usually powerful ones, like leaders and influential citizens) continually shape – and sometimes reshape – the very nature of international relations through their actions and interactions. Constructivism sees the world, and what we can perceive about the world, as being socially constructed. This view refers to the nature of reality and the nature of knowledge that are also called ontology and epistemology in the language of this very field of research (Wendt 1995).

Supporters of the constructivist theory go beyond the material reality by including the effect of ideas and beliefs on international politics and relations between the states of the world. This also entails that reality is always under construction, which opens the possibility of change. In other words, meanings, definitions and concepts are not set in stone but can change, take different shapes over time depending on the ideas and beliefs that actors hold and on the goals and aspirations those same actors have. This notion within constructivism is

something that can be applied to the way great powers re-interpret or partially ignore the rules and regulations of international law in order to have the best position in a conflict situation between two or multiple states.

In fact, a main concern of the theory of constructivism is states' identities and interests. Constructivists argue that states can have several distinct identities that are socially constructed through interaction with other actors. Identities are representations of an actor's understanding of who they are, which in turn signals their interests. They are important to constructivists as they argue that those different identities constitute interests and actions. For example, the identity of a small state implies a set of interests that are different from those implied by the identity of a large state. The small state is arguably more focused on its survival, whereas the large, powerful state is always going to be concerned with dominating global political, economic and military affairs. It should be remembered, though, that the actions of a state should be aligned with its identity, no matter what the situation. A state can therefore not act contrary to its identity because this will call into question the validity of the identity, including its preferences (Krasner 1983).

Even though all constructivists share the above-mentioned views and concepts, there is considerable variety within the main theory of constructivism. Conventional constructivists ask questions – such as *what causes an actor to act*. They believe that it is possible to explain the world in causal terms and are interested in discovering the relationships between actors, social norms, interests and identities. Critical constructivists, on the other hand, ask different types of questions, such as *how do actors come to believe in a certain identity*. In contrast to conventional constructivists' way of thinking, they are not interested in the effect that this identity has. Critical constructivists want instead to reconstruct an identity – that is, find out what are its component parts – which they believe are created through written or spoken communication among and between peoples. Language plays a key role for critical constructivists because it constructs, and has the ability to change, social reality (Hopf 1998).

It is possible to tie the concept of critical constructivism into the way great powers apply double standards and accuse other states of applying them. The key is national identity, something that tends to take center stage in cases where the use of double standards is present, putting rules, regulations, norms and legality in general in the background. This can especially

be true for non-Western countries, specifically because of their desire to make improvements on their international perception. Along with nationality and national image, language can also play an important role in some of the double standard cases, for instance as a tool to corroborate an accusation towards another state of using double standards.

2.1.5. Lawfare – law as a weapon of war

Other than theories of international relations, there is one specific concept that needs to be detailed in the context of double standards – the concept of lawfare. Lawfare is most often defined as the "use of law as a weapon of war". Even though some of its modern interpretations can carry a negative connotation, lawfare originally is a fairly broad, value-neutral concept, and that is the way it is going to be used in this work.

The original definition, formulated by General and Professor Charles Dunlap, describes lawfare as "a method of warfare where law is used as a means of realizing a militaryobjective (Dunlap 2015)." The expression „lawfare" was first used on attempts by prisoners at Guantánamo Bay, and by their lawyers, to challenge their torture and imprisonment in US courts. Following that, the term was applied to law-based challenges to the massive Israeli attacks on Gaza in 2008–9 and 2014, as well as to alleged attempts by Hamas to 'hijack' international law by placing weapons in civilian areas to shield them from attack. (Irani 2017).

However, the concept was fairly quickly pulled out of its „traditional" military scope, gaining the meaning that is relevant for case where great powers apply double standards. Generally speaking, lawfare is understood to mean the way or ways of using law, or exploitation of specific aspects of a legal system, to achieve tactical or strategic advantages in the context of conflict – it is necessary to emphasize here that the conflict in question does not need to be a military or strictly just military one (Kittrie 2016).

Two current definitions of lawfare are

(1) the purposeful use of law taken toward a particular adversary with the goal of achieving a particular strategic, operational, or tactical objective

(2) the purposeful use of law to bolster the legitimacy of one's own strategic, operational, or tactical objectives toward a particular adversary, or to weaken the legitimacy of a particular adversary's particular strategic, operational, or tactical objectives (Goldenziel 2020).

Before describing the way double standards and lawfare can fit together, it is essential to look at the official Chinese definition of lawfare. „Chinese lawfare" is part of „The Three Warfares", which basically serves as the basis for the East Asian country's military doctrine since 1963. The Chinese term, *falu zhan*, has been translated as lawfare or, more precisely, „war through law". Lawfare involves shaping the legal context for Chinese actions using both domestic and international law. Lawfare is intended for China to gain "legal principal superiority" over an adversary and delegitimize adversary actions. In China, lawfare is seen as a form of combat. Lawfare is a complement to traditional military operations and an instrument to formulate the environment for Chinese military and even more importantly, political actions. The main goal of Chinese lawfare is to seize the initiative with the ideal timing, thus serve as a force multiplier. Originally it was most commonly employed at the outbreak of kinetic hostilities, however, it can be used anytime in peacetime and wartime alike – in fact, nowadays it is used a lot more in a non-military context. Based loosely on the Maoist tradition, *falu zhan* assumes that law can be an instrument of politics and political warfare efforts, an effective tool to have the best outcome in case of an international conflict (Cheng 2012).

Legal Warfare is informed by several principles:

(1) protecting national interests as the highest standard,
(2) respecting the basic principles of the law,
(3) carrying out lawfare that centers upon military operations
(4) seizing standards and flexibly using them (Kittrie 2016).

That last point is probably the most important one when analyzing the connection between double standards and law as a weapon of war, with special regard to the word „flexibly". Every small motion or decision of a state actor can have great significance and can somewhat alter the global order, especially when it comes to states wielding considerable power. It would be an idealistically wonderful thing if simply abiding by all the rules and regulations of international law could ensure a powerful state's position, but of course that is not case. State actors all have their individual constraints and imperatives within the „great game" of international relations, and in order to break those constraints and fulfil those imperatives, they often need to reach for less honorable means. Flexibility when it comes to international law and law in general is natural element of great powers' characteristic

behavior. One tool that can be – and is often – utilized in a flexible way is none other than lawfare (Kittrie 2016).

How can the concept of lawfare be connected to that of double standards? Taking a look back at the three main categories of double standards can make it fairly easy to make a correlation between the two. The way great powers characteristically apply double standards can be seen as a certain type of lawfare. The ignorance, re-interpretation, free interpretation of rules and norms as well as the deliberate selection between them, choosing what to respect and what to not take into consideration – that kind of behavior can be understood as using law as a „weapon", with the aim of having the best possible position in a bi- or multilateral conflict. All that, of course, is quite far from the original concept of lawfare, but given the current broadness of its interpretation, those things can fit into the category. Furthermore, there is one type of double standard that is more lawfare-like than any of the types mentioned above: that is when a great power takes one segment or just one rule out of the rules and regulations of international law, promotes and praises it and obliges other states - usually weaker ones - to fully respect and abide by that segment or rule. To make it a double standard, the great power itself does not tend to respect that same rule, but the part where it takes international law and makes it something to be obliged – that is lawfare. When looking for double standards in great powers' behavior, one can occasionally find examples for this sort of „special" lawfare, therefore it can be states that the two sometimes go hand in hand.

2.1.6. Soft Power

Joseph Nye first introduced the term "soft power" in the late 1980s. It is now used frequently, though often incorrectly, by political leaders, writers, and scholars of international relations around the world. So what exactly is soft power? Soft power basically lies in the ability to attract and persuade. Whereas hard power – or the ability to coerce – stems above all from a country's military or economic power, soft power comes from the attractiveness of a given country's culture, political ideals, and policies.

Hard power remains crucial in a world of states trying more than anything to safeguard their independence and of non-state groups willing to turn to violence. It shapes the core of many powerful states' national strategy. Still, according to Nye, it is soft power that will help for instance prevent terrorists or other radical groupings from recruiting supporters from among the moderate majority. Also, it is none other than soft power that will help us deal with critical global issues that require multilateral cooperation among states.

A country's soft power comes primarily from three sources:

(1) its culture;

(2) its political values, such as democracy and human rights (when it upholds them);
(3) and its policies (when they are seen as legitimate because they are framed with an awareness of others' interests).
(4) A government can have significant influence over others through the example of how it behaves at home (such as by protecting a free press and the right to protest), in international institutions (such as consulting other governments and supporting multilateralism), and through its foreign policy (such as by promoting development and human rights).

Regarding the effectiveness of soft power, Nye states that seduction is always more effective than coercion, and many values like democracy, human rights, and individual opportunities are and will always stay deeply seductive. However, he also argues that soft power is a more difficult instrument for governments to appropriately use than hard power for two reasons: many of its most essential resources are outside the control of governments. Also, soft power tends to work indirectly by shaping the environment for policy, and sometimes takes years for the leadership to see the desired outcomes (Nye 2004).

It is an important fact for this work that in his work, Nye also claims that soft power does not in any way contradict the international relations theory of realism, given that it is not a form of idealism or liberalism. It is simply a form of power, one way of getting desired outcomes (Nye 2004).

The concept of soft power can be closely connected to the notion of double standard application by great powers. As soft power is meant to focus on a given nation's culture and values and with that, the use of seduction, it is inevitable than when a government uses soft power, it tends to highlight the positive and conceal the negative effects and connotations of a certain event or issue. That sort of concealment ties in strongly with the ignorance, partial ignorance or re-interpretation of certain rules in order for an ideal outcome or, what is even more substantial in terms of soft power, the presentation of an ideal national image. Therefore, when a state actor utilizes the means of soft power, double standard elements are highly likely to be detected.

2.1.7. Smart power

In international relations, the term smart power refers to the combination of hard power and soft power strategies. It is further defined by the Center for Strategic and International Studies as an approach that emphasizes the necessity of a strong military, but also invests heavily in alliances, partnerships, and institutions of all levels to expand a given

state actor's influence and establish legitimacy of that actor's actions and overall conduct (Nye 2012).

According to Nye, the use of only soft power in certain situations, i.e. ones involving terrorism can often prove ineffective. In such instances, the ideal choice can be smart power: the combination of the strategic use of diplomacy, persuasion, capacity building, and the projection of power and influence in ways that are cost-effective and have political and social legitimacy (Nye 2012).

However, even though it might seem like the perfect combination, there are still some constraints to the use of smart power, partially due to the concept being fairly new, therefore requiring further formulation. Applying smart power today can have great difficulties, since it operates in an environment of asymmetric threats, ranging from cybersecurity to terrorism. These threats are present in an international environment of dynamic nature, which adds yet another challenge to the application of smart power strategy. Also, the current need for financial resources presents another obstacle to the implementation of smart power, as for its proper and effective use, spending on the civilian instruments of national security - diplomacy, strategic communications, foreign assistance, civic action, and economic reconstruction and development – is indispensable.

In situations where smart power is being used, it is also likely for double standard elements to be detected. In such events, is in fact the soft power „ingredient" of smart power that inspires the emergence of double standards.

Chapter (3)

Case study I. – The South China Sea Dispute

3.1. Introduction

The South China Sea dispute is one of the most relevant territorial conflicts of the 21st century – due partially to its multilateral nature, as the importance of the territory has antagonized multiple claimants, it is probably also the case surrounded by the most amount of controversy.

The South China Sea is a region of considerable geostrategic importance, as about a third of all the world's maritime trade goes through it, carrying over US$3 trillion of cargo each year. Half of all oil and gas tankers from the Middle East sail into it on their way to China, Japan, the US and several other countries. The location of the Sea also makes it militarily strategic, valuable for national security. Disputes among nations are typically focused on land features in the South China Sea. Specifically, they dispute who has the control over the waters around them. The South China Sea itself is rich in fish stock, which is crucial for the food security of the entire region of Southeast Asia. The region has proven oil reserves of around 1.2 km^3 (7.7 billion barrels), with an estimate of 4.5 km^3 (28 billion barrels) in total. Natural gas reserves are estimated to total around 7,500 km^3 (266 trillion cubic feet). These reserves are an aggravating factor in maritime and territorial disputes (Storey 2017).

There are two major clusters of land features in the Sea. The Paracels, also known as the Xisha islands or the Hoang Sa archipelago, consist mainly of small coral islands and reefs. Reefs are chains of rocks or coral at or near the surface of the water. The Spratlys, also known as the Nansha islands, have some islands but are mostly reefs, rocks, cays and submerged atolls that may not even appear above water at high tide. Six nations actively claim parts or all of the South China Sea and its land features.

These disputes include:

(a) Paracels: China, Taiwan, Vietnam

(b) Spratlys: China, Taiwan, Vietnam, Brunei, Malaysia, Philippines

(c) Almost all the South China Sea, its land features, and resources: China

Figure (1)

The South China Sea islands and their claimant states

Five nations smaller than China claim parts of the South China Sea's land features and surrounding waters, with Vietnam and the Philippines are the most active claimants. Vietnam bases its current claims on 17th century maps. Troops from France's colony of Vietnam occupied some Paracel islands in the 1920s. Following the Vietnam War, Vietnam occupied the western Paracels and annexed certain some of the land features pertaining to the Spratly group. In 2009, Vietnam declared sovereignty over both the Paracel and Spratly islands (Huang & Billo 2014).

After gaining independence from the United States in 1946, the Philippines took control of several Spratly land features and later, it declared the entire zone of the Spratlys its territory. The Philippines also claimed sovereignty over Scarborough Shoal. This is a minor feature about 150 miles from the Philippines. However, it is highly important for its strategic location near the Philippines and because it provides easy and swift access to key ports and major shipping routes.

The Chinese claim of the region is a historical one: China claims it already occupied South China Sea islands in ancient times. In 1947, the Republic of China published a map with nine dashes. When connected, the dashes form a U that encloses most part of territory we call the South China Sea. However, the Republic of China did not clearly explain this "nine dash line. In 1949, Chinese communists defeated the Republic of China in a civil war and drove the anticommunist Chinese to the large offshore island of Taiwan, after which the communist Peoples Republic of China took over the mainland. It also adopted the map with the "nine dash line." This is how the document is referred to today, although China added a tenth dash in 2013 to include Taiwan. The „nine dash line" map is essentially the basis for China's current claim of the entirety of the South China Sea (Storey 2017).

In the 1970s, China began to assert control over different islands, reefs, and waters in the South China Sea, often by use of force. Through a series of clashes, it successfully drove out Vietnamese troops from the western Paracels in 1974. By the late 1980s, China controlled all of the territory of the Paracels. China immediately started building oil-drilling rigs in waters near the Paracels that Vietnam still held its claim on, which provoked frequent protests and riots against Chinese conduct in Vietnam. It is necessary to note here that as China considers Taiwan as its own under the „One China principle", Taiwan's claims here are the same as China's, the two are not rivals.

In 2009, China presented the "nine dash line" for the first time at an international conference, making this assertion: China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters, as well as the seabed and subsoil thereof. In 2012, China asserted its "nine dash line" by trying to take Scarborough Shoal as its territory, even though the Philippines had claimed it earlier. A standoff resulted, following which China remained in control but allowed Filipino fishermen to fish there (Huang & Billo 2014).

Figure (2) – China's „nine dash line"

In 2013, following the Scarborough Shoal standoff, the Philippines appealed to a special arbitration court authorized by the Convention on the Law of the Sea. The South China Sea Arbitration was conducted between the Republic of the Philippines and the People's Republic of China by the Permanent Court of Arbitration (PCA), under the 1982 United Nations Convention on the Law of the Sea (UNCLOS). The arbitration dealt with the disputes between the two parties – China and the Philippines - concerning the legal basis of maritime rights and entitlements, the status of certain geographic features, and the lawfulness of certain actions taken by China in the South China Sea; in particular, the following four issues, as it was raised by Philippines:

(1) To resolve a dispute between the parties regarding the source of maritime rights and entitlements in the South China Sea;

(2) To resolve a dispute between the parties concerning the entitlements to maritime zones that would be generated under the Convention by Scarborough Shoal and certain maritime features in the Spratly Islands that are claimed by both the parties;

(3) To resolve a series of disputes concerning the lawfulness of China's actions in the South China Sea, vis-à-vis interfering with Philippine's rights, failing to protect and

preserve the marine environment, and inflicting harm on the marine environment (through land reclamation and construction of artificial islands);

(4) To find that China has aggravated and extended the disputes between the Parties by restricting access to a detachment of Philippines Marines stationed at Second Thomas Shoal *(SCS Arbitration).*

While China and Philippines are both parties to the UNCLOS, China specifically made a declaration back in 2006 in order to exclude maritime boundary delimitation from its acceptance of compulsory dispute settlement. Additionally, China has rejected the Philippines' decision to take the matter to arbitration and has openly chosen neither to agree with the decision of the Tribunal nor to participate in any phase of the proceedings. China did not even appoint an arbitrator, and that was eventually done on behalf of the PRC by the Japanese president of the ITLOS (International Tribunal of the Law of the Sea).

The Tribunal, on its end, accepted these factors and has purported to not deal with delimiting maritime boundaries. Furthermore, the Tribunal did not bar the proceedings, on the basis of Article 9 of Annex VII of UNCLOS. In addition, the Tribunal also noted that despite China's absence from the proceedings, since it is a party to the UNCLOS, the decision of the Tribunal would, in fact, be binding upon it, pursuant to Article 296 (1) and Article 11 of Annex VII (UNCLOS).

China's Foreign Ministry further stated its position with regard to the proceedings by publishing a Position Paper in 2014. It claimed that the Tribunal lacked jurisdiction over the matter because of the following reasons:

(1) The essence of the subject-matter of the arbitration is the territorial sovereignty over the relevant maritime features in the South China Sea;

(2) China and the Philippines have agreed, through bilateral instruments and the Declaration on the Conduct of Parties in the South China Sea, to settle their relevant disputes through negotiations;

(3) Philippines' disputes would constitute an integral part of maritime delimitation between the two countries.

(*United Nations Convention on the Law of the Sea.*
https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf)

The two key rulings went badly for China:

(1) The court decided that six of the disputed land features, including Scarborough Shoal, are "rocks" that appear above water at high tide. Thus, they qualify for 14-mile territorial seas, but not the 230 mile exclusive economic zones Five land features, including Mischief Reef, appear above water only at low tide in their natural state. Therefore, they do not qualify for either territorial seas or EEZs.

(2) The court also ruled that because the Convention of the Law of the Sea does not recognize historical claims to oceans and seas, China's "nine dash line" is "without lawful effect."

Since none of China's disputed land features qualified for an EEZ and only some for a much smaller territorial sea, its legal control over most of the disputed waters was nearly obliterated. Even more explosive was the ruling that China's "nine dash line" was illegal under the Convention on the Law of the Sea. The Philippines won the decision, but the Convention provides no way to enforce it.

3.2. Identifying the double standard

Among the active participants of the South China Sea dispute, the People's Republic of China wields the most power regarding all aspects of finance, economy and politics.

The role of implementing rules and regulations and making sure that each and every state adheres to them is something that the leading powers of certain regions – regional great powers - tend to take on. That by itself may appear evident and above all beneficial to the amicability of relations between states. However, situations may instantly become more ambiguous if one counts with the fact that the country wielding the most power in the region – thus in given conflict able to act the part of the main peacekeeper - may not always subject itself to the rules it guards. Here we are talking about one of the main categories of double standards projected by great powers, one that is, contrary to some other types, fairly easy to identify in conflict situations, but also one that makes the resolution of such a conflict not just problematic, but nearly impossible.

As I have already introduced in my work, the above described behavior is far from being new or uncommon among states in regional leading positions, which is in this case the People's Republic of China (Ayoob 2002).

The elements of this contradictory behavior consists of can be effectively identified by tracing concrete events in the course of the disputes, with special regard to specific proceedings of international law and the powerful state's (in this case China's) immediate response to them as well as their following attitude and actions. My assumption is that by

pointing out and describing the controversial aspects of China's behavior in the South China Sea dispute, a certain shifting, maneuvering conduct characteristic of the use of double standards could be distinguished.

Is the People's Republic of China the kind of hegemon that would settle for the right amount of power? Undoubtedly, the Permanent Court of Arbitration Tribunal's judgment in the case of Philippines v. China was as grave of a humiliation for the People's Republic of China as it was a clear win for the Philippines (Rosiyidin 2019).

At the very beginning of the proceedings, as it was already highlighted, China declared that they would not participate in the arbitration, explaining their refusal more elaborately in a position paper (white paper) later, in December 2014. In 2016, Beijing openly referred to the ruling in favor of the Philippines' appeals as „null and void". Chinese reasoning was that the tribunal lacked jurisdiction and the arbitration itself was completely illegitimate, as the Philippines should have first chosen the option to settle the disputes through exclusively bilateral negotiation (Rosyidin 2019, Taffer 2015).

Such non-compliance is something that could be expected from the People's Republic of China as the leading power of the region in question. After all, a state may choose not to abide by the rules and regulations of international law, especially in a case where those do not appear to agree in any way with their claims and needs. The Chinese statements' tone might be assertive, yet it does not deviate from the East Asian superpower's overall policy of handling disputes. On the contrary, it is exactly the conduct one can expect from China in the case of such a dispute: being ignorant of rules, regulations and other participants, only keeping in mind its own objectives, no matter how much they go against the norms of conflict resolution by international legislation.

However, as it often happens in a situation of such extent of non-abiding by rules, complicating factors are likely to arise. In this case, the main issue is closely related to the convention that the Philippines' arbitration lawsuit and the court's eventual ruling was based on. The People's Republic of China took part in negotiating UNCLOS from 1973 to 1982 and was among the signing and ratifying states in 1996. Although there has been some discussion about withdrawing from the convention, China, even though it had the opportunity, has not chosen to take that step (Raditio 2015).

The fact of the Chinese ratification still being valid definitely makes the situation inconvenient. One may pose the question why the People's Republic of China even agreed to officially accept the contents of this document it there are significant elements that it does not even partially agree with. The territorial claims based on the nine-dash line were already

present during the negotiations and certain provisions of UNCLOS go straight against those very claims (Ayoob 2002).

An explanation for that lies in history. In the early 70s, when the negotiations of UNCLOS began, China, still in the throes of the Cultural Revolution (1966-1976), was in need of putting ideology before interest. Participating in the negotiations and later ratifying the convention were actions that supported the guidelines given by the former leadership: protect the national interest, be anti-hegemonic and support the Third World. There is one particular step China took that demonstrates the willingness to comply with those guidelines: the East Asian state supported a group of developing countries from Latin America and Africa (Mauritius, Algeria, Colombia, Venezuela) in their demand for a more extensive, 50-200 *nautical mile* (nm) territorial sea under full national sovereignty, against the United States and the USSR, two hegemons with intentions to limit weaker states' maritime rights. Even though internal discussions in China were constant during the negotiations of UNCLOS, especially in the final stages of the process, the need for acceptance as a freshly seated member of the UN (15 November 1971, as People's Republic of China) was constantly present. China standing with mentioned leading developing countries in this issue is particularly interesting, as some of the Chinese officials taking part in the UNCLOS negotiations by that time had already realized that the requested 200 nm territorial sea would not necessarily be of Chinese national interest (Rosyidin 2019).

At the beginning of or at any point during the legal proceedings of the Philippines' arbitration lawsuit, China could have fully withdrawn from the convention in a quick and unproblematic way. It appears, however, that keeping the ideology of a just legal process going on between two nations and, even more importantly, maintaining the role of a valuable, contributing member of international organizations such as the UN still holds more (long-term) significance than the option to withdraw and thus become free of UNCLOS regulations, with that probably also be able to avoid the course of legal proceedings (Weissmann 2010).

Certainly, the choice of withdrawal would not have had any immediate threat upon the regional (and global) position of the People's Republic of China. Nevertheless, it would have turned its relations more uncertain with the group of states negotiating and ratifying states (overall 157 signatories). Although non-compliance in the South China Sea Arbitration and declaring the ruling as being „null and void" is not an amicable or contributing move either, it is also not an openly assertive one. In the official sense, China still remains a signatory of UNCLOS, more than that, a state that has at several points used some of the convention's contents to provide aid and support less powerful countries' claims. It is only this one case

Beijing does not abide by and holds its historical claims (based on the *nine-dash line*) unwaveringly. This one event of China choosing not to abide by the rules and regulations of UNCLOS is enough to produce a textbook double standard, one that fits two of the three main categories identified in the introductory chapter:

(1) The actor (in an international conflict situation) fully or partially ignores the rules and regulations of international law (that are applicable to the conflict in question), yet expects other actors to wholly comply with those same rules and regulations.

(2) The actor promotes or publicizes international norms, rules, regulations or values while itself generally does not (fully) comply with those same norms, rules, regulations or values (Archer, Bailes and Wivel, 2014).

The result of the double standard used by China is a paradoxical stance that makes the South China Sea dispute even more complex. The problematic points lie in the nature of the double standard itself: the state wielding the most power – in this case the People's Republic of China – has actively participated in the negotiation and has officially signed the document on which the eventual resolution of the dispute would be based on, yet refuses to comply with its contents in the same territorial dispute where the outcome would not match their national interests. It can be stated that China picks and chooses the rules to respect as well as the timing of its decisions according to its principal objectives related to the South China Sea dispute, without any regard to logic or international law.

3.3. Further contradictory elements

In order to identify further ambiguities and double standard elements in the progress of the South China Sea dispute, one has to look no further than another document of high importance, one that is meant to accelerate the course of reaching an agreement in the issue. The Association of Southeast Asian Nations (ASEAN) first endorsed the idea of a Code of Conduct (COC) for the maritime area of the South China Sea in 1996. Negotiations of the possible contents of it, however, proved to be inconclusive. Thus, in 2002, the People's Republic of China and ASEAN settled for a (nonbinding) Declaration on the Conduct of Parties in the South China Sea (DOC). The very first draft of guidelines for the implementation of DOC was drawn up in 2005, but not adopted for a few years. Despite the promising initiatives, tensions on the South China Sea were present throughout the 2000s and have escalated steadily since 2009, confirming the need for a powerful official agreement between the claimant states.

Consequently, following more negotiations, in July 2011, the set of preliminary guidelines drawn up in 2005 was finally adopted. In August 2018, after consultations on a potential COC, an agreement on a single draft negotiating text for the COC was officially announced (Thayer 2013).

The 19-page draft is structured into three sections: preambular provisions, general provisions and final clauses. It does not define the exact geographic scope of the South China Sea. A large part of the draft is devoted to the prevention, management, and settlement of disputes in the South China Sea among the parties. However, it does not contain any specific reference to the mechanisms that could lead to a successful resolution. A proposal made by Vietnam states that the settlement of the dispute should be conducted through friendly negotiations, enquiry, mediation, conciliation and other means that the participants are able to agree on. Vietnam concluded that nothing in the COC shall prevent the peaceful settlement of disputes under Article 33(1) of the Charter of the United Nations. The article lists *other means* such as arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means decided by the parties concerned (Archer, Bailes and Wivel, 2014).

In the second section of the draft, the Philippines, Indonesia and Singapore, Cambodia and China, respectively, propose four separate options on the duty to cooperate. The People's Republic of China's contribution is partly identical to the other options but the detail it provides on six areas of cooperation is exceptional. The areas are the following: conservation of fishing resources, maritime law and security cooperation, navigation and search and rescue, maritime scientific research and environmental protection, marine economy including aquaculture and oil and gas cooperation, and marine culture. Most significantly, China's suggestion on cooperation on the marine economy states that cooperation is to be carried out by the littoral states and shall not be conducted in cooperation with companies from countries outside the region (Thayer 2013).

In a sub-section of the draft headed *Self-restraint/Promotion,* China suggests that military activities in the region shall be conducive to enhancing mutual trust. Beijing also calls for exchanges between defense and military forces as well as undertaking joint military exercises among China and member states of ASEAN on a regular basis. Interestingly, China and the Philippines agreeingly inserted point six that calls for the just and humane treatment of all persons who are either in danger or in distress in the South China Sea (Kang 2012).

The draft certainly takes on several notable requirements for managing the tension surrounding the current dispute and possibly for achieving and keeping a sustainable level of peace between the states of the region. So far, it truly does appear a promising document, one

that could resolve several small disputes within the "great conflict". However, would the COC have the necessary impact in action?

The process, agreed on by all ASEAN member states and the People's Republic of China, is a well-made, carefully constructed tool to remove any triggers of the conflict rather than a mechanism designed for the resolution of the dispute. Most points formulated in the text are rather vague and would serve for not much more than the implementation of a mostly peaceful *status quo* in the region. Thus, China participating in the negotiations of such a co-operative should have no influence on its position in any legal proceedings, present or future. Still, in nature, it is contradictive enough from the part of China to actively participate in the makings of the COC but to be unwilling to comply with the arbitration. The pattern is notably similar to that of Chinese attitude towards UNCLOS: amicable contribution in potentially feasible official ways to resolve the conflict but non-acceptance of the legal verdict that would provide a way to have a conclusion. Again, a double standard is identified in this case, one that now appears "typically Chinese" – that of picking and choosing what rules to respect and what to ignore, all according to the regional objectives (Rosiyidin 2019).

Certainly, differences between the two incidents can be observed. The first notable one is that the contents of which are detailed above is merely a draft, the consultations for the COC have yet to be concluded, the document itself announced and ratified. If the process continues at the pace it has been moving forward so far, it can take several years until the COC officially comes into action. This, again, fits well with the strategy of retardation – waiting for the best possible moment to assert its will - China seems to have adopted for this specific situation of conflict (Pedrozo 2021).

Second, the draft includes not only the states holding territorial claims in the South China Sea dispute, but all members of ASEAN. Thus, it is not ideal for negotiating the management of resources in areas where the participant states might have overlapping claims. A truly effective, fully coherent COC would include additional negotiations among the claimants on some of the potential triggers for conflict in which the observing (non-claimant) ASEAN member states have no direct stake. Furthermore, a Code of Conduct is not exclusively meant for dispute management and stability building in the South China Sea, but it should certainly emphasize freedom of navigation and human security of the large fishery communities in littoral ASEAN countries. Thus, in an ideal scenario, besides the existing international law and norms, the Code of Unplanned Encounters at Sea should be an essential part of the Code of Conduct (Pedrozo 2021).

3.4. Agreeing on the Code of Conduct?

In November 2018, an agreement was reached to finalize the Code of Conduct within three years, starting in 2019. A carefully negotiated, thoroughly worded COC – including the additional agreements between claimant states - would hold the possibility to allow participants to adjust their positions without violating any element of domestic or international law. However, negotiation of the COC has proven increasingly difficult, yielding no significant breakthrough so far. Among the factors hindering the finalization, there is the undefined geographic scope of the South China Sea as well as disagreement among the claimants over dispute settlement and conflict management.

Certainly, some elements of the draft are ambitious and promising, yet taking all the differences among the negotiating parties into account, a COC in its current form would prove to be ineffective due to the vagueness of certain points, the lack of precise definitions of some maritime features and many other missing elements. Furthermore, its legal status remains undecided, as the draft does not include any reference to the COC as an official treaty under international law. In such a form, the COC is nothing more than simple guidance for overall conduct in the region, something that can be invoked by one of the participant nations – China a lot more likely than others – when it feels like it would be beneficial for a certain regional goal. All in all, it is a document rather helpful for applying a few more double standards (Pedrozo 2021).

What does the People's Republic of China expect from the Code of Conduct? The currently ongoing, apparently prolonged negotiation period for a final and official COC benefits China for multiple reasons.

While the talks have been going on for a while now with only a few points securely agreed on and further conflicting views appearing, Beijing has been establishing a so-called *new status quo* militarizing its claimed and occupied maritime features, intending to normalize its control in the disputed waters. A stable, sustainable status quo seems to be fitting well with China's current stance as well as their future objectives.

Here, a perceptible similarity with the UNCLOS situation must be noted. China, as an active participant of the COC negotiations, has recently appeared willing to reach an agreement that would provide resolution for the territorial disputes. However, at the same time, Beijing has stated that they would refuse to join or ratify a COC of binding quality, one that could legally challenge Chinese claims. That leaves the negotiators a promisingly worded yet ineffective draft with conflicting elements. Again, this sort of contradictive attitude allows China to avoid open conflict with any of the participants as well as any obligation to enter an

agreement that would risk their claims in the area. Also, with the artificial island building and militarization going on, China could be able to redefine the geographic scope of the disputed areas and along with that, the scope of disputed areas in favor of their geopolitical interests and aims (Rosyidin 2019).

Consensus between ASEAN members is certainly not strong enough regarding this specific issue. Although there is a perception that consensus is key for ASEAN to address challenges in conflict situations such as the South China Sea, a narrow understanding of individual members' national interests has undoubtedly constrained attempts at developing firm cooperation in the region. Further, member states that don't have any claims in the South China Sea engage China with fewer limitations. Sometimes, these linkages can inhibit ASEAN activities.

The current decision-making process operates in a simple way: if any one out of the 10 ASEAN member states objects to a proposal, that is enough to overrule the others. This kind of process has been complicating and delaying final security decisions ever since its implementation. That is exactly what happened back in July 2012, when a joint ASEAN Foreign Minsters' Communiqué failed to be issued due to the fact that Cambodia, then the ASEAN chair and a close economic partner to China, sought to minimize the internationalization of the South China Sea dispute, in hopes of keeping optimal relations with Beijing (Thayer 2010).

The ambiguities can be observed in both cases: China's attitude towards UNCLOS (along with that, the South China Sea Arbitration) and the Code of Conduct. Active participation in the negotiation process but straightforward non-compliance with some part of the contents. In the meantime, assertive presence and activities in the region, resulting in frequent minor clashes, tension and constant open resentment from the US and from active participants of the conflict as well as from regional observer states, yet none that would seriously threaten the current *status quo*. As of now, Chinese strategy, based on contradictive actions and retardation, seems to be efficient (Pedrozo 2021).

Of course, politics based on a pattern of ambiguities can rarely be sustained for a long period of time. However, as long as it is in no participant's best interest to wage war against the People's Republic of China, the East Asian superpower can await – and build towards - a better setting of the conflict, one in which even an eventual legal process may have a more beneficial outcome for them (Li 2010).

'Balance of power' theory can be applied on what China has been doing in throughout the South China Sea dispute. Balance of power, a concept already explained in the

introductory chapter of this work, describes a situation in which states are continuously making choices to increase their own capabilities while undermining the capabilities of others. This in consequence creates a 'balance' of sorts as – theoretically - no state is permitted to get too powerful within the international system (Shifrinson 2020). This balance of power system is one of the principal reasons why no single state has been able to become a global power and unite the world under its direct rule. As a result, the realism theory of international relations talks frequently about the importance of flexible alliances and flexibility in general as a way of ensuring the survival of a state (Cozzette 2008). China's goal here is not to overpower the smaller states involved in the conflict, but to secure the best position possible and come out gaining something but at the same time, keeping its bilateral alliances within the region, as stable economic and security ties with as many countries as possible are just as much a key to China's survival as a great power as asserting its will and claims.

On many occasions, both ASEAN and China officials have stated that it is in their national interest to finalize a COC as soon as possible, however, it is not only those two parties that have urged the finalization. Most recently, the ASEAN's joint vision statement with the United States reiterated the commitment of the partnership in addressing issues such as the COVID-19 recovery, economic connectivity, technological innovation, and climate change. Promoting maritime security and cooperation was also among its top priorities, specifically the importance of finalizing and implementing the South China Sea Code of Conduct. The following statements demonstrate that there is willingness not only within ASEAN, but from a greatly powerful outside party, one that has countering China in the Indo-Pacific region on top of its strategic and geopolitical agenda.

11. We recognise the benefits of having the South China Sea as a sea of peace, stability, and prosperity. We emphasise the importance of practical measures that could reduce tensions and the risk of accidents, misunderstandings, and miscalculation. We stressed the importance of undertaking confidence building and preventive measures to enhance, among others, trust and confidence amongst parties. We further reaffirmed the need to pursue peaceful resolution of disputes in accordance with universally recognized principles of international law, including the 1982 UNCLOS.

12. We underscored the importance of the full and effective implementation of the 2002 Declaration on the Conduct of Parties in the South China Sea (DOC) in its entirety. We emphasized the need to maintain and promote an environment conducive to the Code of Conduct in the South China Sea (COC) negotiations. We welcome further progress towards

the early conclusion of an effective and substantive COC consistent with international law, including the 1982 UNCLOS.
(ASEAN-U.S. Special Summit, 2022, *Joint Vision Statement* https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/13/asean-u-s-special-summit-2022-joint-vision-statement/)

Despite the US' constant push on ASEAN to finalize the COC, the outcome will greatly depend on the strength of the consensus between ASEAN states. If the Code of Conduct – or any similar agreement in the future – is negotiated by all members, perfect accord cannot be expected, taking into account the mere fact that claimant states and passive observers do not have the same interests in the region. Furthermore, it always needs to be remembered that some of the claimants have solid political and economic ties to the People's Republic of China, which definitely may alter their stance in future discussions.

One thing is certain in this situation: China, maneuvering in a smart way, applying the balance of power, has placed itself into a situation which, despite promises and deadlines, can be drawn out for long years. Especially now, when powerful states of the world have had bigger concerns like the COVID-19 pandemic, the Russia-Ukraine conflict and all the economic and financial consequences that follow, a *status quo* is the best place the East Asian country can position itself – and that *status quo* was achieved mainly by no other strategy than by utilizing double standards.

3.3. Summary – the double standard and contradictions

By having signed and also having chosen to officially stay behind UNCLOS, China wants to maintain the appearance of a state actor that - in theory - respects the rules and regulations of international law. However, as by far the most influential power in the dispute, it chooses to fully ignore the document when its contents do not serve its national interests, projecting clear double standards.

By stating that the finalization of the Code of Conduct is its national interest and participating in the negotiations, China aims at maintaining the appearance of a law-abiding state actor that wants peace and order in the Indo-Pacific region. However, by maintaining close alliances with some of the ASEAN nations and antagonizing others, it creates discord within the alliance, by that, protracting a unanimous decision on the COC. Those actions clearly contradict each other, but both serve China's current national interests in the region.

Chapter (4)

Language loopholes

4.1. Introduction

In order to be able to fully and thoroughly understand what it means to be a great power, what the individual imperatives are for countries in that category and why they choose to turn to controversial strategies to ensure their survival, sometimes it is necessary to look at issues where the focus is not on relations between states, but what the "nation-ness" of one specific state consists of. History, traditions, national way of thinking, language – the theories of nationalism and orientalism introduced in the theoretical chapter of my work highlight the special importance of those aspects when it comes to analyzing and understanding a great power and its reasons for a specific conduct.

In this chapter, an unusual sort of double standard will be demonstrated, one based on national language and history intertwined with the rules, norms and regulations of international law. Through this unique example, one that is closely related to the South China Sea dispute and its legal implications discussed previously, I intend to show the way Chinese conduct and attitude towards international law has been shaped recently.

4.2. Law and language

International law is a system of rules and norms generally accepted by the nations of the world. Although its origins can be traced back to ancient Mesopotamia, Egypt, India, and China in addition to the archaic Greek and Roman empires, there is no doubt that the fundamentals of what is now known as modern international law in were created in the West, by Western scholars (Fassbender 2012).

According to Article 38 of the Statute of the International Court of Justice, the governing sources of international law are international conventions, international customs and general principles of law recognized by civilized nations Art. 38 (d) mentions "judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law." (*Statute of the International Court of Justice* https://www.icj-cij.org/en/statute).

Given that the elements listed above provide a continuous opportunity to shape the systemof international law, it would not be necessary for the foundations laid down mainly by Europeans in Europe to be hindering for any nation in the world. Nevertheless, the legal

history of non-Western cultures, and consequently their current relationship to law, at several points differs significantly from that of the states of the said Western region. An extremely important cause of this discrepancy is certainly the language difference.

Starting from the fact that language structure and national thinking are two mutually transforming factors, my theory is that the differences between languages, and even more so between language families, play a significant role in the conflicts of international law between nations.

4.2.1. Historical overview

Among the scholars who have contributed to the modern international legal system over the centuries are the Italians (Baldus de Ubaldis, Alberico Gentili), the Spaniards (Francisco de Vitoria, Francisco Suárez), the Dutch (Hugo von Grotius, Cornelis van Bynkershoek), the Germans (Samuel von Puf Christian Wolff) and the English (Richard Zouche). These scholars conducted their dissertations and studies in their mother tongues, in the former language of international communication (literature and law) Latin.

Starting from the 17th century, studies were written in French, which was already becoming a recognized world language for diplomacy. It is worth mentioning here that the French language was intertwined with laws and their application much earlier than the 1600s. The dialect called *droit français*, based on the Anglo-Norman language but later incorporating more and more Parisian French elements, dates back to the 11th century. It has been used as a legal language in English courts since the 16th century. Some of the legal terms known in modern English are the legacy of the *droit français,* many of them, due to the neo-Latin nature of French language, of Latin origin (Halpérin 2020). Given the former complete dominance of Latin as an international language of communication, it should not be surprising that many of the official terms of English and French used today in international law are of Latin origin.

This "inwardness" based on the Latin language was perfectly common in medieval Europe, and it has characterized all other major disciplines besides the law. But what happens to linguistic unity when law gains an international tract and seeks to operate with universality across states and regions?

4.3. The linguistic system of international courts

How do the complex relationships between law and language develop in the context of the functioning of international courts? The staff of these institutions is made up of native speakers from many different countries, who naturally have different professional

backgrounds and distinct legal traditions. Judges and other court staff increase this diversity by bringing the different languages they speak into their work environment. This simple fact distinguishes the international justice system from the national ones and has significant implications for the work performance of international courts.

The role of languages in the functioning of international courts can be divided into three distinct levels:

(1) The internal level, where oral and written communication must take place regularly and effectively between judges and those with whom they work on a daily basis.
(2) The level of communication of the court with the parties before it, both live and in writing.
(3) Level of communication with the general public - they should be informed about significant aspects of their work, including issuing arrest warrants and indictments and sentencing (Gamble 1993).

The two official languages (in other words, the working languages) of international courts are English and French. This is despite the fact that the UN has a total of six official languages and, accordingly, multilateral treaties concluded under the auspices of the United Nations are being drafted in all six languages. The parties to the court proceedings may agree on which of the two languages is to be used in the proceedings, in which case the judgment will be delivered in the same language. In the absence of an agreement, the parties may present their case in the language of their choice during the proceedings, but the judgment will be delivered in English and French. In the latter case, the court must also decide which of the two texts of the order, written in two different languages, takes precedence. Upon special request, the court shall allow any of the participating parties to use any language other than English and French (Mowbray 2013).

The existence of the latter possibility would suggest that the linguistic differences in international court proceedings can be bridged by a translation of adequate quality and efficiency. In an international and multilingual legal system, translation and interpretation will always be needed. In this way, translators and interpreters play a key role in the work of international courts, yet these tools create their own sets of problems. It is a significant difficulty for many judges to translate different legal terms from “just” English to French. In fundamentally complex court cases, the “semantic shift” from one language structure to another is particularly problematic.

There is no doubt that the work of translators requires outstanding talent and dedication, and translators can play a more important role in creating and shaping legal knowledge than is generally acknowledged. However, there are situations where even the best translation does not completely eliminate differences in interpretation.

4.4. Linguistic aspects of the Arbitration

The 2016 judgment is based on the United Nations Convention on the Law of the Sea (UNCLOS). Its English text, which entered into force in 1992, discusses in detail, among other things, the delimitation and components of maritime areas, in an attempt to clarify their affiliation and thus resolve legal conflicts. The text of the Convention on the Law of the Sea has been commented on and criticized by a number of international legal and geopolitical experts since the sentencing. The commentary below points to some differences in interpretation due to linguistic differences (*The South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China).* https://pca-cpa.org/en/cases/7/).

Article 121 (2) of the United Nations Convention on the Law of the Sea (UNCLOS) states that "the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf shall constitute territorial property of a State within the meaning of that convention." This statement is of great importance to islands in defining maritime areas. However, paragraph 3 of the same article provides for the following exception: "rocks which are not capable of sustaining human or economic life on their own may not have their own exclusive economic zone or continental shelf." These rocks can only have the right to own a territorial sea and an adjacent zone (*United Nations Convention on the Law of the Sea (UNCLOS).* https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

The question rightly arises here: what exactly does the word *rock* in the original text mean? What is the official definition that clarifies which marine elements fall into this category, so to which the above clause applies?

Further clarification of the term in relation to the contrast between the islands of the South China Sea was first expressed in the text of the arbitration award published on 12 July 2016. In that text, the arbitral tribunal complains that the United Nations Convention on the Law of the Sea does not deal with the material constituting the rock in question or with any other defining characteristics. In addition, the judgment criticizes the Convention for applying the words rock and island alternately to the same sea element, which could be particularly confusing.

The interpretation may be further complicated by the French version of the United Nations Convention on the Law of the Sea, in which two different words appear corresponding to the rock term in the English version: *roche* and *rocher*. The word *roche* is defined in the Académie Française's interpretive dictionary as follows: 'it may consist of aggregates of minerals and, in some cases, of organic matter. These materials may vary in hardness, including soft clays.' *(Dictionnaire de l'Académie française (Littérature Française) (French Edition) – Tome 3, Maq – Quo.* Académie Francaise, 2011.)

The Oxford English Dictionary gives the different definitions of both French words as meanings of the word rock. Correcting the arbitration's objection that it would have been necessary to mention in the English wording of the Convention on the Law exactly what meaning the word rock has in different contexts. (*Oxford Dictionary of English (Oxford Dictionary Of English Third Edition).* Oxford University Press, 2010).

It can be seen that there may already be differences between the word interpretations of two languages with two similar structures but different roots, which interfere with the clarity of the legal text. However, what happens if a country whose official language is fundamentally different from that of any European country comes to the fore in the debate in question?

> The People's Republic of China has indicated at the outset of its proceedings before the Philippines that it does not wish to take part in the formal international debate and has stated from the beginning that it will not accept the court's ruling. China's argument was that it would only be legal and necessary to settle the conflict bilaterally with the Philippines. However, China did not remain completely passive: in the form of open comments, Beijing objected to many elements of the procedure. Perhaps one of the most interesting such objection was that the jury was dominated by judges of predominantly Western origin, while a fully East Asian dispute would also need to be handed over, at least in part, to those from that exact region. Here, the People's Republic of China does not refer specifically to linguistic differences, but since my theory is that national and regional thinking are closely linked to the roots and structure of the language, differences in this regard also contribute to the objection of Eastern superpower (*Republic of the Philippines v. The People's Republic of China, Award on Jurisdiction and Admissibility (Perm. CT. Arb.), China's Official Position Paper, 2017).*

Returning to the term "rock" discussed above, the word in the Chinese version of the UN Convention on the Law of the Sea is 礁岩 (pinyin: jiāo yán). The first character, 礁 found

in the interpretive dictionary, means “a steep, high cliff, cliff on the shore or in the sea”. The second, 岩, is “hard stone, rock, mass of mineral stone” (Xīnhuá Zìdiǎn, 2011).

It should be noted here that in Mandarin Chinese, there are many expressions made up of two Chinese characters (汉字, pinyin: hàn zì) in which those two characters mean nearly the same, but at least something very similar. In these cases, it is appropriate to use either only one or only the other punctuation as a synonym within a text - this is often done simply to avoid complete repetition. In this way, both the 礁 and 岩 characters alone are used for describing the same marine element. Although the definitions of the two characters are indeed very similar, one contains information about the material and texture of the marine element, while the other does not.

Looking only at the English, French and Mandarin Chinese versions of the Convention on the Law of the Sea, we already have at least six similar but slightly different terms for the formation in the sea referred to as *rock* in English. As the text in question is an international law convention in which certain terms are intended to resolve disputes over the ownership of certain maritime areas, the lack of a uniform interpretation could lead to obstacles.

In addition to Mandarin Chinese, the term “rock” *скалы* in the Russian text (Расширенный русско-русский словарь, 2020) and *roca* in the Spanish text (Diccionario Esencial de la Lengua Espanola, 2007) of UNCLOS also corresponds to the definition of the word *rocher* in the French version in that it clearly defines the material of the marine element in question as being something hard. Based on these, it would have been a logical decision to categorize the English word *rock* precisely on the basis of the material as well, and possibly to use only the term *rocher* in the French version. No matter how insignificant the differences analyzed above may seem, I still believe that consistency in international law is essential, because if the boundaries of a given category are not clearly defined, it will not be possible to decide clearly what is covered by international law. This was already evident in the general customary law exercised by states prior to the 2016 arbitration objection. Many countries - including Australia, Mexico, Brazil, Japan, Norway, Portugal, USA etc. - designated an exclusive commercial zone for itself or claimed a continental shelf for islands classified as *rock* under the English version of Article 121 (3) – Australia: Heard Island, McDonald Islands, Elizabeth and Middleton Reef, Macquarie Island; Mexico: Isla Clarión and Roca Partida; Brazil: Penedos de São Pedro and São Paulo, Trindade and Martin Vaz; Japán:

Minamitori-shima; Norway: Bouvet; Portugal: Ilhas Selvagens; USA: Howland and Baker Island, Johnston Atoll, Jarvis Island, Kingman Reef, Palmyra Atoll, Wake Island.

These claims were not followed by any legal resistance even though some of the *rocks* in question are soft sand or loess-based marine elements.

Although relevant differences can be observed between the linguistic structure and interpretations of the countries belonging to the Western cultural sphere, it may be more representative to observe a state of a completely different region in this respect.

In recent years, some organs of the government of the People's Republic of China have strategically applied domestic law to place Chinese maritime claims in context, creating ambiguity about the legality of Chinese claims. The resulting fragile *status quo* has resulted in the expansion of Chinese influence in the South China Sea and a significant challenge to resolving the conflict situation under international law.

Because the two areas — language and way of thinking — are closely intertwined, the basic structure of Mandarin Chinese is as different from any Western language as the interpretation of the law of the People's Republic of China, its attitude to international law, and its own national laws and regulations are different from the general one. The confusing factor in how China applies domestic law to challenge international rules and standards is that the terminology of the East Asian superpower in its own national law does not comply with definitions in international law. This, of course, includes the law of the sea, so another complicating factor is emerging in connection with the controversy surrounding the islands of the South China Sea.

The People's Republic of China states in a 2009 note verbale submitted to the United Nations: "China has indisputable sovereignty over the islands and associated waters of the South China Sea (**相邻 海域**, pinyin: xiānglín hǎiyù) and sovereign rights and jurisdiction. China also has control over the waters concerned (**相关 海域**, pinyin: xiāngguān hǎiyù) and over the seabed and subsoil" (*Note verbale from the People's Republic of China to the United Nations, 2009.* https://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf).

Neither the adjacent waters nor the affected waters are defined by international law for the designation of a particular marine zone. This unique terminology serves as the foundation of Chinese law of the sea and helps the government of the Eastern superpower to change domestic thinking to deviate from the international norm. Abroad, this definition

allows China to remain ambiguous about the exact delimitation of maritime claims. This is especially beneficial for China, as allegations that have no international basis will legally fail before the courts. This was also the case when the People's Republic of China attempted to claim maritime territories on the basis of historical rights instead of determining its distance from its mainland territory, and its argument was rejected for violating the United Nations Convention on the Law of the Sea.

Although not recognized in international law, China uses the term "seas of jurisdiction" (管辖 **海域**, pinyin: guǎnxiá hǎiyù) to refer to inland waters, the coastal sea, adjacent zones, the exclusive economic zone, the continental shelf and other areas described as belonging to the People's Republic of China. A term not used in this form in the terminology of international law serves to substantiate the claims of the People's Republic of China against the rules of the United Nations Convention on the Law of the Sea.

Regarding the dispute over the islands of the South China Sea, there is currently a kind of very fragile *status quo*. The "importation" of terms created in their own language, based on the domestic legal system, on the international stage seems to have been a winning move on the part of the People's Republic of China. Although the process of controversy has not yet reached that stage, given the general attitude of the East Asian country to international law, it can be assumed that the precise definition of the above-mentioned Mandarin Chinese terms would be favorable to its needs, but at least it can be interpreted in so many different ways that it helps maintain a *status quo* currently to China.

As can be seen through just one significant conflict of international law, the differences between the languages of the participating nations have a key role to play in international law. It is enough to compare the terminology of the two official languages, English and French, to find a difference. Adding a few other definitions to this may create a confusion of interpretation that, no matter how insignificant it may seem at first reading, may open gates through which some nations could improve their status in a given situation of controversy, or even question or halt the ongoing legal proceedings. A good example of the latter is the importation into international law of the expressions of national and domestic law in the language of a given nation.

In international law, as in all other areas of law, the uniform and accurate laying of rules, norms and terms is vital, and perhaps the greatest difficulty in this is the completely different thinking, approach to law of different nations and, along with that, the very distinct structure of the world's languages. Superficially, appointing two official languages may seem to be the perfect solution, but as the examples demonstrate, this is far from enough. Along

with the presence of excellent legal translators, there would be a need for a universal, detailed, multi-step system that would be able to bridge linguistic differences in a way that leaves no room for loopholes, ambiguity or even free interpretation.

4.5. Summary – Language and international law

The purpose of my inclusion of this chapter was to demonstrate that despite all efforts, the rulings and decisions based on the rules and regulations of international law cannot always be unequivocal or easily respected by all nations. Seemingly unimportant things, like language differences, can create confusion, halt proceedings or provide advantage or disadvantage to participants of a given conflict. Given that the above described linguistic difference prompted China to come up with free interpretations for certain legal terms, it should come as not surprise that the East Asian nation also projects double standards when that kind of conduct serves its national interests. The above described multi-step system would be much needed not only to avoid linguistic confusion, but to make it easier for double standards to be identified on time and rooted out.

Chapter (5)

Special cases: Chinese accusations of other states using double standards

5.1. The importance of these cases

The ways in which the People's Republic of China applies double standards against smaller, weaker states in order to maximize its position in a certain bi- or multilateral conflict situation has been demonstrated through the analysis of the South China Sea dispute. Now, in order to fully be able to grasp the East Asian power's pattern related to double standard conduct, there is another field that merits discovery, one that is essentially the reverse of the previous issue. That is, events in which a great power – still China in the following minor case studies – accuses other states of using double standards.

It became apparent that regarding the South China Sea dispute, China does not at any point recognize even the contradicting nature of its behavior, not to mention its use of double standards. For the East Asian country, everything it decides and does is for its own national interest, therefore it is deemed to be the right course of action by the central leadership. However, the term „double standard" is not unknown for Chinese foreign policy – on the contrary, it is fairly often used as a rhetorical device towards the United States or the Western world in general. China does not view its own maneuvering as faulty in any way, however, it frequently reminds other states – more often than not states wielding as much power as China does or more - of similar conduct. Of course, as it is the case with every fully or partially unlawful or even legally questionable thing China does, there is a justification behind this as well, one that the East Asian country finds admissible in order to assert its national interests.

Do the accusations hold any truth? Are they followed by any sort of consequence? Do they in fact serve China's interests and if yes, in what way? Throughout the following section, as more light is shed on the Chinese attitude towards double standards, those questions will be answered.

5.2. Human rights

The first case study is related to an outstandingly important section of international law: human rights. According to the international legal definition, human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any

other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, protect and fulfil human rights. Even the UN Charter lists the protection of human rights as one of its principles (Lipman 2011).

The issue in question is a recurring one. In the last few years, China has repeatedly accused the United States of applying double standards against the East Asian country. According to Beijing's stance, the double standards lie in the fact that while the US and some of its Western allies do not treat their countries' human rights issues appropriately, they slander China with alleged violations of human rights.

The subject of the accusation is the Chinese government's treatment of Uyghurs and other Turkic Muslims living in the Northwest region of Xinjiang. The most comprehensive Human Rights Watch report on the Xinjiang situation was released in April 2021. It is titled *Break Their Lineage, Break Their Roots: China's Crimes Against Humanity Targeting Uyghurs and other Muslims,* and it was authored with assistance from Stanford Law School's Human Rights & Conflict Resolution Clinic. The 53-page report states that The Chinese leadership is responsible for widespread and systematic policies of mass detention, torture, and cultural persecution, among other offenses. It adds that coordinated international action is needed to sanction those responsible, advance accountability, and press the Chinese government to reverse course. According to an even more recent report by Human Rights Watch,

„China's authoritarian government under the Chinese Communist Party systemically represses fundamental rights. Under President Xi Jinping, the government has arbitrarily detained human rights defenders, tightened control over civil society, media, and the internet, and deployed invasive mass surveillance technology. It imposes particularly heavy-handed control in Xinjiang and Tibet. Authorities' cultural persecution and arbitrary detention of a million Uyghurs and other Turkic Muslims since 2017 amount to crimes against humanity. In Hong Kong, the government imposed draconian national security legislation in 2020 and systematically dismantled the city's freedoms. The government hindered international efforts to investigate human rights violations and the origins of Covid-19, muzzled critics abroad, and undermined global human rights institutions."

China's Unrelenting Crimes Against Humanity Targeting Uyghurs.(*https://www.hrw.org/news/2023/08/31/china-unrelenting-crimes-against-humanity-targeting-uyghurs*)

Crimes against humanity are considered among the gravest abuses of human rights under international law. The Chinese government's oppression of Turkic Muslims is not a new phenomenon at all, but in recent years it has reached unprecedented levels. In addition to massdetention and restrictions on practicing the Islam religion, there is increasing evidence of forced labor, broad surveillance, and unlawful separation of small children from their families (Lipman 2011).

Human Rights Watch has been monitoring the situation closely for many years now, and along with the most recent report, it urged concerned governments to impose coordinated visa bans, travel bans, and targeted individual sanctions on authorities responsible for criminal acts. According to Human Rights Watch, they should also pursue domestic criminal cases under the concept of "universal jurisdiction," which allows the prosecution of grave crimes committed abroad. Governments were also encouraged to adopt trade restrictions and other measures to end the use of forced labor in China (Liu 2021).

As a response to the recently released Human Rights Report, China has stated that the accusation against the country is a hypocritical, arrogant double standard, given that the US itself does not fight with nearly enough force against the racism and systematic discrimination and for the rights of the numerous different minorities within the country. Chinese Foreign Ministry spokesperson Hua Chunying addressed the issue this way:

„The United States keeps saying that it attaches importance to individual human rights and freedom. However, when the United States connived to spread racist speech, indulged police violence against people of color, watched people like George Floyd unable to breathe, and watched Asian Americans be discriminated against, attacked, or even killed, did they care about the individual human rights and freedom of these people who suffered from systemic racism and hate crimes? (...) Will the US conduct a thorough investigation to hold those involved accountable? Does the European side want to impose sanctions on the US for human rights violations?"

(*Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference on May 13, 2021. http://www.xinhuanet.com/english/2021-03/25/c_139835991.htm)*

China's attitude in this case – and as it will come to light in the following cases of Chinesedouble standard accusations as well – is peculiar. The East Asian country's leadership has reiterated a number of times that it finds no issue with its own treatment of the minorities living in Xinjiang, stating that the region is just as peaceful and prosperous as any other part of China. Following that, China tends to turn its focus entirely on occurrences harmful to human rights in the United States and the way they are not treated appropriately. The double standard in China's accusation of the US is once again rather easily identifiable: it is the event when an actor ignores some rules and regulations of international law while expecting others to fully comply with those same rules (Chen 2015).

China is correct about pointing out that human rights violations happen in the United States just as well. Recent human rights failings in the US include the increasing annual number of shooting crimes, political manipulation related to the COVID-19 pandemic, violent law enforcement against migrants and refugees and discrimination against minority groups (The Report on Human Rights Violations in the United States in 2022. http://ge.china-embassy.gov.cn/eng/xwdt/202303/t20230328_11050361.htm). In its most recent report published in March 2023, the Chinese government describes the US a country labeling itself a "human rights defender," where, despite that label, "chronic diseases" such as money politics, racial discrimination, gun and police violence, and wealth polarization are rampant. According to the report, human rights legislation and justice have seen an extreme retrogression, further undermining the basic rights and freedoms of the American people. The document describes the US' civil rights protection system as dysfunctional, and states that racial inferiority and superiority complexes in the country are deeply embedded and inextricable. China brings some arguments to the table which do not in any sense absolve the country from the human rights violations committed within its borders, but can certainly shed light to the Chinese attitude in this case.

China is a vast multinational country, with discrimination against minorities fully integrated into its history. What is currently happening in Xinjiang has been there for long centuries not just against Uyghurs and Turkic Muslims but other minorities as well. This, of course, does not nullify the crimes or make them less grave – still, it has to be taken into consideration that according to the Chinese way of thinking, tradition and normalcy go hand in hand. Therefore, it is increasingly difficult to regard something that has been part of the way the nation functioned for centuries as a crime or even as a thing that needs to be changed or eliminated. That is something that both China's central government and society agree on. Human rights violations are in fact not the only unlawful element in Chinese society

considered as „national tradition”: the presence of corruption and cyber crimes is very similar and just as hard to uproot (Jiang 2013).

Another notable fact here is that China has never regarded international law as a principal guidance for the legal operation of the country. The nationally characteristic thought process and attitude related to law in China is largely based on long-standing Confucianist and Legist tradition, thus it is completely different from „Western law”. According to the Chinese way ofthinking, the rules and regulations of international law for China count as useful tools that can be applied to strengthen the country's argument in a given conflict situation between states (Liu 2021).

In this case of human rights violations, Beijing, without mentioning either China's innocence or culpability, argues that the US is not being challenged for the same occurrences it wants to discipline and sanction China. For China, the fact that both nations have committed grave crimes takes a backseat, while the focus shifts on the double standard element of the issue: the way the two are treated differently: China is gravely accused, even harassed, while the US is left alone. The double standard is most certainly there, with international law as a helping tool for China: it is clear that the US violates international regulations (just like China does, but the East Asian country wants to keep that negligible here), so why is it not reprimanded?

The way Beijing uses the „double standard card” in this specific case is remarkable. Its goal is to turn the attention away from its own wrongdoings towards Washington's culpability and, at the same time, at the East Asian country's unequal international judgment, insinuating that it is not lawful and should be changed. This conduct provides China some distance from international condemnation and makes the US rethink the necessity for sanctions.

5.3. Summary – the double standard

By highlighting the US' human rights violations, China's goal is to turn the attention away from its own wrongdoings towards Washington's culpability. Given that the crimes committed by China and the US are extremely similar, still, China fails to mention its own but underscores those of the US, it projects double standards. Another double standard element is apparent in China's mention of the two nations' violations being treated differently by Human Rights Watch and international law – treating two nations' very similar wrongdoings in very different ways is, again, a projection of double standards.

5.4. Refugees

The essence of this next case is not far from the previous one – however, it is not a recurring, but a very recent and therefore relevant issue: that of refugees. Once again, China acts as the accuser, the charge against the US being the double standard of unequal treatment of people fleeing from different regions of the world. According to Beijing, Washington applies obvious double standards by providing substantial aid to refugees coming from Ukraine, seeking asylum from the Russian invasion, while it ignores the basic rights and necessities of Middle Eastern, African and Latin American refugees.

Chinese Foreign Ministry spokesperson Wang Wenbin has recently reiterated the charge in agreement with Palestinian president Mahmoud Abbas. The newly formulated statement focuses on the Middle East:

"It is an unacceptable double standard to call acts of violence against the civilian population in Ukraine war crimes while allowing the damage to the civilian population in Afghanistan, Iraq and Syria to go unpunished." ***(****Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference on February 22, 2022)*

China appears to care a lot about the rights of refugees, especially those fleeing from the Middle East, but that care is not at all altruistic. In recent years, the East Asian country has turned its attention towards the MENA (Middle East and North Africa) nations, with large-scale investments as well as intense trading cooperation in mind.

The MENA region is important to China for three main reasons. First, with 52% of the world's proven oil reserves and 42% of its proven natural gas reserves, the region is home to the world's largest energy resources. In 2019, more than 45% of Chinese crude oil imports were sourced from the MENA region. Even though most of China's natural gas imports are sourced through pipelines from Turkmenistan and Uzbekistan and liquefied natural gas (LNG) from Australia, the MENA region is still responsible for around 19% of Chinese LNG imports or 11.3% of total Chinese natural gas imports. Therefore, the energy sector is the main destination for Chinese investment in MENA, accounting for more than 47% of overall Chinese investment in the region (Chaziza 2020).

Now, the Chinese economy experiencing a slowdown and along with that, its influence has somewhat weakened in the Indo-Pacific region. Therefore, the need for building and solidifying new partnerships has moved upwards on the East Asian country's agenda, the MENA nations being among the targeted groups. An almost effortless and generally effective

way to get closer to another country is to openly support them in a conflict or debate, and that is exactly what China has done in this case. The motive behind the statement is clear, but what about the accusation itself? Is the double standard element truly discernible?

5.4.1. The US refugee situation

Every fall, the US president sets a refugee ceiling – the maximum number of refugees who may enter the country in a fiscal year. That number has been declining since 2016. During Donald Trump's presidency, the US lost its place as the world's leading country for refugee admissions. It had previously led the world on this measure for decades, admitting more refugees each year than all other countries combined. Of course, among the principal causes of the noticeably fluctuating numbers there are important global events as well as the United States' priorities as a leading economy. Probably the most evident example for the former is the fact that in 2002, the US largely suspended admissions following the terrorist attacks on 11 September. The number managed to rebound in the following about five years (Henrard 2010).

Naturally, politics, security and economy have always influenced refugee policy not only for the United States but for every state of the world that has ever allowed in people fleeing from any sort of crisis. If the goal is proving – or disproving – the double standard in China's accusation, then what matters most in this case is the origin and, just as importantly, the religious affiliation of the groups of people that have entered the US as refugees in the last decades. Additionally, it is even more representative to take a look at the conditions those refugees are living in within the borders of the US.

Since the 1980s, more than 50% of the refugees have come to the United States from Asia (mainly Burma, Bhutan, Laos, Iraq and Afghanistan), about 30% from Europe (the former Soviet Union, Kosovo and now Ukraine), 13% from Africa (Somalia, Eritrea) and only 4% from Latin America (Cuba). Concerning religious affiliation, in recent years the US has admitted far more Christian refugees than Muslim ones or people connected to other smaller religious groups. In the last few years, Americans have been divided over whether the US should accept refugees at all, with large differences by political party affiliation. According to recent surveys, around three-quarters of Democrats and Democratic-leaning independents think the US has this responsibility, compared with just one quarter of Republicans and Republican leaners (Thakur 2016).

What US citizens appear to be far less divided on is the very recent inflow of Ukrainians fleeing from Russian invasion. Caused by unprecedented Western media coverage, feelings of solidarity were very swiftly followed by actions in the US immediately after the war broke

out. Several elaborate programs have been launched to accommodate all the refugees arriving from Ukraine. One of the most notable and extensive of those programs is 'Uniting for Ukraine' – within its frameworks, Ukrainians who apply for the program get to have a private sponsor in the US who must also complete a background check and prove they have the financial means to support those granted refuge. The program is part of US President Joe Biden's promise to allow 100,000 Ukrainians to seek refuge in the United States. Other legal pathways have also been available through the State Department since the very beginning of the crisis (Hickman 2022).

Governmental organization and the willingness of the society are two factors that can best represent the difference between the treatment of Ukrainian refugees and Middle Eastern, African or Latin American ones. In the case of the latter groups of people, despite the US' initial willingness to provide educational, medical and other resources, those efforts were never nearly as well-structured and comprehensive as with the Ukrainians. Another even larger difference is that for other refugees, there was never any sponsorship program and even less eagerness from civilians to host some of the people in need in their own homes. Consequently, a high percentage of non-European refugees in the US now live under less than ideal circumstances, in unsafe camps and extremely poor neighborhoods, most of them not being provided with the necessary services for a normal quality of living.

The double standard with which China accuses the US is undoubtedly there – in fact, it is easy to identify it even without thorough research. The primary causes of the double standard are also not hard to find – they have unfortunately been present in Western thinking for a long time now. Religion, culture and looks are the aspects that play a critical role in the overall American attitude towards refugees. Given that the Chinese statement highlights the unequal treatment of Middle Eastern refugees, it is logical to have them here as an example. According to the Western way of thinking, people fleeing from the Middle East, for instance Palestinians, are 'not civilized enough' and 'not white enough' to 'deserve' solidarity or even attention. Also, they are 'very foreign' – not just in their looks and culture, but in their religion as well, something that is frequently associated with crimes of terroristic nature. They represent the "other" in every possible sense, thus for a white American it is inherently difficult to sympathize with them. Ukrainian refugees provoke completely different sentiments: they are white, Christian, "civilized "they are 'familiar', therefore sympathy for them comes almost naturally (Unoki 2022).

5.5. The reverse double standard

China is accusing the United States of the unequal treatment of different nationalities within its borders, while it does a very similar thing with the ethnic minority population in Xinjiang. While in China's case the groups of people in question are not refugees, but the basis for the inadequate treatment is almost identical, and has been like that for centuries: different looks, culture and religion. Similarly to the Western world, discrimination based on nationality, culture and religion is also very characteristic of China. It also needs to be stated here that China has ratified the 1951 Refugee Convention and the UNHCR has a representation in China and provides technical assistance in Refugee Status Determination. Refugees recognized as such by UNHCR are permitted to remain temporarily in China while the UNHCR finds a sustainable solution for them. However, in 1956, the politicization of the UNHCR resulted in the complete withdrawal of the PRC from the refugee regime and practice of self-reliance in refugee issues (Chiavacci 2023). China currently has no refugee resettlement policy or national legislation on asylum and views the acceptance of those fleeing conflict as taking sides, something that the East Asian country often prefers to avoid (Vanhullebusch 2018). Taking all that into consideration, as China is accusing the United States of the very things that are also happening within its borders – a clear and obvious double standard can be identified here.

To go even further, that is not the only double standard one can identify in China's attitude. The East Asian country follows a 'policy of non-interference', which means that China abstains from meddling in the internal affairs of other states and expects those other states to act the same way towards China's internal issues. The East Asian country frequently likes to emphasize the policy's existence, especially in cases where its own affairs are at the receiving end of strong criticism. The Xinjiang issue is exactly like that: whenever another state or international organization tries to hold China accountable for the human rights violations perpetrated against the Muslim minority, Beijing officially reiterates that Xinjiang is a solely internal issue, and as China does not meddle in other countries' internal issues, similarly should others stay away from intervening in what they consider to be problems in China (Wang 2013).

All that sounds logical and also legitimate – if a state adopts such a policy, it can expect that to be respected and reciprocated by other actors. However, if it does not seem to serve its interests, China has a tendency to drop its own obligation to comply with the policy of non-interference. That is precisely what happened in the refugee issue: China, with its objective of forming a closer relationship with countries of the MENA region in mind, openly took the

side of the Palestinian president and with that, meddled in another country's internal affair: the United States' treatment of refugees within its borders (Reardon-Anderson 2018). This sort of conduct contains an unequivocal element of double standard, namely the one where the actor promotes or publicizes international norms, rules, regulations or values while itself generally does not (fully) comply with those same norms, rules, regulations or values.

China expects other states to respect its internal matters by avoiding even the mere expression of criticism, yet when its interests dictate so, the East Asian country 'forgets' to respect its own policy and meddles in other states' internal affairs. It is interesting to note here that meddling in other nations' issues is a fairly new kind of behavior for China, it was not characteristic of the nation even 10 or 15 years ago. There is a reason for that shift: over the 2010s, as China went through a substantial economic growth often deemed miraculous, its leadership started to develop a heightened sense of superiority. As China became a great power challenging the United States, the country took up the role of „global peacemaker", interfering into conflicts between smaller nations and other affairs waiting to be resolved. Interestingly enough, that kind of behavior is very similar to what the US has demonstrated for long decades now – something that will be elaborated on in a later chapter of this work.

5.6. Summary – the double standards

By accusing the US of discriminating against minorities while doing exactly the same thing to the minority population within its own borders, China's double standard projection is evident. By highlighting that other nations should not get involved in its own internal affairs, but at the same time, meddling in the US' treatment of its own minority population, another double standard is used by China.

5.7. The significance of Chinese double standards

In all the cases presented in this chapter, at least one double standard was identifiable, at some points even two – one formulated in the accusation and one „reverse": an element applicable to the accuser, which is none other than China in this study. Double standards do definitely exist – what is more, they are fairly common in international relations. However, an important question arises: is there a way to eradicate them?

Double standards in international relations, as it was already explained in the introductory part, are most of all characteristic of great powers, global or at least regional leaders, aimed at similarly powerful states or smaller, weaker ones. In most cases, even if the accusation of

using double standards is right, the accuser – a great power like China – does not charge another state out of the absolute respect of the rules and regulations of international law, but out of self-interest. That self-serving reason can vary, of course: it can be a desire to maintain good relations or forge better, closer ties with another state or other actor, a wish to appear in a better light in a certain conflict situation or even just to divert international attention away from the wrongful nature of its own actions. All these reasons were demonstrated in China's behavior through the cases explained in this work (Liu 2021).

One point needs to be further emphasized in China's reasons for using the double standard accusation as a tool: that of national image. The East Asian country's basis for accusing others is often that its international perception is fundamentally more negative than that of others, above all that of the United States, therefore China cannot „get away" freely with the very same things another state – the US – can.

The reasons behind a non-Western power's application of double standards are in many ways different from those of a Western one. The sense of „otherness", of being perceived different „in the wrong way" has long been showing itself in the way of perception and conduct of non-Western societies – this is especially applicable for China (the first country that comes to mind as a non-Western great power). The way Chinese people perceive their „Chineseness" and „otherness" is extremely conflicting and might be confusing to many at first: throughout history, they have always held a certain sense of superiority living in a state that has been believed for centuries to truly be the center of the world. When China first opened up to the outside world, Chinese society was hit with the very hard realization that not only are they not the absolute center of the world, but they are viewed as lesser, as inferior by the outside world, especially by Western societies (Chen 2015).

The Chinese application of double standards, as it is going to be demonstrated in the following chapters of my dissertation, often stems from compensation: the Chinese leadership is likely to feel that in international conflict situations, the country is inherently in a bad position as its perception by other states, despite being a great power, is considerably worse than a Western state of similar might. Therefore China, in order to move itself to a better position in a given conflict, decides to reinterpret or ignore certain rules and regulations.

The improvement of national image has been high up on China's agenda for decades now, and beside the use of soft power, this is another means utilized for that purpose. China basically highlights the fact that the other actor – in most cases, the US or even the entire Western world – is culpable of the same faults China itself has committed and suggests that either all actors should be condemned equally or absolved equally. Though in its own way,

not based on any set laws of rules, China refers to a tenet of international law: that of sovereign equality, the notion that all sovereign states are equal and should be treated as such. (Jiang 2013).

It might appear that China, although for its own selfish reasons, is leading a noble fight against the eradication of double standards, but it becomes clear through the cases presented that there is almost always a „reverse" – the accuser's own non-compliance or straight-up ignorance of international law. The existence of the reverse double standard shows that no great power fully respects all the rules of international law, so none of them actually has the right to accuse others with similar violations.

Considering all that, it can be ascertained that neither double standards themselves, nor theaccusations of other actors of using double standards are legitimate. The former because it goes against the international norm of "all actors are equal", the latter because of the reverse element, the fact that no international actor is without guilt in violating the same law they wish to protect when it comes to other actors' faulty acts (Kaleck 2015).

Double standards have a "tradition" that goes back to centuries – they, similarly to other characteristic behavioral patterns of great powers, are inherently part of the intricate structure of international relations. That is especially true for China, which has always had a completely distinct understanding of international law as well as law and legislation in general than what is the norm for Western states (Jiang 2013). One thing is certain: all cases where there is an accusation of double standards should be observed and treated individually, as a lot can be derived from the intentions of the accuser, from its nature as a great power or from its overall perception of international law. Also, even though double standard charges are not in any way part of international law, they can have significant influence or even a decisive quality in international decision-making, therefore their existence cannot be ignored.

Chapter (6)

Case Study II. – The Conflict over Crimea

6.1. Introduction

According to the theory of structural realism or neorealism, states are the only significant actors in international politics. Furthermore, great powers are the central actors that shape the global order. The international system is competitive and anarchical, as there is no supranational authority that can enforce rules over the states. All states are considered rational actors, capable of forming reasonable strategies that can maximize their own self-interest. The most important national interest for every state is to ensure its own survival. In order to secure this primary goal, all states build up military capabilities to protect themselves (Dyson 2010).

Russia's attitude in this chapter is based on a similar concept – it wants to protect not only its current borders, but also what used to be part of its territory for long centuries and what the country's leadership still considers to be economically, ethnically, culturally, linguistically and religiously Russian. Russia considers itself to be the most stable, durable andpowerful as a regional reader when it has sovereignty over the entire territory it considers to be its own, and for that, it is more than prepared not only to project double standards, but to start an armed conflict as well. In order to understand why Russia so firmly stood by its goal of owning Crimea, the origins of the conflict need to be uncovered first.

6.2. Origins of the conflict

Relations between Russia and Ukraine have been strained because of differing attitudes toward the Russian imperial past. Both republics became independent after the Soviet Union collapsed in 1991. The separation of the Ukrainian Socialist Soviet Republic under Leonid Kravchuk and of the Russian Socialist Federative Soviet Republic under Boris Yeltsin from the Soviet Union and their shared alliance against the Soviet President Gorbachev were some decisive factors for the dissolution of the Soviet state in December 1991. However, what was a new beginning for Ukraine meant a loss of empire and the weakening of great power status for Russia (Kappeler 2008).

Following the drastic change that 1991 brought, long-present issues rooted in the imperial past of both nations came to light, making their ties more complicated than ever before. Among those, the most important one to be discussed in the present work is the

question of Crimea. Crimea was conquered by Russia only in the 18th century and the majority population was the Crimean Tatars until the Stalinist ethnic cleansing between the 1930s and the early 1950s. The peninsula along the Northern coast of the Black Sea used to belong to the Russian Soviet Republic until the year 1954, when Nikita Khrushchev decided that it should form part of the Ukrainian Soviet Republic, even though the majority of its inhabitants by that time were ethnic Russians. This did not have a lot of importance in Soviet times, but came to relevance after 1991, when borderlines were created in order to separate the newly independent states. The former Autonomous Soviet Republic Crimea in 1992 was renamed Republic of Crimea and is the only autonomous territory inside Ukraine (Pomeranz 2016).

Another issue that has become pressing is that of ethnicity, specifically the approximately 8 millions ethnic Russians living in Ukraine (17% of its population) and the about 50% of Ukrainian citizens having Russian as their first language. The Russian-speaking population is mostly concentrated in the cities of Eastern and Southern Ukraine. About 3 millions of Ukrainians live in Russia, making them the second largest ethnic minority after the Tatars. Language and ethnicity can be related concepts but in this case Russian language does not necessarily imply Russian ethnicity. A lot of ethnic Ukrainians speak Russian as a first language but do not consider themselves Russian. Even for those Ukrainians who do not use Ukrainian regularly, the Ukrainian language holds symbolic power. It speaks of an attachment to Ukraine itself, something that has become even more significant since the 2014 Crimean crisis(Aliyev 2019).

A problem that cannot be overlooked either is the question of energy supplies (especially gas) being or not being delivered by Russia to Ukraine and through Ukraine to Central Europe. Ukraine is dependent on receiving gas from Russia and a significant part of Russian gas is transported through Ukraine to Central Europe. Since 2005 there have been frequent disputes about the price of gas and of the costs for transit and Russia used gas prices as political instrument (Pomeranz 2016).

Moreover, there is the increasingly relevant question of the place of Ukraine between the European Union and NATO on one hand and Russia and its political and economic allies on the other hand. This position reflects the history of Ukraine being torn between Orthodox Russia and Catholic Central Europe. Russia has harshly criticized the cooperation of Ukraine with the NATO and the country's plans of a possible entering in the NATO. In the presidential elections of 2004, President Putin openly supported the pro-Russian candidate Viktor Yanukovych. This problem recently became of immediate importance, when Russia

exerted strong political and economic pressure on Ukraine, while the EU demanded some significant political and legal reforms from Ukraine (Plokhy 2006).

Besides the issues and dilemmas mentioned above, further problems need to be remembered between Russia and Ukraine, most of which are mainly originated from Russia's current position as one of the great powers of the global order as well as from the heritage of the former Russian Empire and Soviet Union. I will discuss those problems in detail in the next chapter.

6.3. The great power factor

Russia is currently one of the leading powers of the world in possession of big resources as well as of a substantial economy with a GDP of approximately 1,5 trillion US dollars (2020). It is also one of the world's largest producers of atomic energy (around 20% of global power generation). However, in comparison with its past as the Russian Empire and later as the Soviet Union, the post-soviet Russian Federation's might is still not as stable after 30 years as it was considered before (Troulis 2021).

When the Soviet Union collapsed in 1991, all Union Republics, Ukraine among them, instantly declared their independence. The central part that remained was reduced to the territory of the former Russian Federal Soviet Republic. Consequently, Russia was deprived of most of the imperial peripheries, losing its status as a superpower. However, Russia is still a largely influential state with its large territory extending from the Baltic Sea and the Black Sea to the Pacific and with its polyethnic and multireligious population, within that about 20 percent of non-Russians (de Pedro 2017).

Numerous Russians, especially the political elite have been suffering from the lost status as a „true and indisputable" great power. Furthermore, there is a popular tendency of the tsarist Russian Empire and the Soviet Union, even for the totalitarian Stalinist regime. With Ukrainian independence, Russia lost many sites enshrined in its historical memory, including the first Orthodox monastery and graves of legendary medieval knights – these might not seem the most significant, yet symbolism has always been an essential factor for the existence of not only Russia, but of all other nations that have a long-standing history as well. These trends have become stronger under the presidency of Vladimir Putin. Therefore, one main goal of Russia's current foreign policy is keeping the regions of the former tsarist empire under its hegemony. Russia intends to control the entire post-Soviet zone, often referred to as "near abroad". A way of achieving that is by restricting the sovereignty of the former Soviet republics and interfering into their inner affairs (Morrison 2014).

This is exactly where Russian foreign policy objectives can be tied into structural realism (also referred to as neorealism): Russia, as a Great – but formerly much greater - Power wants to ensure its own survival not only as a sovereign state, but an unquestionably dominant one in a regional and in a global context as well. The position of absolute power is a prerequisite to achieve their international goals and fully be able to assert their will. Furthermore, for Russia, it is definitely also a question of dignity: the possibility of reclaiming lost greatness, something that is extremely difficult to let go of. When it comes to the behavior of leading powers like Russia, this type of „statal egoism" paired with a lack of trust toward other states leads to an evident security dilemma, which may easily result in assertiveness in their relations with states in less powerful positions (Troulis 2021).

6.3.1. Statal egoism

The attitude mentioned above can raise several questions, especially considering the case of the Russo-Ukrainian War. In this chapter I will elaborate on the reasons why Ukraine and within that, Crimea means a lot more for Russia than one of the former Soviet member states in a subordinated position and why Russian „statal egoism" in this situation might give way to contradictive great power behavior.

With their accession to NATO and the European Union in 2004, it was necessary for Russia to recognize that the Baltic states were lost regarding their geopolitical objectives. Still, Central Asia, the South Caucasus, Belarus and Ukraine are regarded as essential parts of the Russian orbit.

Among those, Ukraine has probably always been the most important and disputed element. A cornerstone of the former Soviet Union and the second-most populated out of the fifteen ex-Soviet republics, rich in agriculture as well as military and defense industries, Ukraine becoming independent in 1991 was without a doubt seen as a major blow to Russia's international prestige. In its almost three decades of independence, Ukraine has been actively seeking to make its own way as a sovereign state. All the while, looking for a closer relationship with Western institutions, most of all the European Union and the North Atlantic Treaty Organization (NATO) has been high up on the newly sovereign country's agenda.

Ukraine was one of the founding members of the United Nations when it joined in 1945 as the Ukrainian Soviet Socialist Republic. Along with the Byelorussian Soviet Socialist Republic (BSSR), Ukraine signed the United Nations Charter – in fact, the Soviet Union wanted all its member states to become UN members, but only the two mentioned above were admitted. After the dissolution of the Soviet Union in 1991, the newly independent Ukraine retained its seat. However, it has been a struggle to balance its foreign relations between

Russia and the Western world. What has made the issue even more complicated is a conflict of ethnicity and heritage: the Ukrainian-speaking population in Western parts of the country has generally supported greater integration and closer ties with Europe, while a mostly Russian-speaking community in the East has favored closer ties with Russia (Karaganov 2018).

In fact, Russia has long-standing and deep cultural, economic, and political bonds with Ukraine, and in many ways Ukraine has always been central to Russia's identity and vision for itself in the world.

6.4. Familial ties

The firm familial bonds between the two countries go back several centuries. Kyiv, Ukraine's capital, is sometimes referred to as "the mother of Russian cities," and is equal regarding cultural influence with Moscow and St. Petersburg. In the 8th and 9th centuries it was to Kyiv that Christianity was brought from Byzantium to the Slavic peoples. Also, it was Christianity that served as the anchor for Kievan Rus, the historical Slavic state from which modern Russians, Ukrainians, and Belarussians draw their lineage (Plokhy 1993).

Closely connected to familial ties, the question of ethnicity and spoken language is similarly relevant. Mostly concentrated into the South and East, above all in the regions of Donetsk and Luhansk, approximately 17% of the Ukrainian population is made up of ethnic Russians, occupying the spot for the second largest ethnic group (Ukrainian being number one with 70%). According to very recent statistics, Ukrainian language – belonging with Russian and Belarusian to the East Slavic branch of the Slavic language family, also bearing similarities to the Polish language - is spoken by 67% of the population, followed by Russian, the most important minority language, spoken by 24% (See: World Population Review – Data of 2021. https://worldpopulationreview.com/countries/ukraine-population*)*

Regarding languages, the presence of linguistic nationalism is extremely strong in Ukraine. Although Ukrainian has always been the official language of the country, centuries of tsarist and then Soviet rule established Russian as the imperial language that Ukrainians were expected to read and speak. Ukrainian and Russian are closely related languages, yet they are unequal in practice. In an interaction between the two "fraternal" nations, to use the Soviet expression, a Russian person would likely understand a Ukrainian, but would probably expect the Ukrainian to switch to speaking Russian and not the other way around (Plokhy 1993).

The loss of Ukraine as a whole in 1991 being a major blow to Russia can be understood well through taking into account the factors detailed above: the pride of a great power, familial and cultural ties between the two countries, exceptional economic importance. However, the focal zone of the complicated crisis referred to as Russo-Ukrainian War or War of Crimea is specifically the latter, the Crimean Peninsula. In order to comprehend exactly why Crimea has become so crucial in this situation of international importance, one needs to take a look back on its historical timeline.

Crimea is a peninsula along the Northern coast of the Black Sea. It is almost entirely surrounded by the Black Sea as well as the smaller Sea of Azov to the northeast. Crimea is located south of Kherson Oblast in Ukraine. To the peninsula's west, across the Black Sea, there is Romania, and to its south, Turkey (Katchanovsky et al. 2013).

Before it got the name Crimea, the peninsula was known as "Taurica" by the ancient Greeks and Romans, both of which at different points of history incorporated the region into their respective empires. From the mid-1400s it existed by the name of the Crimean Khanate, a protectorate of the Ottoman Empire, during which time it became the central zone of slave trade. Its current name "Crimea" appears to have been derived from the language of the Crimean Tatars, a Turkic ethnic group that came to significance during the Crimean Khanate. The Tatars called the peninsula "Qırım", which probably meant „fortress" or „stronghold", stemming from the rugged, not easily accessible landscape. While Russia, which annexed the state in 1783, intended to change the name back to the ancient Taurica, Crimea was still used informally and eventually reappeared as the peninsula's official name in 1917. Looking at Crimea's colorful and tumultuous history, the question of nationality percentage arises. According to the Russian Empire Census conducted in 1897, Crimean Tatars continued to form a slight plurality (35%) of Crimea's still mainly rural population, yet there were already large numbers of Russians (33%) and Ukrainians (11%). Along with them, lower numbers of Germans, Jews, Bulgarians, Belarusians, Turks, Armenians, Greeks and Roma people (gypsies) have to be mentioned (Magocsi 2014).

After the end of the Russian Empire by the October Revolution in 1917, Crimea briefly found itself a sovereign state. However, that didn't last very long: the area was quickly dragged into the Russian civil war, where it became an important stronghold for the White Army. Following a succession of various governments within a few short years, Crimea eventually became the Crimean Autonomous Soviet Socialist Republic, part of the Soviet Union in 1921. It remained like this until 1945, when it then became the Crimean Oblast, an administrative region of Russia (Sasse 2007).

Crimea's experience in World War II, similarly to that of many states, was traumatic: it was occupied by Nazi Germany, and the port city of Sevastopol was almost destroyed during the fighting. Once the Red Army retook Crimea in 1944, it forcibly deported the entire population – approximately 200.000 people - of Crimean Tatars to Central Asia and Siberia as punishment for collaboration with German forces. Along with them, 70.000 Greeks and 14.000 Bulgarians and some smaller numbers of other nations were also deported. Almost half of those people are believed to have died along the way. The Tatars, who had been present on the peninsula for centuries, were not allowed to return to Crimea until the downfall of the Soviet Union. With the Crimean Tatars (approximately 25% of Crimea's population) deported from the peninsula, along with large numbers of Greeks and Armenians, Crimea turned into a mainly Russian area, with Russians and Ukrainians making up almost the entire population. Then, in 1954, Nikita Khrushchev, the new Communist leader of the Soviet Union transferred the Crimean Peninsula over to Ukraine (Drohobycky 2008).

What could be the reasoning behind this rather surprising Russian decision? One of the myths promoted by Russia became apparent by Russia's president using the expression "Khrushchev's gift to Ukraine" when referring to Crimea, as if it was a unilateral ungrounded move, a sort of a whim of the Soviet leader. However, something like that would be an extremely unlikely move from the part of any great power.

The Crimean Peninsula's agricultural abundance and mineral riches have always been outstanding even in the perspective of the entire surrounding region. Furthermore, Crimea's strategical importance is also not new-found: just like the original meaning of its name suggests, the peninsula could serve as a fortress or a stronghold to the state owning it. Also, by this time, with the deportation of the Crimean Tatars, approximately 70% of Crimea's population was made up of Russian nationals, with Ukrainians being only around 22%. (Sasse 2007).

Normally, it would be rather unlikely for a great power to give away such an important national asset. However, the most probable explanation is that Crimea was seen as a "gift" for Ukraine, whose people had suffered a lot during World War II. Peasants from Crimea could finally be rewarded with land in Ukraine. The peninsula did have significant economic and infrastructural ties with Ukraine, but culturally it was connected much stronger overall with Russia than with Ukraine, and Crimea was the site of major military bases from Tsarist times on, having become a symbol of Imperial Russian military power against the Ottoman Turks.

Therefore, this act from Russia's part probably did not feel like more than giving a generous and rather symbolic gift to a smaller „brother" state at the time. In the days when the Soviet Union existed, the difference between Ukraine and Russia likely felt minuscule, thus, it appeared as if Crimea had not even changed owners (Polupan 2001).

By 1991 and the Soviet collapse, things became a little different. Separatism in Crimea began to manifest itself during the political liberalization of *perestroika and glasnost* initiated by Mikhail Gorbachev, a reformist Communist leader of the Soviet Union. In January 1991, 93% of the Crimean voters supported granting their region the status of the Crimean Autonomous Soviet Socialist Republic within the Soviet Union. At the same time, in the Ukrainian referendum on 1 December 1991, 54% of voters in Crimea stood by the independence of Ukraine (in Sevastopol, 57%) – a majority, but still significantly less than the national average of 91%. At the same time, the pro-Russian separatist movement became increasingly popular during the first several years of independent Ukraine. The most crucial cause of this was probably Russia's promotion of the Russkii Mir, or Russian World, in Ukraine. The main objective of this investment was to provide a certain group identity to Russian speakers and people who associate with Russian culture and language. On one hand, this was a reasonable goal given the outstandingly high percentage of ethnic Russians living in Ukraine, on the other hand, though, the movement helped increase the already divided ethnic and cultural climate in the ex-Soviet state (Polupan 2001).

6.5. Dawn of a conflict

Based on the resolution of the Verkhovna Rada (the Crimean parliament) on 26 February 1992, the Crimean ASSR was renamed the Republic of Crimea. The Crimean parliament proclaimed self-government on 5 May 1992 and passed the very first Crimean constitution on that same day. On the next day, 6 May 1992 the same parliament inserted a new sentence into this constitution (Article 9) that declared that Crimea was part of Ukraine and determined its relation on the base of treaty and agreements. 'The treaty' refers to a future

Union treaty, which was supposed to found a Union of Sovereign Republics, but was never signed.

Following a brief dispute with the newly independent Ukrainian government, on 19 May Crimea annulled their proclamation of self-government and agreed to remain part of Ukraine, but with significantly extended autonomy (including its own constitution and legislature and – briefly – its own president).

Waves of different disputes and clashes between pro-Russians and pro-Ukrainians characterized the second half of 1992 and 1993. Among the main causes were defining the status of the largest city in Crimea, Sevastopol and the former Soviet Black Sea Fleet (divided proportionately between Russia and Ukraine according to the Yalta Agreement of 1992), as well as the representation of Crimean Tatars in the Council of the Crimean Parliament. The importance of the latter lies in the fact that after the disintegration of the Soviet Union, many Tatars resettled in Crimea, their numbers growing from around 38,000 in 1989 to roughly 300,000 at the turn of the 21st century (Polupan 2001).

In 1997, Ukraine and Russia signed a bilateral Treaty on Friendship, Cooperation and Partnership, which formally allowed Russia to keep its Black Sea Fleet in Sevastopol. With the treaty, Russia recognized Ukraine's borders and territorial integrity and accepted Ukraine's sovereignty over Crimea and Sevastopol. Furthermore, Russia was to receive 80 percent of the Black Sea Fleet and use of the military facilities in Sevastopol on a 20-year lease (Drohobycky, 2008).

Following the treaty, tensions eased between the two countries. However, not nearly all pressing issues have been solved – Crimea, given its history detailed in the previous chapter as well as its modern situation, did not stop being a hot spot for conflict. The Crimean Peninsula has a modern history intrinsically tied together with Russia, contains the largest population of ethnic Russians within Ukraine, and harbors a significant portion of Russia's navy in Sevastopol, it is clearly a crucial piece not only within the bilateral relationship between Russia and Ukraine, but from an international perspective just as well Magocsi 2014).

In the early 21st century, Crimea's predominantly Russian population remained in firm support of Viktor Yanukovych and his pro-Russian *Party of Regions* as Ukraine's political landscape was shaken by the so-called Orange Revolution, a series of demonstrations on the side of the opposing presidential candidate, *Our Ukraine*'s Viktor Yushchenko. When Yanukovych, strongly supported by Vladimir Putin, became president in 2010, he extended

Russia's lease on the port at Sevastopol until 2042. The agreement allowed Russia to base no less than 25,000 troops at Sevastopol and maintain a few air bases in Crimea (Magocsi 2014).

6.6. Into the conflict

The Euromaidan protest movement began in Kyiv in late November 2013. This was following President Viktor Yanukovych's not signing the Ukraine–European Union Association Agreement due to a failure of the Ukrainian Supreme Council to pass promised legislation. In February 2014, Yanukovych had to flee Kiev after several months of the mentioned protests and demonstrations by Crimean Tatars toppled his government. Within days, unidentified masked gunmen (later admitted by Russian officials as being Russian troops) seized the Crimean parliament building and other important sites, effectively making the crisis in Ukraine international. Pro-Russian legislators gathered at a closed session of the parliament and elected Sergey Aksyonov, the leader of the *Russian Unity Party*, as prime minister (Faundes 2016).

Pro-Russian demonstrations were commonplace throughout Crimea, but equally frequent were protests by Crimean Tatars, who overwhelmingly supported continued association with Ukraine. In March, Russian President Vladimir Putin received the Russian parliament's approval to dispatch troops to Crimea, ostensibly to protect the ethnic Russian population there. Within days Russian forces and local pro-Russian paramilitary groups were in de facto control of the peninsula. As Russian and Ukrainian forces maintained a delicate standoff, the Crimean parliament voted unanimously to secede from Ukraine and join the Russian Federation. A referendum on the matter was held in Crimea on March 16, 2014. Crimean Tatar leaders called for a boycott of the vote, which they criticized as having been predetermined, and journalists were prohibited from observing the count. The result was an overwhelming 97 percent in favor of joining Russia, although numerous irregularities were reported. The poll was not recognized by Kiev, and the United States and the European Union immediately moved to impose sanctions on a list of high-ranking Russian officials and members of the self-declared Crimean government (Faundes 2016).

On March 18, Putin signed a treaty on the incorporation of Crimea into the Russian Federation that was formalized days later after the treaty's ratification by both houses of the Russian parliament. Only a few countries recognized the legitimacy of the Russian annexation, and the United Nations repeatedly affirmed that Crimea remained an integral part of Ukraine. From the viewpoint of international law, Russia was designated the "occupying

power" in Crimea, and it was not regarded as having any legal claim to the peninsula (Umland 2021).

Although the Ukrainian government continued to assert that Crimea was Ukrainian territory, it began the evacuation of the several thousands of Ukrainian troops and their dependents from the peninsula. Russian troops had seized a big part of the Ukrainian fleet while it was in port, and the headquarters of Ukraine's navy was relocated from Sevastopol to Odessa. Although some of the ships were later returned to Ukraine, others, including the Ukrainian navy's sole submarine, were incorporated into the Russian Black Sea Fleet. In May 2014, a report from the Russian Presidential Council for Civil Society and Human Rights estimated that the actual turnout for the Crimean referendum on independence may have been as low as 30% and that, of those voters, between 50 and 60% chose union with Russia (Toal 2019).

As the global order is shifting towards multipolarity and at the same time, from the West towards the East, Russia's role is becoming more and more crucial, its national interests and foreign policy being observed with increasing wariness by other leading states. Specifically, the United States and the United Kingdom accused Russia of breaking the terms stated by the Budapest Memorandum on Security Assurances. By this memorandum, Russia, the US and the UK had reaffirmed their obligation to refrain from threat or use of force against the territorial integrity or political independence of Ukraine (Umland 2021).

6.6.1. The double standard in Russia's attitude

It has to be understood that Russia's perception of state sovereignty functions much more along the lines of sovereignty based on power disparities between states. Russia sees itself as a major leading power in the international system with a greater level of sovereignty and control, demanding more respect and deference in the international system than less powerful states such as Ukraine. As vital as Ukraine has been to the Eurasian geopolitical status quo, it had also been dependent on Russian support to a large extent in terms of receiving significant economic support in the form of financial contributions and access to natural gas and oil priced well below global market value. The best way to comprehend this relationship is thinking in terms of Russia having *suzerainty* over Ukraine: a relationship in which one state or controls the foreign policy and relations of another tributary state, all the while allowing the tributary state to have internal autonomy. In other words, Russia – the *suzerain* - has not direct political control over Ukraine, necessarily, it is more of a „patron state and client" sort of relation. Remembering their long-standing shared history and familial

bonds along with Russia being a great power, one might understand this kind of linkage with Ukraine better (Schubert 2014).

Further analyzing Russia's attitude, its adherence to the traditional, realist zero-sum game view of international relations, especially geopolitical strategy and economic competition, could be one of the main factors that drove the crisis towards a militarized dispute. According to Russian reasoning, the attempts made by western powers to secure and maintain their positions in the global order, including by imposing their point of view on global processes and conducting a policy to contain alternative centers of power, lead to a greater instability in international relations and growing turbulence at the global and regional levels. The struggle for dominance in shaping the key principles of the future international system has become an important tendency at the current stage of international development, therefore, the use of force is becoming an increasingly important factor in international relations. The 2016 Foreign Policy Concept shows deeply entrenched beliefs and views in the Kremlin. One of the key principles of realism, that is the central and almost exclusive role of great powers in international relations is omnipresent in this and other official documents like the military doctrines or the national security strategies that best reflect Russia's strategic mindset (de Pedro 2017).

Also, there are the antagonistic narratives between the EU and Russia that have consolidated during the last 25 years. As it was mentioned earlier, Russia has been frustrated about its dominant place having become less secure in the post-Cold War order. From the Russian viewpoint, the West has taken advantage of its voluntary dismantling of the Soviet empire, not to establish a mutually adequate situation of equality, but to extend Western rule to the borders of Russia. Furthermore, the concept of Eurasianism is worth mentioning here – according to it, Russian values are superior to those of Europe and Western political models are to be rejected in order to embrace Mongol-Tatar-Eurasian heritage. This approach presents another good reason for the annexation of Crimea, a territory of crucial strategic importance. Furthermore, it is important to consider that, unlike the EU and NATO, in the last fifteen years Russia has approached the east and south – Kosovo, Libya, Syria or Iraq – within the same framework and narrative. This is relevant and helps explain why the Kremlin conceives of all of its movements (including Ukraine) as defensive in nature and it does not consider the scenario of being attacked by NATO to be completely unthinkable (Schubert 2014).

If Russia had preferred a more cooperation-oriented approach in its political and economic policies in Eurasia since the collapse of the Soviet Union, there would likely be much less conflict and competition between the West, mainly NATO and the EU, and Russia.

The conflict in Ukraine is one example of the tension between differing world views and competing spheres of influence, with the two competing entities pushing for influence in the embattled post-Soviet states which are put into the position of having to choose between the East and the West.

6.7. International legal aspects

As stated earlier, from the perspective of international law, the secession or annexation of Crimea by Russia was deemed an illegal act. However, it is still a frequently discussed question whether the right to self-determination or an alleged right to secession of a remedial nature could serve as a valid legal basis for the separation of the Crimean Peninsula, as the Crimean authorities seem to have argued along with Russia.

Before the moment of the Soviet Union's dissolution, Ukraine was a state and Crimea formed an integral part of its territory. Even before 1991, with the USSR still in existence, Crimea's status as part of Ukraine's territory should have been respected from the perspective of international law. Here, it needs to be remembered that the Soviet Union by its legal nature was a subject of international law. It formed a federation which was referred to in the Soviet legal literature as a "soft federation". The meaning of this was that the Soviet Union was a sovereign state and subject of international law. However, the Soviet Republics were never actually recognized as independent states. While they did have a theoretical right to independence based on Soviet constitutional law, but that did not make them sovereign states. (de Pedro 2017). Without the existence of the status and rights of a sovereign state, Ukraine would not have been legally able neither to withdraw from the Soviet Union in 1991, nor to gain actual political independence. (*Belavezha Accords* 1991.)

Regarding Crimea's transfer to Ukraine, contrary to some myths described earlier in this chapter, it was done in accordance with the Soviet constitutional law of that time. The Presidium of the Supreme Council of the Soviet Union considered economic, cultural and geographical factors as well as official positions of the Russian Soviet Federative Socialist Republic and Ukrainian Soviet Socialist Republic and adopted an edict on the transfer of the Crimean oblast from the Russian SFSR to the Ukrainian SSR.

Russia's argument that the Russian SFSR had not given consent to Crimea's transfer is in fact false, given that at the fifth session of the Supreme Council of the RSFSR, the delegates voted in favor of bringing the Constitution of the RSFSR in line with the Constitution of the Soviet Union. This equals Russia's consent to Crimea becoming part of Ukraine. This means that the change of Article 14 of the Constitution of the RSFSR

and the removal of the Crimean oblast gives evidence to Russia agreeing to the transfer. Under the law of international treaties, Russia's consent to transfer Crimea to Ukraine and Ukraine's acceptance may be considered an international agreement (Borgen 2015).

The legal status of Crimea as an integral part of Ukraine's territory was then set in the Constitution of the Ukrainian SSR of 1978. Article 77 of this Constitution mentions the Crimean oblast among other oblasts of the Ukrainian SSR. Sevastopol is mentioned as a city of republican subordination within the territory of the Ukrainian SSR (Constitution of Ukraine, 1978).

If Crimea had been transferred to Ukraine in violation of the law of the Soviet Union, the question evidently arises: Why has Russia during the period of the USSR and many years after its disintegration, never officially raised this issue? Moreover, Russia has always officially supported Ukraine's territorial integrity. It must also be considered that in the December referendum of 1991 on the issue of Ukraine's proclamation of independence, 54 % of the valid votes were in favor of Ukraine's independence (*Treaty between the Ukrainian Soviet Socialist Republic and the Russian Soviet Federal Socialist Republic.* (1990). *http://www.zakon.nau.ua/doc/?code=643_011)*

As it was already stated in the introductory chapter of my work, it is far from uncommon for great powers to re-interpret legal norms or to only abide by them in situations where the existence of such rules and regulations can serve their objectives or needs. Russia's violation of the principle of *estoppel* fits well into this pattern. (Cottier 2007). The principle of *estoppel* is one of the general principles of international law. It is commonly regarded as a version of the principle of good faith (*bona fides*) – as such, it belongs to the sources of international law. Explained simply, it obliges states not to contradict themselves.

As it is most commonly described, estoppel is a rule of international law that prevents a party – most often a state actor - from going back on its previous representations when those representations have induced reliance or some detriment on the part of other actors. Although estoppel is now a stable and established rule of international law and is being mentioned and applied in an increasingly wide variety of contexts, international lawyers have yet to uncover all its secrets. On the one hand, contemporary practice shows that arguments about estoppel are as likely to appear in the context of a dispute about international trade or human rights as they are to appear in the context of (more traditional) disputes about title over territory or nationality. Also, important disagreements and unresolved questions still remain about the practical requirements of estoppel (and, in particular, the need for detrimental reliance). Its relationship to neighboring concepts, like that of acquiescence; its proper categorization

among the sources of international law; the significance of common law estoppel and its counterparts in other legal systems for the purposes of international law; and the normative basis of estoppel, especially its relationship with broader principles of international law, such as good faith and equity. The open character of these questions suggests that research on estoppel is likely to gain special significance in the years to come. That significance is the exact reason why it is crucial to observe cases where estoppel appears and especially if it is not being (fully) respected by a powerful state (Cottier 2007).

Researchers of estoppel in the international law need to pay close attention to three essential points. First, the historical roots of estoppel in the common law tradition make it worthwhile (though probably not absolutely necessary) to explore the variety and development of estoppel in that tradition and the possible counterparts of estoppel in legal systems of other nations. Second, estoppel is almost always discussed in connection to other, neighboring concepts and principles of international law, so it is more than necessary to take into account not only broad treatments of "general principles" in the international law, but also works on acquiescence, preclusion, prescription, waiver, unilateral acts and declarations, the protection of reasonable/legitimate expectations, good faith, equity and other concepts. Third, several useful discussions and analyses of estoppel are specific of their given context, therefore, research on estoppel should also take in some aspects of specialist literature on acquisition of territory, international adjudication, protection of foreign investment, non violation complaints under the WTO Dispute Settlement Understanding, and so on.

By the annexation of Crimea, Russia has violated the principle of *estoppel*. Firstly, it displayed inconsistency in territorial issues after the USSR's disintegration. During the Soviet Union's existence, several transfers of territories took place, including transfers of some historical Ukrainian territories to Russia. Despite these significant changes in territory, Ukraine has never raised any territorial claims to Russia or to any other post-Soviet state after the USSR's dissolution (de Pedro 2017).

Another event to illustrate Russia's violation of *estoppel* is the case of Estonia. After the incorporation of Estonia into the USSR, a considerable part of Estonia's territory was transferred to Russia. These territorial changes were legitimate according to the official Soviet position because they were unanimously approved by the competent Supreme Soviets. After reclaiming its independence, Estonia declared these decisions *null and void*, arguing that Estonia was annexed in violation of international law. This position was instantly rejected by Russia. In reference to its recognition of Estonia's independence, Russia claimed that the border needed to remain as it was (de Pedro 2017).

Looking at this case, Russia's inconsistency is evident: on one hand, it insists on the border with Estonia from before its independence, on the other hand, it denies that its border with Ukraine, including Crimea, from the same date should remain. Russia's violation of the principle of estoppel is specifically the point where double standard elements can be identified. When it is in the national interest of Russia, the country is in favor of the *uti possidetis juris* (UPJ) principle whereas in the case of Crimea it does not abide by this principle. It is a general principle, which is logically connected with the phenomenon of the obtaining of independence, wherever it occurs.

Uti possidetis juris is a principle of customary international law that serves to preserve the boundaries of colonies emerging as States. Originally applied to establish the boundaries of decolonized territories in Latin America, UPJ has become a rule of wider application. Its obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power. Its purpose, at the time of the achievement of independence by the former Spanish colonies of America, was to scotch any designs which non-American colonizing powers might have on regions which had been assigned by the former metropolitan State to one division or another, but which were still uninhabited or unexplored (Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali), ICJ Judgment, 22 December 1986).

On 17 March 2014, following an extremely contested referendum, Ukraine's Autonomous Republic of Crimea declared its independence and filed an application in order to reunite with the Russian Federation. The request was instantly welcomed by Russia and, on the next day, President Putin and the representatives of Crimea signed an agreement on the accession that formally designated the Republic of Crimea as a federal subject of the Russian Federation. The events described have raised some pressing questions of international law, one of them being whether Crimea was legally allowed to unilaterally secede from Ukraine (Faundes 2016).

Groups or entities wishing to be separated from the State to which they formally belong often invoke a right to secede, one that stems from the right to self-determination of peoples. While the Crimean authorities themselves did not explicitly do so in the declaration of independence, the Russian Federation on various occasions referred to the right to self-determination in order to justify Crimea's secession from Ukraine. The question arises here whether Crimea has a right to unilateral secession under the rules and regulations of contemporary international law.

It has to be noted first that it first deserves to be noted that the question of a right to unilateral secession under international law only becomes possible when the parent State opposes the breaking away of part of its territory. In the case of the Crimea Crisis, Russia claimed that the people of Crimea have lawfully exercised their right to self-determination by separating their territory from Ukraine and seeking unification with Russia. In the context of decolonization, the right to self-determination indeed contained a right to independence. Regarding decolonization, however, the right to self-determination was an entitlement for colonized entities only: the inhabitants of trust territories and non-self-governing territories. Currently, trust territories now no longer exist, and there are only seventeen non-self-governing territories left that are still to be decolonized on the basis of the right to self-determination (Henry 2017).

Does the right to external self-determination exist beyond decolonization? As even great powers generally fear that acknowledging a right to unilateral secession would affect international stability or even lead to unexpected conflict situations, no convention includes a general right to independence or unilateral secession for non-colonial peoples, minorities, or other groups. In practice, States in general have not accepted attempts at unilateral secession either. Furthermore, no entity that has emerged through unilateral secession has been admitted to the United Nations as long as the parent State was opposed to this. In the same manner, in the post-decolonization era, an internal dimension of the right to self-determination has been emphasized, one that focuses on its implementation within the framework of the existing State. Accordingly, self-determination should be realized in the relationship between peoples and their government, and encompasses a continuous entitlement that does not cease to exist when an independent State has been created (Merezhko 2015).

Another important question concerns who actually constitutes a ‘people’ as a holder of the right to self-determination beyond the context of decolonization. Beyond the process of decolonization, the right to self-determination is first and foremost a right of the inhabitants of an existing State as a whole. In addition to this, in some cases it is also accepted that certain parts of that population be regarded as holders of the right to (internal) self-determination. Several characteristics can be guiding when distinguishing the exact group of ’people’ meant to have the right described above. Among them, the following features are crucial: a common historical tradition; racial or ethnic identity; cultural homogeneity; linguistic unity; religious or ideological affinity; territorial connection and common economic life. Other than those objective points, another subjective element needs to be mentioned. This refers to the belief of being a distinct people distinguishable from other people inhabiting the globe, and the wish to

be recognized as such, as well as the wish to maintain, strengthen and develop the group's identity. Given that this concerns the internal perception of the group itself, it could prove to be difficult for outside observers to determine whether the subjective requirement is fulfilled. Here it is important to note that (ethnic, religious, or linguistic) minorities should not be confused with 'peoples' (Kappeler 2008).

Given that no general right to unilateral secession exists under contemporary international law, the option of the legality of remedial secession must be considered. This would mean that the unilateral separation of a group of people would serve as a remedy for serious injustices they had suffered. As such, the frustration of meaningful internal self-determination, flagrant violations of fundamental human rights, and structural discriminatory treatment of a people have often been listed as possible parameters for the exercise of a right to remedial secession. Also, remedial secession is commonly regarded as *ultimum remedium*, a last resort remedy for such injustices. Therefore, the exhaustion of peaceful remedies is considered to be an additional prerequisite as well (Kapustin 2015).

Although the doctrine of remedial secession may be appealing from a moral perspective, unfortunately, the theoretical foundations of such right are somewhat fragile. Given that it is not firmly decided who or what entity would be fit to determine whether a certain people would have a right to remedial secession in view of the circumstances, the possible arguments for it are inherently weak in practice. It needs to be noted here that the Russian Constitutional Court in Chechnya also rejected remedial secession, at least for the case of Chechnya in its conflict with Russia. Russia's position now that remedial secession is only permissible to prevent "genocide" has become the inverse of that judgement. It is noteworthy that Russia has presented no evidence of "genocide" occurring in Ukraine (*War or peace? – International legal issues concerning the use of force in the Russia–Ukraine conflict* https://akjournals.com/view/journals/2052/63/3/article-p206.xml?body=fullhtml-27273).

Having discussed all of the above, it becomes relevant to consider the events in Crimea in this light. First, it is important to note that the Constitution of Ukraine does not provide for a provision granting Crimea or any other part of the territory a right to secede. While it is true that the Constitution does accept referendums as an expression of the people's will, this does not imply that referendums are constitutional by definition. As a matter of fact, various provisions of the Constitution of Ukraine demonstrate that the secession of part of the territory of Ukraine cannot be the result of a local referendum. According to Article 73, 'issues of altering the territory of Ukraine are to be resolved exclusively by an All-Ukrainian referendum'. Thus, since referendums concerning the change of the Ukrainian territorial

status quo can only be decided by a national-level referendum, Crimea was not authorized to organize and conduct a local referendum on its separation from Ukraine (Kapustin 2015).

Could international law somehow have granted the people of Crimea a right to unilateral secession? To decide that, it should first be determined whether the population of the Crimean Peninsula actually qualify as the holders of the right to self-determination: a 'people'. As it was explained before, it is generally seen that not only the population of an existing State as a whole constitutes a 'people', but certain groups within the population may also qualify as such. In order to qualify, the members of the group should share certain objectively identifiable common features that distinguish them from other groups. Furthermore, it is essential that the group has a connection with a particular territory, that it believes to have a specific group identity and wishes to be recognized as such. Some of the groups inhabiting the peninsula—in particular the ethnic–Russians and Crimean Tatars may well be considered as ethnic minorities within Ukraine, thus entitled to minority protection under international law (Kapustin 2015).

It is uncertain whether the population of Crimea as a whole should be defined a 'people' under international law. Although it is certain that the inhabitants of the Crimean Peninsula share a common territory and form a separate political unit within Ukraine as a result of Crimea's autonomous status, it remains questionable whether they actually have a distinct group identity and wish to be identified according to that. In fact, it appears that the population of the Crimean Peninsula is too diverse to meet the requisites of being a 'people'. Only when taking a territorial approach to the right to self-determination and applying it to the territory of Crimea instead of its inhabitants could the right to self-determination be invoked. However, that interpretation is not very desirable, as the relevant treaties and instruments clearly stipulate that the right to self-determination is a right of 'peoples', not territories (Merezhko 2015).

Even assuming that the right to self-determination does apply to the population or the territory of Crimea, no general right to unilateral secession could be claimed, since the right to self-determination does not include such a right in the post-decolonization era. There is also the option of an alleged right to remedial secession that could provide for a legal basis of the separation. This has often been claimed by Russia, referring to the lives and legitimate interests of the Russian population of Crimea being at stake. That argument, however, cannot be maintained on the basis of both legal and factual grounds. The doctrine of remedial secession is controversial and cannot be said to form part of positive international law, be it customary law or otherwise. Even taking a progressive stance and assuming the existence of a

right to remedial secession, it should be concluded that such right would not apply in the case of Crimea, as the situation on the peninsula does not meet the prerequisites for *ultimum remedium* (van den Driest 2021).

Now it has been demonstrated that under international law, neither external self-determination, nor unilateral secession is applicable for the case of Crimea. However, was it in fact prohibited or deemed illegal?

Since secession is generally sought by entities that are not yet States, unilateral action aimed at secession would not impair the principle of territorial integrity – a concept highly valued by States. In this view, the principle of territorial integrity generally does not pose a barrier to or even a prohibition on attempts at unilateral secession. If a third State actively supported an attempt of separation by the threat or use of force, or when the secession would be carried out by foreign authorities, meaning that they invade a territory with a view to separating it from the parent State, only then would these events violate the principle of territorial integrity (van den Driest 2021).

Here, we need to take into consideration the 'legal neutrality' of international law: international law neither authorizes unilateral secession, nor prohibits it. On the contrary, it should be viewed as a domestic affair of the parent State, with only the consequences of such action - questions of statehood, the obligation for third States to refrain from supporting the secessionist entity and in some cases an obligation to withhold recognition - being regulated by international law.

Even though unilateral secession is not prohibited in general terms - not even under the rule of territorial integrity - as such events are indeed regulated by international law, entities with separatist ambitious are not allowed to act without any restraints. In fact, practice shows that unilateral declarations of independence are considered to be illegal when stemming from grave violations of fundamental norms of general international law.

Having presented the applying rules in order to decide the lawfulness of attempts at unilateral secession, the case of Crimea now needs to be considered. It is evident that while the people of Crimea were to respect the territorial integrity of Ukraine, the principle of territorial integrity did not prohibit them from seceding – hence, Crimea's attempted secession from Ukraine did not violate international law. However, the specific circumstances surrounding Crimea's attempted separation from Ukraine do raise a few issues. Most prominently, it is debatable whether the presence of the Russian military on the Crimean Peninsula qualifies as the unlawful use of force or other grave violations of international law,

in particular of that sort which would render the declaration of independence illegal and thus preclude the attempted separation.

The presence of Russian troops in Crimea was lawful in the sense that it remained within the contents of the 1997 Black Sea Fleet Agreement between Ukraine and the Russian Federation. The treaty, which was extended until 2017 in 2010, gave Russia the authority to deploy their troops on the Crimean Peninsula (A maximum of 25,000 soldiers was allowed under the Agreement and they were only let to stay on the military bases and to move between these bases and the territory of the Russian Federation. Also, the treaty stated that those troops were to respect Ukrainian law and sovereignty, and to refrain from interfering in the internal affairs of Ukraine. As it came to light that Russian troops were operating outside their agreed bases, seizing Crimean airports and military bases and occupying key buildings including the Crimean Supreme Council, it seems that the Russian military presence was not justified by the 1997 Black Sea Fleet Agreement. In fact, their invasion and active support of Crimea's attempt at unilateral secession violated the principle of non-intervention and the territorial integrity of Ukraine. In accordance with the argument by the Ukrainian Association of International Law, it has even been contended that Russia committed an act of aggression (Borgen 2015).

It can be stated that the Russian military intervention in Crimea involved a serious violation of a rule of international law. Given that the unlawful acts by the Russian Federation have facilitated the issuing of Crimea's unilateral declaration of independence, this constituted an illegal act, as a consequence of which Crimea's attempt at unilateral secession was prohibited under international law.

As it was already explained, the assertiveness of the Russian Federation's actions regarding Crimea have been heavily criticized by the entirety of the Western world – in fact, as a consequence, Russia has been excluded from important international conventions. Going even further, the illegal nature of the secession can be demonstrated under the regulations of international law. However, one cannot ignore the reasoning Moscow tends to refer to in their own defense – not only the long-standing common cultural heritage that I have elaborated earlier in this chapter, but, even more importantly, the outstandingly high number of Russian people living in the territory of Crimea. Regarding exclusively that standard, Russia's claim of Crimea could even be deemed a strong one – of course, knowing the history of how some other significant ethnic groups disappeared from the area, one might not find that claim perfectly reasonable anymore (van den Driest 2021).

It is clear that the manner and execution of Russia's actions regarding the Crimean Peninsula was less than commendable. Nevertheless, there is no single right solution to a conflict as complicated as that of Crimea. Rules and regulations of international law are generally strong, however, state actors – regional or global leaders more often than others - can and will choose not to abide by them, select the rules they wish to respect and the events in which they wish to respect them.

The actions of Russia in Crimea demonstrate that international law remains unable to achieve the compliance of states whose geopolitical interests do not align with established rules and standards. The situation of Crimea also highlights that international law can be used as a "shield" for brazenly unlawful actions, which are enabled by a weak collective security system that remains unable to prevent the unauthorized use of force by powerful states. This does not mean that a violator state will avoid consequences; the sanctions imposed on Russia following the annexation of Crimea attest to this. However, those sanctions were not nearly enough to prevent Russia invading Ukraine less than ten years after the end of the conflict in Crimea. International law provides no fixed solution to the conduct of great powers such as Russia in this case, therefore it can be stated that the future of a region largely depends on the biggest regional power's objectives and capabilities.

6.8. Summary – The double standards

Since the dissolution of the Soviet Union, Russia's primary goal has been to restore its previous territory and influence. By highlighting the notion that Crimea rightfully belongs to Russia and picking and choosing the segments of international law that corroborate that notion, while completely ignoring other segments that do not align with its objective, Russia projects a double standards-based attitude. The most evident example for Russian double standards is its handling of *estoppel* and *uti possidetis*: these principles are needed by Russia when they serve the country's national interests, but when they no longer serve it, they can be „discarded" or ignored.

Chapter (7)

Double standards used against Russia

7.1. One can do it, the other can't - Different Western attitudes towards Armenia and Russia

This next example is meant to demonstrate that just like China and Russia tend to use double standards to get their way in given international situations, the United States and the European Union, or the so-called „Western world" tends to do a very similar thing to some non-Western nations. Russia's early 2022 invasion of Ukraine is leading to discussions about why the West's responses to wars have been inconsistent. Western silence following Russia's brutal military aggression against Chechnya, Georgia, and Syria and weak sanctions against Russia in response to its annexation of Crimea sent signals of the West acting in a weak way towards Moscow. Russia invaded Ukraine on February 24th, 2022, believing it would face minimal resistance in Ukraine and a weak Western response; both counts proved to be wrong. The West's inconsistent attitude toward military aggressions has resulted in many countries in the South, such as India, to pass on joining Western sanctions against Russia. Their reasoning is that the West has been duplicitous in opposing some acts of military aggression while ignoring others. The truth is, they are right. Russia's destruction of the Ukrainian port of Mariupol and murder of up to 100,000 civilians in Ukraine came after similar destructions and killings of civilians by Russia in the Chechen capital of Grozny in the early 2000s and the Syrian city of Aleppo starting in 2015.

The most demonstrative is to compare Western attitudes towards Russia and Armenia in very similar conflict situations: the West responded to the Armenian-Azerbaijani conflict in the late 1980s-early 1990s and Russia's invasion of Ukraine in drastically different ways. Today, Russia is the most sanctioned country in the world. Meanwhile, Armenia occupied a fifth of Azerbaijan for nearly three decades but has never been sanctioned (Broers 2009).

Ironically, the powerful Armenian lobby succeeded in convincing the United States to punish Azerbaijan. In 1992, the US Congress adopted Section 907 of the Freedom Support Act which banned any US aid to Azerbaijan, making it the only exception among the fifteen post-Soviet states. The US began to view Armenia as the victim even though it was occupying one fifth of Azerbaijan. No exception was also applied to Russia, as Russian President Boris Yeltsyn was then seen as an ally of the US, even though the Kremlin had manufactured frozen conflicts in

Moldova's Transnistria and Georgia's South Ossetia and Abkhazia regions. Russian troops militarily supported Armenia in its armed conflict with Azerbaijan (Broers 2019).

Russia's brutal invasion has been destroying all aspects of Ukrainian national identity such as libraries, museums, churches, monuments, schools, and universities. Russian forces have destroyed or damaged 1,200 cultural buildings in Ukraine. In comparison, Armenian forces in occupiedAzeri territory destroyed 64 out of 67 mosques and vandalized dozens of cemeteries. Russia has undertaken a massive theft of grain from occupied southern Ukraine which it has then resold abroad to countries such as Syria. Western governments are discussing how to obtain reparations for Ukraine from Russia after the war ends. Some countries have been in support of transferring $300 billion in Russian assets frozen in Western banks to Ukraine as part payment towards the costs of reconstruction (Gunter & Yavuz 2022). In contrast, Armenia has until now never been challenged in any way about reparations costs for its destruction of the occupied territories but, with the Russian-Ukrainianwar this is changing. Baku has recently submitted a claim for $30-40 billion in costs tointernational courts; Armenia's annual GDP in 2022 was estimated to be $20 billion (Gunter & Yavuz 2022). In January 2023, Azerbaijan has also submitted a Memorial to the UN's ICJ (International Court of Justice) against Armenia under the International Convention on the Elimination of All Forms of Racial Discrimination. The Memorial chronicles ethnic cleansing, unlawful killing, torture, and cultural destruction in occupied Azerbaijani territories (*Memorial – Preliminary Objections of Azerbaijan.* https://mfa.gov.az/en/news/no02423).

Ukraine has won cases at the ICJ condemning Russia's cultural discrimination against Ukrainians and Crimean Tatars. In March 2022, the ICJ demanded Russia halt its invasion, saying it had not seen evidence of Russia's justification of 'genocide' against Russian speakers (*Joint statement on Ukraine's application against Russia at the International Court of Justice - Federal Foreign Office*. https://www.icj-cij.org/index.php/node/203013).

In addition to these financial claims for reparations, there is the issue of land mines and unexploded ordinance with Ukraine and Azerbaijan being the most planted territories in the world. Planted by Russia and Armenia respectfully, their removal will take several decades and be an expensive process. Damage to the environment and illegal mining in occupied Azerbaijani territories are also additional factors that have been raised.

Another area where there have been similar policies are in the deportations of populations. In the late 1980s, a quarter of a million Azerbaijanis fled from Armenia, transforming it into a mono-ethnic state, with a similar number of Armenians fleeing from

Azerbaijan. Another three quarters of a million Azerbaijani's fled from the seven provinces surrounding Karabakh that were occupied in the early 1990s. The new, and at that stage weak, Azerbaijani state had to house, feed and clothe one million refugees from Armenia and occupied territories. In comparison, Russia's war against Ukraine has created the worst refugee crisis since World War II, with over twelve million people becoming refuges and IDPs. An additional over two million Ukrainians, including half a million children, have been deported to Russia from Ukrainian territories under Russian occupation.

War crimes have been committed in all areas of Ukraine occupied by Russian forces. Bucha, a town near the capital city of Kyiv, became infamous for bloody war crimes after Russian forces pulled out. The UN has reported that Russian soldiers have raped girls and women ranging from the youngest of 4 to 82 years old. Russia is also committing war crimes by deliberately bombing civilian infrastructure such as water and electrical utilities and residential buildings
(*https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiukraine/A-78-540-AEV.pdf*).

Western leaderships have raised the question of putting Russian leaders on trial for the crime of aggression (i.e., invading Ukraine), war crimes and crimes against humanity. Some legal experts have described the actions of Russia's security forces in Ukraine as genocide. In 2021, the European parliament voted to support the creation of an international tribunal to put Russian leaders on trial after the war in Ukraine was over (Gunter & Yavuz 2022).

This contrasts with the complete ignorance of war crimes that were committed in the Armenian- Azerbaijani war in the late 1980s and early 1990s. It is true that pogroms were undertaken by both Armenians and Azerbaijani's which led to the flight of populations, however, the similarity ends there. 4,000 Azerbaijani civilians and soldiers went missing in the early 1990s after the seven provinces surrounding Karabakh were occupied by Armenian forces (Cornell 2017).

7.2. Summary – the double standard

The West ignoring certain incidents but paying special attention to very similar ones happening elsewhere is, while not at all just, is explainable. There is always some sort of interest behind this kind of behavior. When crimes are ignored, it is more often than not because the great power's relations with the perpetrator are good or the interest lies in forming closer ties with them in the future. Another explanation can be that the great power in

question does not care enough about the region and/or the two sides in conflict and it has no interest at all in holding any of the sides accountable. In contrast, in cases where the entire world cares about the perpetrator being reprimanded, the great power – in the case the US – will certainly want to appear fair and just when it comes to human rights, since that is exactly what the world expects of them. One thing is certain: the South will continue to maintain its skepticism and accuse the West of duplicity if it goes on to project double standards by selectively upholding human rights in countries such as Ukraine while ignoring military aggression and the mistreatment of human rights and war crimes committed by countries such as Russia and Azerbaijan. Human rights are universal and should be treated in equal terms regardless of in which countries they are abused.

There is one major difference between the two events. Most of the crimes took place in the Armenian-Azeri conflict before the two countries became independent, i.e. they were part of an internal Soviet conflict, while the Russian aggression targeted another independent state. However, it still stands true that all international actors should be held accountable for grave human rights violations, no matter their size, global importance or close alliances with influential powers. By fully ignoring Armenia's brutal war crimes, while holding Russia accountable and punishing it for extremely similar wrongdoings, the US and other Western leaderships are projecting clear double standards.

Chapter (8)

Case Study III. – The United States - The Wars in Afghanistan and Iraq

8.1. Afghanistan - Introduction

When thinking about contemporary conflict situations of global significance involving at least one great power as an active participant, the United States' war in Afghanistan definitely needs to be remembered. What is more, it might be the first that comes to mind for many people, given that the US' status as a great power is more firm and undeniable than that of China or Russia. Taking that strong and secure leading position into consideration, another fact follows: double standards in the US' conduct are not looked for and condemned as many times as in the behavior of other powerful states with more questionable reputation above all in the Western world.

Of course, it was seen in previous chapters that China has indeed found reasons to search for double standard elements, managed to identify some and did not hesitate to condemn the US for them. However, that condemnation has so far not resulted in any grave consequence, the main reason being that China was found just as guilty of the same unlawful conduct – in fact, the accusation and condemnation stemmed from China wanting to save itself from being sanctioned by the US and European powers for the crimes committed in the Xinjiang-Uyghur territory.

Now, distancing the research from China and its accusations, this last case study is intended to demonstrate that there are indeed elements of double standards in the recent political and military conduct of the United States, some of which other state actors have failed or have not yet dared to recognize. In order to grasp the US' attitude as a great power and its pattern of conducting itself as such, observing the events of the Afghanistan war is probably the best place to start. As a matter of fact, it is not principally the war itself waged on Afghanistan that is important in terms of double standards, but the domestic aspect of it: the way foreign policy related to the military activities was framed, the way public support was successfully called for operations containing immense risk and loss.

8.1.1. Historical overview

The war in Afghanistan was an armed conflict in Afghanistan from 2001 to 2021. It began when an international military coalition led by the United States launched an invasion of Afghanistan, subsequently toppling the Taliban-ruled Islamic Emirate and establishing the internationally recognized Islamic Republic three years later. The conflict lasted for 20 years, ultimately ending with the so-called Taliban offensive in 2021, which overthrew the Islamic Republic and subsequently re-established the Islamic Emirate. It was the longest war in the military history of the United States, surpassing the length of the Vietnam War (1955–1975) by approximately five months.

The terrorist attack against the USA on September 11, 2001, the hijacking and crashing of four US jetliners on September 11, 2001, brought not just the US', but the whole world's immediate attention to Afghanistan. The plot had been created by al-Qaeda, and some of the 19 hijackers had trained within the borders of Afghanistan. In the aftermath of the attacks, the administration of US President George W. Bush coalesced around a strategy of first ousting the Taliban from Afghanistan and dismantling al-Qaeda, though others contemplated actions in Iraq, including long-standing plans for toppling President Saddam Hussein.

Following the September 11 attacks, American president George W. Bush demanded that the Taliban, an Afghan Islamist group that had established a *de facto* state over most of Afghanistan, immediately extradite Osama bin Laden to the United States. During that time the United States was already enjoying a decade of unipolar superpower status since the fall of the Soviet Union, and Bush's approach to foreign policy showed signs of defensive posturing and selective engagement in any conflict situations. Yet despite this initially defensive approach, after the attacks executed by substate actors on September 11, 2001, the president and much of his Cabinet shifted from a defensive to an offensive approach focused on preemptive use of force, eventually leading to US invasions in Afghanistan and Iraq. The Bush administration's shift from selective engagement to primacy represented a significant shift in risk propensity while America's position and reputation in the global order as well as in international relations in general remained unchanged, even following the September 11 attacks.

Bin Laden was wanted for being the mastermind behind the September 11 attacks, as well as for other previous grave charges of terrorism. He been granted asylum by the Taliban in Afghanistan, where he continued to operate in relative freedom. The Taliban's refusal to

comply with American demands of extradition for Osama bin Laden led to the United States' declaration of Operation Enduring Freedom as a significant new part of the Global War on Terrorism declared earlier, as a consequence of the September attacks.

Not long after the invasion of Afghanistan, the Taliban and their allies - namely bin Laden's al-Qaeda - were mostly defeated and expelled from major population centers across the country by American-led forces in support of the Northern Alliance, an anti-Taliban Afghan military front. However, the United States failed to kill or capture bin Laden in the Battle of Tora Bora, after which he relocated to neighboring Pakistan. Despite bin Laden's exit from the country, the American-led coalition of over 40 countries (including all participant states of NATO) remained in Afghanistan, forming a security mission - sanctioned by the United Nations and officially known as the International Security Assistance Force (ISAF) - with the goal of consolidating a new democratic authority in the country that would prevent the return to power of the Taliban and al-Qaeda. At the Bonn Conference, new Afghan interim authorities elected Hamid Karzai to head the Afghan Interim Administration, and an international rebuilding effort was also launched across the entire country.

By 2003, the Taliban had reorganized under their founder, Mullah Omar, and began a widespread, large-scale insurgency against the new Afghan government as well as against the American-led coalition. Insurgents from the Taliban and other Islamist groups conducted asymmetric warfare with guerrilla tactics in the countryside and launched suicide attacks against urban targets, among them the prominent so-called "green-on-blue attacks" carried out by Afghan soldiers against international coalition forces, and reprisal attacks against perceived Afghan collaborators. By the year 2007, fighting between the two sides had escalated to a point where large parts of Afghanistan had been retaken by the Taliban, resulting in a massive response by ISAF that increased troops for counter-insurgency operations with a "clear and hold" strategy for villages and towns - the response by the coalition reached its peak in 2011, when roughly 140,000 foreign troops were operating under the ISAF command across Afghanistan (Brownell 2011).

Following a covert American military operation that resulted in the killing of Osama bin Laden in the Pakistani city of Abbottabad in May 2011, NATO leaders commenced planning for an exit strategy from Afghanistan, as the goal for the original *casus belli* had been achieved. On 28 December 2014, NATO formally ended ISAF combat operations in Afghanistan and officially transferred full security responsibility to the Afghan government. Unable to eliminate the Taliban through military means, coalition forces (and separately the government of Afghan president Ashraf Ghani) turned to diplomacy to end the conflict. All

these efforts finally resulted in the Doha Agreement between the United States and the Taliban in February 2020, which stipulated the withdrawal of all American troops from Afghanistan by April 2021. In exchange for the American withdrawal, the Taliban pledged to prevent any militant group from utilizing Afghan sovereign territory to stage attacks against the United States and its allies. However, the Afghan government was not a party to the deal and rejected its terms regarding the release of prisoners.

The target date for the American withdrawal was later extended to 31 August 2021; the Taliban, after the original deadline of April 2021 had expired, and coinciding with the troop withdrawal, launched a broad offensive throughout the summer, which resulted in their successful capture of most of Afghanistan, including the capital city of Kabul, which was taken on 15 August 2021. On the same day, the last president of the Islamic Republic, Ashraf Ghani, fled the country; the Taliban declared victory and the war was formally brought to a close. The re-establishment of Taliban rule across Afghanistan was confirmed by the United States, and on 30 August, the last American military aircraft departed from Afghanistan, ending the protracted American-led military presence in the country (Maranville 2021).

According to the estimations of the Costs of War Project, the military activities killed approximately 176,000 people in Afghanistan: 46,319 civilians, 69,095 military and police personnel, and at least 52,893 opposition fighters. According to the United Nations, after the 2001 invasion, more than 5.7 million former refugees decided to return to Afghanistan. However, with the return to power of the Taliban in August 2021, 2.6 million Afghans remained refugees, mostly in Pakistan and in Iran, while another 4 million Afghans remained internally displaced within the country (*The Costs of War Timeline – Afghanistan.* https://projects.voanews.com/afghanistan/timeline/).

8.1.2. The role of the public

While in most advanced countries, war and public opinion tend to go hand in hand, this is especially true for democracies as their leaders require significant levels of public support to both go to war and maintain war. Unlike authoritarian regimes, democracies tend to pick wars that they are likely to win. At the same time, democracies are more likely to accept defeat in the face of growing public discontent. In that sense, public opinion support for war goes along with public support for the president, who makes the decision to go to war. Therefore, the public is expected to reward an incumbent for a quick and successful war or punish a leader for making a poor decision regarding war.

However, while the war is ongoing and an evaluation of war progress is unclear, the political elite have great freedom take advantage of public rhetoric. In essence, if the public cannot assess the war based on traditional evaluations and causal events such as gained territory or destroyed targets, they then look to the leader for that evaluation. In the process of doing so, the public evaluates the leader as well as the progress of the war, leading to leadership accountability.

The September 11 attacks introduced a significant foreign policy shift and a change in rhetoric from the pre–September 11 months. During this time, the rhetoric related to loss and death became increasingly prominent. Loss domain rhetoric throughout the month focused on hurt businesses, hurt people, and a hurt America. Other loss domain terms pointed to the loss of lives and destruction in New York City (Mandel 2001).

The following quotes represent this tendency:

„Great harm has been done to us. We have suffered great loss. And in our grief and anger we have found our mission and our moment. Freedom and fear are at war. The advance of human freedom - the great achievement of our time, and the great hope of every time - now depends on us. Our nation - this generation - will lift a dark threat of violence from our people and our future. We will rally the world to this cause by our efforts, by our courage. We will not tire, we will not falter, and we will not fail."

„They are the names of rescuers, the ones whom death found running up the stairs and into the fires to help others. We will read all these names. We will linger over them, and learn their stories, and many Americans will weep."

(https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/text/20010914-3.html)

8.1.3. The soft and smart power of words

Prior to the September 11 attacks, both the president and the public focused on domestic issues, with the economy as the leading priority and President Bush's approval rating hovering around 50 percent. Immediately following the attacks, Bush's approval ratings leaped to more than 80 percent with similar numbers supportive of a punitive war, 92 percent supportive of the war on terror as a multilateral approach, and 85 percent supportive of a multilateral and broader campaign against terrorists beyond Afghanistan.

While support for the president and the „war on terror" more than likely emerged and spread as a result of the September 11 attacks, which is considered an exogenous event, the president used rhetoric and loss-related framing to seize the opportunity of purposefully injecting the war on terror theme into the public debate, highlighting the US-led invasion of Afghanistan. The „war on terror" theme started its ascent to long-term successful thematic framing with American society at a time when domestic public support for stronger US engagement in world affairs rose to the highest levels since World War II (Brownell 2011).

Also, at the same time, 69% of the public supported going to war with Iraq after the completion of the war in Afghanistan. At that point in time, with such high levels of public support, two different issues require attention with respect to Americans' support for war. First, even prior to the September 11 attacks, some polls showed that a majority of Americans supported a US military intervention to overthrow Saddam Hussein, Second, in the post–September 11 domain of loss, Americans not only supported the president but also believed that the United States should take a more active role in world affairs (Maranville 2021).

The combination of previously already present support for war and Americans' post–September 11 domain of loss worldview created a unique and seemingly perfect opportunity for the introduction of dramatic foreign policy shifts. The severity and speed of the September 11 attacks placed the American public not only in the domain of loss but in a sort of „crisis mode" worldview, thereby allowing the state leader access to a significant policy marketing opportunity. While this level of support for war was temporary, at certain later points in time, President George Bush made further attempts to recapture it by extensively utilizing the global war on terror as a thematic frame in firmly establishing and maintaining foreign policy changes (Maranville 2021).

This is the case in my work that best represents the use of a certain type of soft power as well as smart power by a state actor. The effectiveness of soft power, which generally focuses on the culture, political values and foreign policies of a given nation, often depends on the right usage of words in speeches delivered by the state actor's leader. Even though Bush chose several words and expressions related to loss and other negative connotations, at the same time, he never missed the opportunity to weave the concepts of American greatness, heroism, courage and resilience into the very same speeches that also reflected the domain of loss that was introduced previously. Consequently, his speeches became somewhat of a mixture of negative and positive, containing above all a sense of the American nation possessing a unique ability of resurrecting after grave losses.

Soft power more often than not uses only positive ideas related to the nation's qualities and values. However, this sort of usage, contrasting the negativity, the darkness of losses with the possibility of overcoming them and rising above in a bright, heroic fashion is something that has the potential of becoming even more effective on society. The post-September 11 speeches delivered by President Bush proved this spectacularly and gave way to the establishment of a new foreign policy for the US.

The smart power aspect of this case is rather evident, as it is a military conflict preceded by a terrorist attack. The combination of soft and hard power, as an attempt to strike a balance between defense and diplomacy, is the strategy most frequently and openly utilized in such recent situations. A few years later, under the Obama administration, the concept of smart power actually became the US' core principle of foreign policy (Maranville 2021).

The US' government was most certainly successful with its use of soft and smart power in its foreign policy rhetoric following the September 11 attacks. However, in his speeches, Bush purposefully omitted the negative elements already present in the foreign policy shift as well as the consequences of the freshly declared "war against terror" that did not require thorough expertise to see before they actually happened. Observing what followed the application of soft and smart power on society clearly shows how the United States went against the rules and regulations of international law, with that producing obvious double standards that can be reflected back on the targeted government rhetoric.

8.2. Humanitarian violations

8.2.1. The Human Rights Watch report

According to Human Rights Watch's estimation, between 2002 and 2004, at least one thousand Afghans and other nationals were detained by US forces in Afghanistan. Some of those apprehended were picked up during military operations while taking direct part in hostilities, but others taken into custody were civilians with no apparent connection to ongoing hostilities. The latter category may include persons wanted for criminal offenses, but such arrests were not carried out in compliance with Afghan or international legal standards. Numerous reports stated that US forces used excessive or indiscriminate force when conducting arrests in residential areas in Afghanistan.

Human Rights Watch also documented that Afghan soldiers deployed alongside US forces have beaten and otherwise mistreated people during arrest operations and looted homes

or seized the land of those arrested and detained. The Afghan government remains responsible for violations by Afghan forces that are under their control, and individual Afghan military commanders are culpable for abuses by their troops. In the same way, where Afghan forces have been put under the de facto control or command of US forces during operations, US personnel should have been responsible for preventing abusive behavior coming from their own ranks and from Afghan troops as well. Many of those arrested by US forces are detained for indefinite periods at US military bases or outposts. During their time of detention, these people had no contact with relatives or others, although some detainees receive visits from the International Committee of the Red Cross (ICRC). Detainees also had no opportunity to challenge the basis for their detention, and are sometimes subjected to mistreatment or torture (*Human Rights Watch Report on Afghanistan.* https://www.hrw.org/report/2004/03/08/enduring-freedom/abuses-us-forces-afghanistan).

A main concern of the Human Rights Watch report was the lack of legal process for detainees. The United States set up a system in Afghanistan that does not provide detainees a process whereby they can contest their detention and obtain their release. Once in custody, ordinary civilians had no way of challenging the legal basis for their detention or obtaining a hearing before an adjudicative body. They also had no access to legal counsel. Their release was fully dependent on decisions of the US military command, with little regard for the requirements of international law - whether the treatment of civilians under international humanitarian law or the due process requirements of human rights law (*Human Rights Watch Report on Afghanistan.* https://www.hrw.org/report/2004/03/08/enduring-freedom/abuses-us-forces-afghanistan).

8.2.2. Applicable legal standards

International humanitarian law always seeks to protect civilians from unnecessary harm during armed conflict. In this protection, the key is the imperative that military forces differentiate between combatants and civilians during military operations and when they take persons into custody.

Rules applicable to the conflict in Afghanistan required a military force to "take all feasible precautions in the choice of means and methods of attack with a view to avoiding, and in any event minimizing, incidental loss of civilian life, injury to civilians and damage to civilian objects." According to the law, attackers must refrain from an assault that may be expected to cause disproportionate civilian casualties and damage. Also prohibited are

indiscriminate attacks, which include those not directed at a specific military objective and consequently of a nature to strike military objectives and civilians or civilian objects without distinction.

In situations where forces are conducting essentially law enforcement operations - for instance, arrests of civilians wanted for questioning - basic rules of international human rights law also apply, including standards applicable to the use of force by law enforcement personnel. Applicable law enforcement standards are generally more stringent than those under international humanitarian law, and narrowly prescribe the contexts in which deadly force and firearms may be used.

According to Human Rights Watch, the use of military tactics and military rules of engagement in operations that otherwise bear the characteristics of civilian law enforcement, particularly the arrest of suspects in residential areas, raises a number of legal concerns and in Afghanistan likely led to casualties and destruction of civilian property that could have been avoided. The United States had an obligation to investigate such incidents, take disciplinary or other legal action as appropriate, scrutinize its arrest methods and rules of engagement, and adopt necessary policy changes to prevent further unnecessary and avoidable loss of life and property.

Regarding the detentions mentioned above, international humanitarian law states that individuals taken into custody who have not taken a direct part in the hostilities must be either charged with a criminal offense or released. The protections of human rights law, particularly the rights to be charged with a criminal offense, have access to legal counsel, and be tried before an impartial and independent court, apply. In a declared state of emergency, some due process requirements may be derogated, but such derogations must be "limited to the extent strictly required by the exigencies of the situation." The right to a fair trial by an independent and impartial court may never be violated (Sanders 2005).

In its 2004 March report, Human Rights Watch makes lists a number of recommendations to the US government regarding the unlawful activities the country's armed forces had been conducting since their invasion of Afghanistan. Most importantly, Human Rights Watch urges the US to ensure that all detainees are treated in accordance with international human rights law and international humanitarian law applicable to non-international armed conflicts, to abide fully with US obligations as a party to the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading), and to take disciplinary or criminal action as

appropriate against all personnel responsible for mistreating or otherwise violating the rights of detainees. As for military operations, the report recommends complying with international humanitarian law standards to protect civilians against the dangers arising from military operations, taking all feasible precautions in the choice of means and methods of attack to avoid or minimize harm to civilians and civilian objects, and canceling or postponing an attack where it becomes apparent the objective or target is not a military one or where civilian loss would be disproportionate.

8.2.3. US criticism of other nations' similar crimes

What is particularly interesting about the 2004 Human Rights Watch report is that as an Appendix, it includes a series of incidents that the US State Department has openly condemned as torture or other inhuman treatment. The condemnations come from the State Department's annually published 'Country Reports on Human Rights Practices' report and include examples mainly from smaller non-Western states. According to this Appendix, the US State Department has condemned among others the military and police forces of Burma, Cambodia, Egypt, Iran, Kuwait, Sri Lanka, the Philippines and Yemen for the torture and mistreatment of detainees (*Human Rights Watch Report of Afghan Prisoners.* https://2001-2009.state.gov/r/pa/prs/ps/2004/30244.htm).

To cite a few examples, the State Department report has stated that Burmese military "routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient (*U.S. State Department, 2001 Country Reports on Human Rights Practices (Burma), Sect. 1(c).*)" About the Philippines, the document says "members of the security forces and police continued to use torture and to abuse suspects and detainees", citing individuals being tied up, blindfolded and punched during interrogations as cases of torture (*U.S. State Department, 2002 Country Reports on Human Rights Practices (Philippines), Sect. 1(c).*). As for Egypt, the report lists handcuffing, being doused with cold water, and blindfolding of prisoners among the principal methods of torture used by authorities *(U.S. State Department, 2001 Country Reports on Human Rights Practices (Egypt), Sect. 1(c); U.S. State Department, 2002 Country Reports on Human Rights Practices (Egypt), Sect. 1(c).*).

Now, all the things the US State Department's annual report deems crimes, more specifically torture and inhuman treatment were done by US military forces in Afghanistan not once, but on numerous occasions. This is where the double standard element comes in – the United States condemns crimes committed by other, smaller nations' military forces but

refuses to investigate or take responsibility for the very same offenses committed by its own officials (Speri 2022).

As it was described above, soft and smart power used in the US government's rhetoric when justifying the military's actions in Afghanistan worked exceptionally well on the American public – however, if the US leadership can explain all those things to its own citizens, what sense does it make to consider the same things done by other nations' militaries? This is a typical technique of a great power applying double standards – the United States, as it is a powerful nation working hard to achieve peace, can afford "missteps", however, in the case of "lesser", but certainly less democratic states, the same offenses are definitely unlawful and need to be condemned. Other than being an obvious great power double standard, this kind of behavior also serves for diverting the attention of legal authorities: the US urges international law to look at cases in countries which are already known for their general lack of respect of legal standards when it comes to humanitarian issues rather than very similar cases committed by a country where human rights are held to utmost importance (Mandel 2001).

8.2.4. A lack of resolution and more double standards

Despite the fact that the report and along with that, the recommendations were published in 2004, no real investigation or compliance followed throughout the approximately 18 years of US presence in Afghanistan. During those years, a number of similar reports followed the 2004 one, detailing unlawful, long detentions of civilians, torture and incidents where casualties could have been completely avoidable. The United States never specifically responded to these reports and the recommendations included in them. Truth is, in the eyes of the US leadership, recommendations did not hold much significance, especially in a "war against terror", as officials liked to reiterate it as many times as possible during the long period of the conflict (Irani 2017).

Following the withdrawal of US troops from Afghanistan (a process which started in 2020 and ended with the final evacuation in late summer 2021), a significant portion of media coverage and political conversation focused on the glaring economic costs of the war. After nearly 20 years of being involved militarily, the United States is estimated to have spent over two trillion dollars in the region. President Biden referred to the final evacuation process with the following words:

"They have done it with unmatched courage, professionalism, and resolve. Now, our 20-year military presence in Afghanistan has ended."

However, the soaring economic costs are close to nothing in comparison to the actual human cost of war. According to the estimation of several reports, as of April 2021, more than 71,000 innocent Afghan and Pakistani civilians, including women and children had been killed as a direct result of the Afghanistan War. In fact, despite the US government's claim that it was only targeting terrorists and enemy combatants, many of the victims of the airstrikes led by the US were innocent civilians. Reports show that, in 2017, the US relaxed its formerly strict regulations on airstrikes, resulting in a nearly 330% increase in the number of civilian casualties. The large number of innocent civilians killed during the US involvement in Afghanistan raises critical questions regarding the authority of international law in relation to acts of war. Where the lawfulness of acts performed by a great power in a conflict situations becomes questionable, the existence of double standard elements in the very same case are highly likely (Speri 2021).

The Hague and Geneva Conventions of the late nineteenth and early twentieth centuries put together and provided a shared international understanding of what constitutes a „proper conduct of armed conflict". The Hague Conventions of 1899 and 1907 were the first "multilateral" or multi-state treaties created to address the proper conduct of warfare, prohibiting two parties at war with each other from engaging in inhumane means and methods during war.

Articles 23 and 25 of the 1907 Hague Convention (IV) state that any military or government cannot employ arms, projectiles, or material calculated to cause unnecessary suffering.

Weapons that cause unnecessary suffering or superfluous injury are prohibited. Note that the degree of suffering is not the principal issue; the true test is whether the suffering is needless or disproportionate to the military advantage expected from the use of the weapon.

(1) Thus, poisoned bullets are felt to cause unnecessary suffering since a person injured by modern military ammunition will ordinarily be placed out of the fighting by that alone; there is very little military advantage to be gained [by] making sure of the death of wounded persons through poison since they will be out of the battle when the poison takes effect.

(2) Similarly, using clear glass as the injuring mechanism in an explosive projectile or bomb is prohibited, since glass is difficult for surgeons to detect in a wound and impedes treatment.

(https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_cou_us_rule70)

While that is indeed the basis of the prohibition, the Convention does not explicitly mention this principle. It was first spelt out in the 1868 St. Petersburg Declaration, which is the first formal agreement prohibiting the use of certain weapons in war (https://ihl-databases.icrc.org/en/ihl-treaties/st-petersburg-decl-1868).

Additionally, the laws forbid states from

"the bombardment by naval forces of undefended ports, towns, villages, dwellings or buildings which are undefended and which are not military objectives" (*ICC Statute.* https://ihl-databases.icrc.org/customary-ihl/eng/docs/v2_rul_rule37_sectionc)

The 1949 Geneva Conventions were created to supplement these laws by legally protecting the dignity and, even more importantly, the lives of innocent civilians who are not directly partaking in the violence. The fourth 1949 convention, in particular, focuses on how not only the life but "the dignity" of all human beings must be respected, even in the midst of war.

„International humanitarian law limits the use of violence in armed conflicts to spare those who do not or who no longer directly participate in hostilities, while at the same time limiting the violence to the extent necessary to weaken the military potential of the enemy. Both in limiting the violence and in regulating the treatment of persons affected by armed conflict in other respects, international humanitarian law strikes a balance between humanity and military necessity. While on the face of it, the rules of international human rights law and international humanitarian law are very different, their substance is very similar and both protect individuals in similar ways. The most important substantive difference is that the protection of international humanitarian law is largely based on distinctions—in particular between civilians and combatants—unknown in international human rights law."

(https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf)

In consequence, under these conventions, any sort of unjustified killing of innocent civilians or unnecessary destruction of property is considered a violation of international law, even though not all violations of international humanitarian law are considered war crimes.

While not all of the state actors of the world have ratified both the Hague and Geneva conventions, Statute of the International Court of Justice argues that the rules included in them have still inherently become a part of customary international law. Therefore, all states are bound by them, regardless of whether or not they have ratified the treaties themselves. (*ICRC Customary International Law. https://www.icrc.org/en/war-and-law/treaties-customary-law/customary-law*). This is a crucial point to assessing the legality of actions and overall conduct of the United States in Afghanistan. Despite having ratified both conventions, the US violated them on several occasions during the War in Afghanistan. For instance, in 2021, the United States admitted to a drone strike that mistakenly killed 10 Afghan civilians, including an aid worker and seven children living in a dense residential block (*Civilian statement on drone strike.* https://civiliansinconflict.org/press-releases/civic-statement-on-u-s-drone-strike-that-killed-civilians-in-kabul-afghanistan/).

The Pentagon acknowledged in September that the last US drone strike before American troops withdrew from Afghanistan the previous month was a tragic mistake that killed the civilians, including seven children, after initially stating it had been necessary to prevent an Islamic State attack on troops. A subsequent high-level investigation into the episode found no violations of law but stopped short of fully exonerating those involved, explaining that such decisions should be left up to commanders. The military also alleged that the strike had only killed around three civilians. It was not until the *New York Times* published declassified footage of the strike that the truth was revealed: the driver of the "suspicious" vehicle was an Afghan aid worker who had spent his entire day "transporting colleagues to and from work." Further investigation of the video also revealed that at least one child – probably more - had been near the site of the strike only two minutes prior (*New York Times – Afghanistan Drone Strike Video* https://www.nytimes.com/2022/01/19/us/politics/afghanistan-drone-strike-video.html).

Despite being in clear violation of both Articles 23 and 25 of the Hague Convention (IV), which clearly states that it is forbidden to cause "unnecessary suffering" or attack villages and dwellings that are undefended, none of the US military officials involved in the drone strike were punished for their deadly actions under the stipulations of these Conventions (Golden 2001). The innocent victims and their families however had to pay a high price for the US military's "mistake".

Unfortunately, that of the drone strike is not an isolated case. Numerous strikes with deadly consequences, in undefended homes and densely populated neighborhoods, occurred throughout the War in Afghanistan. For example, in 2008, an airstrike "against a target of opportunity" killed 47 civilians who were traveling to attend a wedding in the Nangarhar province of Afghanistan. Among those killed were 39 women and children, including the bride. As in the previous 2021 drone strike case, the United States had initially fully denied any wrongdoing, stating that no civilians had been killed. It was not until further investigation of the incident that the truth was finally revealed. Once again, the United States government had acted with impunity and a reckless disregard for the value of innocent lives. Similarly to the previous case, US officials never received any kind of punishment for violating international law. (*The Civilian Impact of Drones.* https://civiliansinconflict.org/wp-content/uploads/2017/09/The_Civilian_Impact_of_Drones_w_cover.pdf).

8.3. Summary – The double standard

There is no doubt that the United States committed a number of grave human rights violations during the war in Afghanistan – an armed conflict that was communicated to the society as a „war against terror", highlighting the harm that came to the US and concealing the brutality that was known by the leadership to be coming. During the war, US troops and their commanders breached the regulations of international law countless times. Following the war, the US State Department used clear double standards by refusing to accept the legal consequences of its violations, also refusing to comply with or even acknowledge the recommendations included in the Human Rights Watch report, all the while wanting to hold other, smaller nations accountable for their troops having committed the very same crimes.

8.4. The War in Iraq

8.4.1. Introduction

The Iraq War was a protracted armed conflict in Iraq from 2003 to 2011. It began with the invasion of Iraq by the United States-led coalition that overthrew the Ba'athist government of Saddam Hussein. The conflict continued for much of the next decade as an insurgency emerged to oppose the coalition forces and the post-invasion Iraqi government. US troops were officially withdrawn from Iraq in 2011. The United States became re-involved in 2014 at the head of a new coalition, and the insurgency and many dimensions of the armed conflict

are ongoing. The invasion occurred as part of the George W. Bush administration's war on terror following the 2001 September 11 attacks against the United States (Mockaitis 2013).

The US based most of its reasoning for the invasion on claims that Iraq had a weapons of mass destruction (WMD) program and posed a threat to the US and its allies. Additionally, some US officials accused Saddam of harboring and supporting al-Qaeda, the terrorist group that attacked the United States on 9/11. However, in 2004 the 9/11 Commission concluded there was no evidence of any kind of relationship between Saddam's regime and al-Qaeda. No stockpiles of WMDs or active WMD program were ever found in Iraq. Bush administration officials made several claims about a purported Saddam–al-Qaeda relationship and WMDs that were based on insufficient evidence rejected by intelligence officials. The rationale for the Iraq War faced heavy criticism both domestically and internationally. Kofi Annan, then the Secretary-General of the United Nations, called the invasion illegal under international law, as it violated the UN Charter. The 2016 Chilcot Report, a British inquiry into the United Kingdom's decision to go to war, concluded that not every peaceful alternative had been examined, that the UK and US had undermined the United Nations Security Council in the process of declaring war, that the process of identification for a legal basis of war was "far from satisfactory", and that, these conclusions taken together, the war was unnecessary. When interrogated by the FBI, Saddam Hussein confirmed that Iraq did not have weapons of mass destruction prior to the US invasion, although the Iraq Survey Group did find that Saddam had the aim of WMD proliferation and maintained the laboratories and scientists necessary for WMD development (Mockaitis 2013).

8.4.2. Swaying public opinion with rhetoric

The war began March 19, 2003, with an overwhelming show of American military might, described by the unforgettable phrase “shock and awe.” Within weeks, the United States achieved the primary objective of Operation Iraqi Freedom, as the military operation was called, ousting the regime of dictator Saddam Hussein. The administration’s success in these efforts was the result of several factors, not least of which was the climate of public opinion at the time. Still reeling from the horrors of the Sept. 11, 2001, terrorist attacks, Americans were extraordinarily accepting of the possible use of military force as part of what Bush called the “global war on terror” (Barratt, Furia & Sobel 2012).

By early 2002, with US troops already fighting in Afghanistan, large majorities of Americans favored the use of military force in Iraq to oust Hussein from power and to destroy terrorist groups in Somalia and Sudan. Bush and senior members of his administration then

spent more than a year outlining the dangers that they claimed Iraq posed to the United States and its allies. Two of the administration's arguments proved especially powerful, given the public's mood: first, that Hussein's regime possessed "weapons of mass destruction" (WMD), a shorthand for nuclear, biological or chemical weapons; and second, that it supported terrorism and had close ties to terrorist groups, including al-Qaida, which had attacked the US on 9/11.

As numerous investigations by independent and governmental commissions subsequently found, there was no factual basis for either of these assertions. Two decades later, debate continues about whether the administration was the victim of flawed intelligence, or whether Bush and his senior advisers deliberately misled the public about Iraq's MD capabilities, in particular. In the months leading up to the war, the majority of Americans believed that Iraq either possessed WMD or was close to obtaining them, that Iraq was closely tied to terrorism – and even that Hussein himself had a role in the 9/11 attacks (Mockaitis 2013).

In his 2002 State of the Union address, Bush began making the case for why the United States might need to use military force to remove Saddam Hussein from power. "Iraq continues to flaunt its hostility toward America and to support terror," he said. "The Iraqi regime has plotted to develop anthrax and nerve gas, and nuclear weapons, for over a decade" (*President Bush addresses the nation.* https://georgewbush-whitehouse.archives.gov/infocus/iraq/news/20030319-17.html).

Iraq was one of three countries, along with Iran and North Korea, that constituted an "axis of evil," according to Bush. But Iraq drew much more attention from the former president than did those countries. "This is a regime that has something to hide from the civilized world," Bush said (*President Bush addresses the nation.* https://georgewbush-whitehouse.archives.gov/infocus/iraq/news/20030319-17.html).

Even before his speech, Americans were inclined to believe the worst about Hussein's regime. In a survey conducted a few weeks prior to the State of the Union, 73% favored military action in Iraq to end Hussein's rule; just 16% were opposed. More than half (56%) said the US should take action against Iraq "even if it meant U.S. forces might suffer thousands of casualties".

Bush delivered this address, among the most memorable of his presidency, just four months after the terrorist attacks in New York City and near Washington, D.C., and Shanksville, Pennsylvania. Americans remained on edge: 62% said they were very or somewhat worried that another terrorist attack was imminent. At that point, more than a year

before the United States went to war, Americans overwhelmingly embraced several possible rationales for military action: 83% said that if the U.S. learned that Iraq had aided the 9/11 terrorists, that would be a "very important reason" to use military force in Iraq; nearly as many said the same if it was shown that Iraq was developing WMD (77%) or harboring other terrorists (75%) " (Barratt, Furia & Sobel 2012).

Over the next several months, Bush and other senior officials claimed with varying degrees of certainty that there was evidence justifying the use of U.S. military force. In a speech to a Veterans of Foreign Wars convention in August 2002, former Vice President Dick Cheney was unequivocal in asserting: "Simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction. There is no doubt he is amassing them to use against our friends, against our allies, and against us" *(Vice President Speaks at VFW 103rd National Convention.* https://georgewbush-whitehouse.archives.gov/news/releases/2002/08/20020826.html).

Such warnings resonated strongly with Americans: Most believed that Hussein either already possessed WMD or was close to obtaining them. In October 2002, 65% of the public said Hussein was close to having nuclear weapons, while another 14% stated hat he already possessed them. Just 11% said he was not close to developing such weapons. That month, Congress overwhelmingly approved a resolution authorizing Bush to use the U.S. armed forces "as he determines to be necessary and appropriate" to defend the security of the United States and enforce UN resolutions on Iraq (Kamalipour & Artz 2004).

In addition to alleging that Hussein possessed - or was about to obtain - unconventional weapons, administration officials also repeatedly linked his regime to terrorists and terrorism. For the most part, these allegations were vague and unspecified, but on occasion, senior officials directly connected Iraq with al-Qaida terrorist group that attacked the United States on 9/11. "We know that Iraq and the al-Qaida terrorist network share a common enemy – the United States of America," Bush said that October. "We know that Iraq and al-Qaida have had high-level contacts that go back a decade" (*President Bush addresses the nation.* https://georgewbush-whitehouse.archives.gov/infocus/iraq/news/20030319-17.html).

Neither Bush nor senior administration officials directly linked Iraq or its leader to the planning or execution of the 9/11 attacks. Even still, a considerable majority of Americans believed that Hussein aided the terrorist attacks that took nearly 3,000 lives. The same month that Congress approved the use of force resolution against Iraq, 66% of the public said that "Saddam Hussein helped the terrorists in the September 11th attacks"; just 21% said he

was not involved in 9/11. In February 2003, a month before the war began, that belief was only somewhat less widespread; 57% thought Hussein had supported the 9/11 terrorists (Kamalipour & Artz 2004).

By connecting Hussein to terrorism and the group that attacked the United States, administration officials blurred the lines between Iraq and 9/11. The notion was reinforced by the hints and the discussions that they had about possible links with al-Qaida terrorists (Barratt, Furia & Sobel 2012).

8.4.3. The Iraq war and its consequences

The war in Iraq killed upwards of a million Iraqis, displaced over 9 million from their homes, and completely destroyed the country's infrastructure. Terrorist groups, including ISIL (the Islamic State of Iraq and the Levant), emerged in response to the invasion and have continued to unleash violence (*15 Years. More Than 1 Million Dead. No One Held Responsible.* https://www.esquire.com/news-politics/politics/a19547603/iraq-15-years-george-bush/). The invasion of Iraq directly contravened the UN Charter's articles prohibiting military intervention and the use of force in international relations. The U.S. sent 130,000 troops to overthrow Iraq's government, without UN Security Council authorization and under the fraudulent pretext that the country was amassing weapons of mass destruction.

Widespread human rights violations emerged from the invasion and occupation. Among them, tens of thousands of Iraqis were arrested and detained by U.S. personnel. The majority were innocent civilians and many were abused. Photos from the Abu Ghraib prison scandal in April 2004 revealed horrifying, unlawful acts of torture. Naked men were leashed like dogs, electrocuted, and beaten. This barbarism was part of a broader post 9/11 torture network that spanned secret CIA prisons in Afghanistan and Europe to the notorious U.S. prison at Guantánamo Bay, Cuba (*Torture at Abu Ghraib.* https://www.newyorker.com/magazine/2004/05/10/torture-at-abu-ghraib).

No US government officials who created, implemented, or oversaw torture have been held accountable. They have not received court indictments, arrest warrants, sanctions, or professional ramifications. Justice, including in the form of reparations, still evades the survivors of torture at Abu Ghraib and other Iraqis harmed by the war. Also, no high-level US officials faced consequences for waging a war that killed nearly 4,600 US soldiers and that continues to cost the US government trillions (*Reparations for Iraq.* https://nymag.com/intelligencer/2021/09/iraq-war-reparations.html).

Between 2003 and 2011, the Amnesty International documented US forces' engagement in rampant human rights violations - including indiscriminate attacks that killed and injured civilians, secret detention, secret detainee transfers, enforced disappearance, torture and other cruel, inhuman or degrading treatment. Former detainees have credibly alleged a litany of abuses in detention centers, including sleep deprivation, forced nudity, deprivation of adequate food and water, mock executions and threats of rape. Amnesty has previously urged the US government to establish a full, independent commission of inquiry into US detention and interrogation policies and practices in Iraq, but to date successive US administrations have failed to do so (*USA: 'Judge us by our actions': A reflection on accountability for U.S. detainee abuses 10 years after the invasion of Iraq.* https://www.amnesty.org/en/documents/amr51/012/2013/en/).

Some investigations have taken place which have led to dozens of mostly low-ranking US soldiers being court-martialed in relation to the abuse of detainees. However, no senior US officials have been brought to justice for crimes perpetrated in Iraq since 2003, despite public admissions of involvement in secret detentions directed by former president George W. Bush and former Secretary of Defense Donald Rumsfeld - conduct that under international law should trigger criminal investigations.

8.4.4. Soft and smart power

In this case, similarly to that of Afghanistan, the United States' leadership utilized a combination of soft and smart power based on speeches and, in particular, words and concepts. In 2002, Bush and his cabinet did not need to do much in order to sway public opinion towards supporting the use of military force against Iraq, as the society was still greatly unsettled about 9/11 and extremely wary of the Middle East in general. The Bush speech and other commentaries by top officials combined soft power – highlighting the United States' primary goal of retaining peace and protecting democracy against hostile forces – and smart power – establishing the planned action's complete legitimacy by blurring the lines between Iraq and 9/11. The US leadership was careful not to specifically accuse the Iraqis of planning a terrorist attack or even possessing weapons with which they could commit such an act, but the frequent allusions and warnings that the nation may be in grave danger shaped public opinion just as it was needed to be shaped (Barratt, Furia & Sobel 2012).

The effort by the Bush Administration and Congress to portray the planned invasion of Iraq as simply an effort to enforce United Nations Security Council resolutions reaches the

territory of evident double standards. A survey of the nearly 1,500 resolutions passed between 1945 and 2010 by the Security Council, in which the United States and the four other permanent members wield veto power, reveals more than ninety resolutions currently violated by countries other than Iraq. The vast majority of these violations are by governments closely allied to the United States (Barratt, Furia & Sobel 2012).

For example, Israel refused to respond positively to the formal acceptance by the Arab League of the land-for-peace formula put forward in Security Council Resolutions 242 and 338 – thus it arguably violated these resolutions, long seen as the basis for Middle East peace. Israel has also defied Resolutions 267, 271 and 298, which demand that it rescind its annexation of greater East Jerusalem, as well as dozens of other resolutions insisting that Israel cease its violations of the Fourth Geneva Convention, such as deportations, demolition of homes, collective punishment and seizure of private property. These Security Council resolutions are well grounded in international law and were passed with US support or abstention (Kamalipour & Artz 2004).

Also, following Morocco's invasion of Western Sahara and Indonesia's invasion of East Timor, the Security Council passed a series of resolutions demanding immediate withdrawal. However, then-US ambassador to the UN Daniel Patrick Moynihan stated that "the Department of State desired that the United Nations prove utterly ineffective in whatever measures it undertook. The task was given to me, and I carried it forward with no inconsiderable success." East Timor finally gained its freedom in 1999 but Moroccan forces still occupy Western Sahara (Barratt, Furia & Sobel 2012).

Not only have the Bush Administration and its Congressional allies not suggested invading these countries; the United States has blocked sanctions and other means of enforcing them, and even provides the military and economic aid that helps make ongoing violations possible.

According to Articles 41 and 42 of the UN Charter, no member state has the right to enforce any resolution militarily unless the Security Council determines that there has been a material breach of the resolution, decides that all nonmilitary means of enforcement have been exhausted and specifically authorizes the use of military force. This is what the council did in November 1990 with Resolution 678 in response to Iraq's occupation of Kuwait, which violated a series of resolutions passed that August demanding Iraq's withdrawal. When Iraq finally complied by withdrawing from Kuwait in March 1991, this resolution became moot (Kamalipour & Artz 2004).

If the United States can unilaterally claim the right to invade Iraq because of that country's violations of Security Council resolutions, other council members could logically just as well claim the right to invade states that are also in violation. The US insistence on the right to attack unilaterally could seriously undermine the principle of collective security and the authority of the UN, and in so doing would open the door to international anarchy.

8.5. Summary – The double standards

Similarly to the war in Afghanistan, the war in Iraq was also a conflict that began with the US manipulating public opinion by highlighting a perceived threat and concealing the brutality that "threat" would be eliminated. Considering that Iraq did not even have a WMD program, this case is even graver in the sense that the invasion started based on false information. Following the war, to evade consequences, the US leadership insisted that the US invaded Iraq to enforce United Nations Security Council resolutions. The US had no right to do so, given that the UNSC had not determined any material breach of the resolution. The US projected double standards by unilaterally claiming the right to invadeIraq, while, as a council member, it has fully ignored the almost one hundred other violations of the resolution committed by nations other than Iraq – most of them close US allies.

Chapter (9)

Further examples

9.1. India

9.1.1. India as SCO chair

The Shanghai Cooperation Organization (SCO) was created to promote cooperation in various fields such as fields of security, economy, culture, science and technology. The Shanghai Spirit derives the core value of SCO, which is based on mutual trust, mutual benefit, equal rights, consultations, respect for the diversity of cultures, aspiration towards common development, non-alignment, no-targeting anyone and openness. The organization has two permanent bodies, i.e., Secretariat in Beijing and Regional Anti-Terrorist Structure (RATS) in

Tashkent. RATS was established to deal with combating terrorism, extremism and separatism regionally and globally (*http://eng.sectsco.org/cooperation/20170110/192193.html*). Currently, the SCO includes 9 Member States — the Republic of India, the Islamic Republic of Iran, the Republic of Kazakhstan, the People's Republic of China, the Kyrgyz Republic, the Islamic Republic of Pakistan, the Russian Federation, the Republic of Tajikistan, the Republic of Uzbekistan; 3 Observer states - the Islamic Republic of Afghanistan, the Republic of Belarus, Mongolia. In 2022, at the Samarkand SCO Summit, the process of raising the status of the Republic of Belarus within the Organization to the level of a member state has begun; and 14 Dialogue Partners – the Republic of Azerbaijan, the Republic of Armenia, the Kingdom of Bahrain, the Arab Republic of Egypt, the Kingdom of Cambodia, the State of Qatar, the State of Kuwait, the Republic of Maldives, the Republic of the Union of Myanmar, the Federal Democratic Republic of Nepal, the United Arab Emirates, the Kingdom of Saudi Arabia, the Republic of Turkey, the Democratic Socialist Republic of Sri Lanka (*http://eng.sectsco.org/cooperation/20170110/192193.html*).

The inclusion of Pakistan and India within the organization in 2017 yielded mixed signals of optimism and pessimism. Optimists believed SCO would allow respective countries to address their bilateral issues and potentially yield favorable outcomes. Pessimists, on the contrary, warned that tension between member states, especially between Pakistan and India, would hinder the progress within the organization. However, it is no surprise that the present situation gives greater relevance to the pessimistic outlook. India's hostile rhetoric against Pakistan has been extending to the platform of SCO. Presently, India holds the SCO Chairmanship and has not only been using its position of influence to resolve other member states' pressing issues, but to incite conflict with Pakistan as well.

In a recent seminar on the SCO Armed Forces Contribution in Military Medicine, Healthcare and Pandemic (New Delhi- March 21, 2023), Pakistan was practically denied active participation upon displaying its official map (*Pak team skips SCO event in Delhi after Indian objection to its inaccurate map.* https://www.hindustantimes.com/india-news/pakistani-team-skips-sco-event-in-delhi-after-indian-objection-to-its-inaccurate-map-101679393419718.html). Another significant event happened at SCO Defense Ministers' meeting held in New Delhi on April 27, 2023, when Indian Defense Minister avoided shaking hands with his Chinese counterpart, causing a tense atmosphere (*Rajnath Singh avoids handshake with Chinese counterpart during bilateral meet.* https://timesofindia.indiatimes.com/india/rajnath-singh-avoids-handshake-with-chinese-counterpart-at-bilateral-meet/articleshow/99842176.cms?from=mdr). Furthermore, probably

most importantly from the perspective of this study, the Indian Foreign Minister, while using the SCO platform, made remarks accusing his Pakistani counterpart of being a "spokesperson of the terror industry" (*SCO Meet: Jaishankar calls Pakistani counterpart Bilawal Bhutto 'terror industry's promoter and spokesperson'* .https://organiser.org/2023/05/06/172629/bharat/sco-meet-dr-s-jaishankar-called-pakistani-counterpart-bilawal-bhutto-terror-industrys-promoter-spokesperson/) .

India has most recently attacked China along with Pakistan at a United Nations Security Council meeting on terrorism, calling out both countries on several counts from "double standards" to "hypocrisy" over the issue. Pointing out the "practice of placing holds and blocks on listing requests without giving any justification", India's Ambassador to UN, Ruchira Kamboj, said, "It is most regrettable that genuine and evidence-based listing proposals pertaining to some of the most notorious terrorists in the world are being placed on hold" (*At SCO Summit, India slams Pakistan, China over terrorism, connectivity.* https://www.indiatoday.in/world/story/sco-summit-pm-narendra-modi-china-president-xi-jinping-pak-pm-shehbaz-sharif-terrorism-connectivity-2401880-2023-07-04).

The reason for the hostile remarks is that earlier in 2023, China had put a hold on the UN listing of Pakistan-based Lashkar-e-Tayyiba's 2nd command Abdul Rehman Makki. China has put a technical hold on Makki that will last for 6 months. In the past too, Beijing had put a hold on the listing of Jaish-e-Mohammed (JeM), Maulana Masood Azhar and it took a decade for New Delhi to list him as an UN-listed terrorist. Indian Ambassador Ruchira explained that double standards and continuing politicization have rendered the credibility of Sanctions Regime at an all-time low, expressing his hope that all members of the UNSC can pronounce together in one voice, sooner than later, when it comes to this collective fight against international terrorism (*UNSC: India Slams China's 'Motivated' Decision to Block Proposal to Blacklist JeM Leader.* https://thewire.in/world/unsc-india-china-blacklist-abdul-rauf-azhar).

About Pakistan, the ambassador pointed to the "state hospitality" for terrorists in a "neighboring country despite being listed under the UNSC 1267 Sanctions Committee." UN's 1267 committee lists one of the largest numbers of Pakistanis as international terrorists. These include Masood Azhar, Hafiz Saeed, and Zaki ur Rehman Lakhvi, who were responsible for terror attacks in India, including the 26/11 Mumbai terror attack. Islamabad has gone to UNSC for getting allowances for many of them. She asked the international community to call out "such hypocrisy. when the threat of terrorism looms large in each of our countries." (Pakistan *puts Dawood Ibrahim, Masood Azhar, Hafiz Saeed, Zaki-ur-*

Rahman Lakhvi on terror list. https://www.thehindu.com/news/international/pakistan-puts-dawood-ibrahim-masood-azhar-hafiz-saeed-zaki-ur-rahman-lakhvi-on-terror-list/article32419860.ece)

During her address, the ambassador announced that India will be hosting a special session of the UN's counter-terror committee in Mumbai and Delhi which will highlight the nature of the "threat, member states' capacity gaps and best practices and exploring the further course of action to effectively deal with this threat." India is the chair of the Counter-Terrorism Committee. During the address she also mentioned the recent attacks on Gurudwara in Kabul, calling them highly alarming. The multiple attacks on Sikhs and Gurudwaras in Afghanistan have led to an exodus of the minority community as many arrive in India seeking refuge. The ambassador emphasized that "The linkages between groups listed by the UNSC such as the Lashkar-e-Tayyaba and the Jaish-e-Mohammed as well as provocative statements made by other terrorist groups operating out of Afghanistan pose a direct threat to the peace and stability of the region" (*UN Press Conference – Address of Ambassador Ruchira*. https://webtv.un.org/en/asset/k1a/k1aetwichg)

9.1.2. Double standards

India is the only country in SCO hosting all 'three evils' indicated by RATS: terrorism, extremism and separatism. There have been numerous occasions where India has expressed its commitment to root out these evils - however, its actions at home and abroad demonstrate otherwise. In fact, India is deeply involved in state terrorism, promoting the extremist agenda of Hindutva, suppressing minorities nationwide for Hindu supremacy, and committing war crimes in Indian Illegally Occupied Jammu and Kashmir (IIOJK). Its deteriorating human rights record has faced criticism from international organizations repeatedly. Given that India is clearly involved in similar criminal practices it accuses Pakistan of practicing, this is an evident case of double standards projected by a bigger state onto a smaller one (Prakash 2008).

The 2021 US State Department Country Reports of Human Rights Practices (https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/), the 2023 Annual Report of the US Commission on International Religious Freedom (https://www.uscirf.gov/events/webinars/2023-annual-report-key-findings-and-recommendations), the Amnesty International Country Profile (https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/), the

2021 Human Rights Watch Report (https://www.hrw.org/world-report/2021/country-chapters/india) and the 2022 Freedom House Report (https://freedomhouse.org/country/india/freedom-world/2022) have raised serious concerns over India's harsh discrimination, including arbitrary arrests, extra-judicial killings, religious persecution of minorities and media policy restricting the use of the internet. Furthering the extremist ideology of Hindutva, it aims to reshape India by pursuing communal policies by targeting Muslim and Christian minorities that have sparked religious, ethnic and racial intolerance and xenophobia. The recent killings of Christians and burning of churches in Manipur (Northeast India) demonstrate the existence of Indian state-sponsored terrorism and extremist approach towards Hindu Maharashtra.

Besides the deteriorating domestic situation, India is also involved in criminal activities across its borders. Since India has been vocal in its accusation against Pakistan, substantial evidence suggests India's direct involvement in proliferating terrorism in Pakistan. Indian intelligence operators have been implicated in sabotage activities, meddling in state affairs and state-sponsored terrorism. Pakistan has already shared a dossier with the UN containing evidence of India's involvement in numerous terror activities in Pakistan (*Counterterrorism Overview – India.* https://counterterrorismethics.tudelft.nl/ct-overview-india/).

As an SCO member, India is responsible for upholding the values and goals outlined in the Shanghai Spirits - however, it appears to contradict these principles by failing to follow international law and treaties, such as UN resolutions on Kashmir. From the Pakistani point of view, India's instrumentalization of the SCO forum for its strategic interests represents a deviation from its obligations.

The Indian leadership clearly has a number of serious issues of its own to resolve concerning terrorism. Despite India not being a global great power at the level of the United States, China or Russia, it is indeed a rapidly emerging regional power getting more and more involved in international affairs. As India is gaining international political and economic strength and shaping new ties with other important regional players such as Japan or Vietnam, it is visibly beginning to adopt a certain type of behavior characteristic of the great powers detailed in the previous chapters. Becoming SCO chair has only intensified this new kind of conduct. SCO is an organization aimed at - among other things – maintaining regional security and resolving the problems of member states, therefore, as current leader, India feels like it has all the right to assert its own interests through the SCO core values. Accusing the two countries of terroristic practices is meant to divert attention from India's very similar

internal problems, plus, the Indian leadership hopes that as SCO chair, its words are going to be given more importance and credibility than as "just" a regional power.

Given that India's relations with both Pakistan and China are going through one of their worst phases, it is unlikely that the three nations could cooperate or even agree on any major political issue. Therefore, during its time as chair of the SCO, India's principal aim with its double standard projection is to sway international judgment towards its own favor by emphasizing other nations' crimes and concealing its own.

9.2. Summary – The double standards

Despite being an SCO member, therefore responsible for upholding the values of the organization, India is deeply involved in state terrorism, as well as extremist and criminal activities. However, using its authority as an influential regional power and SCO chair, India projects double standards on Pakistan and China by accusing them of unlawful practices and wanting to hold them accountable through international law, while ignoring that those very practices are present within and across its own borders. Even though India is "only" a middle-sized power, its influence is substantial in the region, and its projection of double standards is identical to that of great powers'.

Chapter (10)

Findings

10.1. Question and hypothesis

The first research question I posed at the beginning of my work was the following: *„Can a common pattern be identified in the reasons why and how great powers use double standards in bi- or multilateral conflict situations?"*

The hypothesis related to that question was that there is indeed a characteristic pattern in the way great powers use double standards as well as in the specific events when one great power accuses another with using double standards. My principal aim was to identify such a common, easily recognizable pattern in great powers' reasoning behind the double standards

and the way they apply them. Recognizing such a pattern could provide substantial help in really knowing what „great powerness" exactly consists of and what „great power behavior" really is – a conduct typical of all states that currently fall into the „great power" category, no matter what their location or other traits are.

During my research I came to the conclusion that it is not only the few nations of the world unanimously defined as great powers that resort to using double standards in order to reach their goals of improve their situation or reputation, but middle-sized powers tend to use them as well, most of the times against states they consider lesser in might than themselves. India's conduct against Pakistan is a prime example for that. In my view, „great power behavior" can be applicable for such cases as well, given that the bigger state acts from a superior position, automatically considering itself „great" compared to the smaller state it projects double standards onto. In the case of middle-sized powers, maintaining their influence and status in the global order is even more important given the fact that their level of power is not not as solid as that of great powers'. What they seek to achieve by the application of double standards is the stabilization of their national security and power status in a strategic way, without using military force – this aligns with the theory of defensive realism.

The importance of identifying a common pattern lies in the fact that it could eventually serve to take at least a part of the inherent asymmetry and inequality away from a given conflict situation, making it somewhat more of a symmetrical and equal nature. What is more, identifying such a common pattern can also be of substantial help when it comes to resolving a conflict by legal means – knowing the typical „great power reactions" would provide significant help to the legislation to conduct the proceedings accordingly and apply the means that would leave less space for double standards as well as for accusations related to the use of double standards.

10.2. A pattern based on defensive realism

During the course of my thorough research of the three countries that can be defined as great powers in our current global order, their characteristic ways of conducting themselves in conflict situations and, more specifically, their attitude towards and application of double standards, the pattern I was looking for started emerging with more and more clarity.

In order to demonstrate the existence of that common pattern, it is necessary to return to what probably is the most important part of the theoretical framework of this study: the defensive realism sub-theory of structural realism or defensive neorealism.

Defensive realism above all assumes the following points:

(1) The international system is anarchic.
(2) States inherently possess some offensive military capability, which gives them the ability to hurt and possibly destroy each other.
(3) States can never be certain about the intentions of other states.
(4) The basic motive driving states is survival.
(5) States think strategically about how to survive in the international system (Shifrinson 2020).

While I do not assume all sorts of behavior projected by great powers can be explained by the theory of defensive realism, the use of double standards certainly can. In order to be able to appropriately describe the correlation between the case studies presented in this work and defensive realism, the key points among the ones listed above are (3), (4) and (5). While offensive capabilities are indeed there for powerful states and they do get to be used in given situations, here the most important concept is that of survival.

The term 'survival' is not to be understood in the general sense of continuing to exist despite extremely difficult circumstances – for great powers, it means continuing to thrive, maintaining a stable and superior status with all its advantages despite the highly unpredictable, rapidly changing relations between states. That is the survival great powers truly want in the long run.

A few centuries ago, when states of the world did not nearly have as much contact with each other as they do now, states wielding a significant amount of power did not as often have to think about how to keep that power as it is necessary now, when new alliances are forged almost daily, just as frequently as new rivalries or even hostilities emerge between smaller and bigger states. Great powers are constantly reminded of the fact that their position is fragile, therefore, a need for new strategies is ever-present. Even a great power cannot go to war every single time its status is being threatened – if that was common practice, there would be no global order, only global chaos.

Observing all the case studies including the use of double standards, it becomes clear that the aim of great powers – and middle-sized powers - when choosing to apply them is not to conquer or gain even more power, but to come out of a given conflict in a more positive light, and with that, to consolidate their status. China, Russia, the United States – even though they all might nurture a lot more ambitious goals, with the specific cases of double standards they only want to maintain stable positions of power and influence in an ever-changing global

system.

This is true even when the case study itself is that of a military conflict: while I do not at all assume that with waging a war against another state or multiple states, a great power does not wish to conquer and acquire more power, but with the use of the double standard itself, it always just wants to ensure it is able to keep the status it already has. The very nature of the double standard concept explains provides an explanation: similarly to soft and smart power, a double standard is never an aggressive or even assertive, out-there sort of conduct. It is much more of a cunning, well-thought out strategy, something that, as I already explained in the introductory part of my work, is often not even noticeable or identifiable.

10.3. A pattern based on critical constructivism

It is also possible to tie the concept of critical constructivism into the way great powers apply double standards and accuse other states of applying them. The key is national identity, something that tends to take center stage in cases where the use of double standards is present, putting rules, regulations, norms and legality in general in the background. This can especially be true for non-Western countries, like India in a previous chapter of this work, specifically because of their desire to make improvements on their international perception.

Critical constructivism theorizes the connection between power and knowledge, maintaining that in the global order, only certain actors or states can gain prominence and become sanctioned as proprietors of knowledge, and powerful groups maintain their knowledge construction legitimacy by continuously undermining alternative knowledge. This ties perfectly into the way great powers try to bend the rules and regulations of international law by reinterpretation or partial ignorance. Great powers believe that they are superior because they are meant to be that way, and with that, they fairly often tend to assume that their knowledge base is also superior, and the way they understand the workings of international law is the only correct interpretation (Hopf 1998). The best example for that out of the case studies is China's attitude towards the South China Sea dispute and, more specifically, towards the SCS Arbitration. China chose to not participate in the proceedings and to declare the ruling as „null and void" not out of pure high-handedness but because its leadership truly believes that the national interpretation of the territory is the only right one. The attitude of Russia towards Crimea and of the US towards the entire Afghanistan war is extremely similar: these states really assume that they have become powerful for a reason, and part of that reason is them knowing better. Even knowing international law better. Asymmetry for them is a natural element of international relations, something that should be kept at all costs, and always to their advantage. If that means bending set rules, then that is exactly what should be done.

10.4. Question and hypothesis II.

„Do double standards have a potential to coexist with the rules, regulations and norms of international law?"

Each and every state possesses a distinct set of rights and obligations. In a horizontal order where law is generated by the consent of actors, some states may do what others may not. The norms of international law do not necessarily require that every State be held to the same standard. Where homogenous obligations are shared, some breaches are tolerated while others aren't. These distinctions mean that subjects of international law sometimes exempt themselves or others in the formulation and application of rules.

That kind of „systemic freedom", even though it has always been so in international relations, makes legislation increasingly difficult. Legal proceedings are often stalled due to a state refusing to comply with certain rules, pulling itself out mid-process or being very selective in deciding which rules to respect and which ones to ignore. Even when a legal decision is finally made in a case of conflict, for instance a territorial one, there is no immediate and real result, because an actor – typically a great power – refuses to accept the verdict. With that, an uncomfortable and fragile *status quo* is created, a situation that might not be better in any sense than the conflict itself. All in all, application of double standards as a characteristic conduct of great powers has been greatly hindering legal decision-making. Despite that, double standards are firmly „stuck" in international relations, and what is more, their presence has now, in the 21st century become more prominent than ever before.

Through the cases I dove deep into, my main finding is that the use of double standards by great powers is going to stay a constant element in international relations. Of course, new rules can be formulated in order to accelerate or facilitate their eradication, but with that, the main issue is that as there is not just one set type of double standard, but numerous different sorts, it would be impossible to create a rule that could be able to invalidate all those. There is the possibility of establishing new rules for every new case and every new variant of double standard, however, naturally, that would be a lengthy and complicated process, one without an end in sight given all the new conflicts that emerge frequently between states, especially those with asymmetrical power dynamics.

Right now, it can be stated that double standards have the potential to coexist with international law. International law actually does not allow double standards as it is based on the principle of sovereign equality, which entails the equal application of law, but since international legal norms are often not enforceable, they can still survive in the international relations. Double standards also have the potential to coexist with international law because there is no true repercussion to them, they can be applied without any significant consequence and, most of the times, they function in the sense that the states using them get out of the given situation having the advantages they initially wished to gain, or, at least, creating a

status quo that provides them benefits in the long run. Failing to hold all states equally accountable for violations of international law enables powerful leaders of powerful state actors to ignore the policies and laws established by the international community. Until all powers, including the United States, Russia and China are uniformly held accountable for their crimes, international law will remain ineffective. Why should powerful leaders abide by the laws when others are excused? Justice can never be achieved while even the idea of double standards exists. While powerful leaders roam free, innocent civilians will continue to pay the price.

10.5. Conclusion

Foreign policy is not about virtue-signaling morality but about acting in the best interests of citizens. Every country's policy is based on a mix of geopolitical and economic calculations (realism) and core values and principles (idealism). Consequently, no country's policy is consistent and coherent, and none is immune from making mistakes, showing hypocrisy and projecting double standards, even if some are guilty more often and more gravely than others.

Double standards, even though they are not justifiable by the rules and regulations of international law, have been, are and will be an inherent part of characteristic great power behavior – an identifiable, familiar pattern that remains, despite the significant differences between the political systems of current great powers. Therefore, they are something that is impossible to be fully wiped out of the field of international relations. Double standards have for long served as a tool for powerful states to maintain, solidify or enhance their position in cases of international conflict or legal debate, and they have more often than not proven to be highly successful. In addition, given that they are above smaller, weaker states, great powers genuinely consider it to be their right to do things that lesser actors are not allowed to do, for instance apply double standards or evade the rules and regulations of international law in other not easily perceptible ways. As long as asymmetry between nations exists in international relations, states having great power are bound to feel superior and conduct themselves accordingly.

International legislation is always going to find new means to come up with a well-structured, thoroughly constructed framework on how to identify and eradicate already existing double standards from legal proceedings. However, the application of double standards will always evolve and re-appear as a means for great powers to maneuver their way out of not so favorable situations or constraints that block the assertion of their will or their other objectives similar in nature. As long as certain states – great, global and regional

powers above all – treat international law as barely more than guidance, double standards are here to stay, therefore their study is necessary.

References

"How the Court Works." International Criminal Court. Accessed April 12, 2022. Retrieved from: *https://www.icc-cpi.int/about/how-the-court-works* (accessed 29/06/2022)

Agnew, J. & Corbridge, S. (1995). *Mastering Space: Hegemony, Territory and International Political Economy.* Routledge. pp. 100-103.

Aliyev, H. (2019). *The Logic of Ethnic Responsibility and Progovernment Mobilization in East Ukraine Conflict.* Comparative Political Studies, Vol. 59, Issue 8. pp. 15-18.

Archer, C., Bailes, A. and Wivel, A. (2014). *Small States and International Security – Europe and Beyond.* Routledge. pp. 98-102.

Association of Religion Data Archives – Religions of Ukraine. Retrieved from: *https://www.thearda.com/internationalData/countries/Country_231_2.asp* (accessed 29/06/2022)

Barratt, B., Furia, P. & Sobel, R. (2012). *Public Opinion & International Intervention - Lessons from the Iraq War.* Potomac Books, pp. 24-35.

Belavezha Accords. (1991). Retrieved from: *http://www.rusarchives.ru/statehood/10-12-soglasheniesng.shtml*

Borgen, C. (2015). *Law, Rhetoric, Strategy – Russia and Self-Determination Before and After Crimea.* Stockton Center for the Study of International Law. pp. 112-132.

Broers, L. (2019). *Armenia and Azerbaijan – Anatomy of a Rivalry*. Edinburgh University Press, pp. 108-131.

Brownell, R. (2011). *The War in Afghanistan.* Greenhaven Publishing. pp. 44-46.

Chaziza, M. (2020). *China's Middle East Diplomacy – The Belt and Road Strategic Partnership.* Liverpool University Press. pp. 21-22.

Chen, T. (2015). *International Engagement in China's Human Rights.* Routledge. pp. 25-28.

Cheng, D. (2012). *Winning Without Fighting: Chinese Legal Warfare*. Heritage Found, pp. 111-112.

China 2021 Human Rights Report. (2021) Retrieved from: *https://www.state.gov/wp-content/uploads/2022/03/3136152_CHINA-2021-HUMAN-RIGHTS-REPORT.pdf* (accessed 29/06/2022)

Chiavacci, D. (2023). *China's and Japan's winding path to the Refugee Convention: State identity transformations and the evolving international refugee regime.* Cambridge University Press. pp. 23-24.

Constitution of Ukraine – 1978. Retrieved from: https://archives.gov.ua/en/constitution-ukraine-25/ (accessed 29/06/2022)

Cornell, S. (2017). *The International Politics of the Armenian-Azerbaijani Conflict.* Palgrave-Macmillan, pp. 48-78.

Cottier, T. (2007). *Estoppel, MPEPIL* (online ed.), Para. II. Retrieved from: https://www.maastrichtuniversity.nl/file/32968/download?token=qoUelLyr (accessed 29/06/2022)

Cozette, M. (2008). *"Reclaiming the Critical Dimension of Realism: Hans J. Morgenthau and the Ethics of Scholarship,"* Review of International Studies, 34(1): 5–27.

De Pedro, N. et al. (2017). *Facing Russia's Strategic Challenge: Security Developments from the Baltic Sea to the Baltic Sea.* European Parliament – Policy Department. pp. 27-30.

De Pedro, N. et al. (2017). *Facing Russia's Strategic Challenge: Security Developments from the Baltic Sea to the Baltic Sea.* European Parliament – Policy Department. pp. 43-50.

Diccionario Esencial de la Lengua Espanola. (2007). Larousse
Dickinson, P. (2021). *Ukraine at 30: What is Independent Ukraine's Greatest Achievement?* Atlantic Council Blogs.

Dictionnaire de l'Académie française (Littérature Française) (French Edition) – Tome 3, Maq – Quo. Académie Francaise, 2011.

Dodds, K-J. (1994). *Locating Critical Geopolitics.* SAGE, Vol. 12(5), pp. 139-141.

Drohobycky, M. (2008). *AR Krym: Liudy, problemy, perspektyvy.* Natsionalna bezpeka i oborona, Vol. 10. pp. 9-14.

Dyson, T. (2010). *Neoclassical Realism and Defence Reform in Post-Cold War Europe.* Palgrave Macmillan. pp. 21-22.

Fassbender, B. (2012). *Introduction: Towards A Global History of International Law.* Oxford Handbooks Online. pp. 77-87.

Faundes, C. (2016). *An Analysis of the Crisis in Ukraine and its three Conflicts.* REVISTA, Vol. 11(2). pp. 38-42.

Feickert, A, and Paul K. K. *Cluster munitions: Background and issues for Congress §* (2022). Retrieved from: https://sgp.fas.org/crs/weapons/RS22907.pdf (accessed 29/06/2022)

Felter, C. *"The Role of the International Criminal Court." Council on Foreign Relations. Council on Foreign Relations, March 28, 2022.* Retrieved from: https://www.cfr.org/backgrounder/role-international-criminal-court (accessed 29/06/2022)

Finkelstein, N. (1991). *Israel and Iraq: A Double Standard*. Journal of Palestine Studies Vol. 20(2), pp. 43-56.

Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference May 13, 2021. Retrieved from: *https://www.mfa.gov.cn/ce/cebb//eng/fyrth/t1875564.htm* (accessed 29/06/2022)

Foreign Ministry Spokesperson Wang Wenbin's Regular Press Conference (February 22, 2022) Retrieved from: *http://us.china-embassy.gov.cn/eng/lcbt/wjbfyrbt/202202/t20220222_10644531.htm* (accessed 29/06/2022)

Franck, T. (1984). Of Gnats and Camels: Is there a Double Standard at the United Nations? The American Journal of International Law , Oct., 1984, Vol. 78(4) pp. 811-833.

Gamble, J. K. (1993). *Choice of Language in Bilateral Treaties – 50 Years of Changing Practice.* Indiana International & Comparative Law Review. Vol. 3. pp. 56-61.

Gilpin, R. (1981). *War and Change in World Politics.* Cambridge University Press. pp. 61-66.

Golden, T. *"In U.S. Report, Brutal Details of 2 Afghan Inmates' Deaths." The New York Times. The New York Times, May 20, 2005.* Retrieved from: *https://www.nytimes.com/2005/05/20/world/asia/in-us-report-brutal-details-of-2-afghan-inmates-deaths.html* (accessed 29/06/2022)

Goldenziel, J. (2020). *Law as a Battlefield: The U.S., China, and Global Escalation of Lawfare.* Cornell Law Review, Vol.106. p. 42.

Gunter, M. & Yavuz, H. (2022). *The Nagorno-Karabakh Conflict - Historical and Political Perspectives*. Taylor & Francis, pp. 26-42.

Guzzini, S., (1998). *Realism in International Relations and International Political Economy: The Continuing Story of a Death Foretold*. Routledge, pp. 99-108.

Halpérin, J-L. (2020). *FRANCE (Histoire et institutions) - Le droit français.* Universalis. pp. 201-203.

Henrard, K. (2010) *Double Standards pertaining to Minority Protection.* Martinus Nijhoff Publishers. pp. 44-46.

Henry, M. (2017). *The Russia-Ukraine Conflict: Causes and Alternatives*. IR 530 International Security. pp. 11-15.

Hickman, A. (2022). *Ukrainian Migration: An Overview.* Murphy and Moore Publishing. pp. 77-81.

Ho, B. (2021). *China's Political Worldview and Chinese Exceptionalism.* Amsterdam University Press. pp. 111-113.

Hopf, T. (1998). *The Promise of Constructivism in International Relations Theory.* International Security, Volume 23(1). pp. 171-191.

Huang, J. & Billo, A. (2014). *Territorial Disputes in the South China Sea – Navigating Rough Waters.* Palgrave-Macmillan, pp. 47-77.

Irani, F. (2017). *'Lawfare', US military discourse, and the colonial constitution of law and war.* Cambridge University Press. pp. 124-125.

Jiang, N. (2013). *China and International Human Rights – Harsh Punishments in the Context of the International Covenant on Civil and Political Rights*. Springer. pp. 103-109.

Jorgensen, K.E. (2017). *International Relations Theory – A New Introduction.* Macmillan, pp. 303-304.

Kaleck, W. (2015). *Double Standards: International Criminal Law and the West.* Torker Opsahl Academic EPublisher. pp. 53-55.

Kamalipour, Y. & Artz, L. (2004). *Bring 'Em On! - Media and Politics in the Iraq War.* Rowman & Littlefield Publishers. pp. 48-58.

Kappeler, A. (2008). *Kleine Geschichte der Ukraine.* C.H. Beck, München. pp. 112-133.

Kapustin, A. (2015). *Crimea's Self-Determination in the Light of Contemporary International Law.* Max Planck-Institut. pp. 24-25.

Karaganov, S. (2018). *The New Cold War and the Emerging Greater Eurasia.* Journal of Eurasian Studies, Vol. 9(2). pp. 122-126.

Katchanovski, I., Kohut, Z. E., Nebesio, B. Y., and Yurkevich, M. (2013). *Historical Dictionary of Ukraine, 2nd ed. Lanham.* MD: Scarecrow Press.

Kim, J. (2015). *Territorial Disputes in the South China Sea: Implications for Security in Asia and Beyond.* Strategic Studies Quarterly Vol. 9, No. 2. pp. 107-141.

Kirkpatrick, J. J. (1982). *Dictatorships and Double Standards: Rationalism and Reason in Politics.* Simon and Schuster. pp. 123-126.

Kittrie, O. (2016). *Law as a Weapon of War.* Oxford University Press. pp. 333-336.

Krasner, S. (1983). *International Regimes.* Cornell Studies in Political Economy. pp. 33-36.

Ladyman, J. (2007). *Structural Realism - Introduction.* Stanford Encyclopedia of Philosophy.

Lawton, A. (2022). *The Freedom Convoy – Three Weeks That Shook the World.* Sutherland House Incorporated. pp. 345-346.

Levy, J. (1992). *An Introduction to Prospect Theory*. Political Psychology, Vol. 13(2) pp. 171–186.

Lipman, J. N. (2011). Familiar Strangers – *A History of Muslims in Northwest China.* University of Washington Press. pp. 134-140.

List, J. (2004). *Neoclassical Theory versus Prospect Theory: Evidence from the Marketplace.* Econometrica, Vol. 72(2) pp. 615–625.

Liu, H. (2021). *China's Path of Human Rights Development.* Springer. p. 55.

Magocsi, P. R. (2014). *This Blessed Land: Crimea and the Crimean Tatars.* University Of Toronto Press, Toronto. pp. 87-90.

Mahdavi, M. (2022). *Rethinking China, the Middle East and Asia in a Multiplex World.* Brill. pp. 37-40.

Mandel, D. R. (2001). *Gain-Loss Framing and Choice: Separating Outcome Formulations from Descriptor Formulations. Organizational Behavior and Human Decision Processes*, Vol. 85(1) 56–76.

Maranville, A. (2021). *The 9/11 Terrorist Attacks – A Day That Changed America.* Capstone. pp. 47-68.

Mearsheimer, J. (2003). *The Tragedy of Great Power Politics (Updated Edition).* W. W. Norton and Company. pp. 44-47.

Merezhko, O. (2015). *Crimea's Annexation by Russia – Contradictions of the New Russian Doctrine of International Law.* Planck-Institut. pp. 61-63.

Mockaitis, T. (2013). *The Iraq War Encyclopedia.* Bloomsbury Publishing, pp. 11-20.

Morrison, C. (2014). *Beyond Nostalgia? Class Identity, Memory and the Soviet Past in Russia and the „Near Abroad".* High School of Economics 4. pp. 108-114.

Mowbray, J. (2013). *Linguistic Justice – International Law and Language Policy.* Oxford Scholarship Online. pp. 135-139.

Murdico, S. (2003). *The Gulf War.* The Rosen Publishing Group. pp. 32-67.

Note verbale from the People's Republic of China to the United Nations, 2009. Retrieved from: *https://www.un.org/Depts/los/clcs_new/submissions_files/mysvnm33_09/chn_2009re_mys_vnm_e.pdf* (accessed 29/06/2022)

Nye, J. (2004). *Soft Power: The Means To Success In World Politics.* Hachette UK. p. 122.

Nye, J. (2012). *Wielding Smart Power in World Affairs.* Boston Globe. pp. 34-36.

Our World in Data – Energy – Ukraine. Retrieved from: *https://ourworldindata.org/energy/country/ukraine* (accessed 29/06/2022)

Oxford Dictionary of English (Oxford Dictionary Of English Third Edition). (2010). Oxford University Press

Pashakhanlou, A. H. (2018). *The Past, Present and Future of Realism.* E-International Relations, Issue: Realism in Practice – An Appraisal.

Pedrozo, R. (2021). *Is a South China Sea Code of Conduct viable?* International Law Commons. pp. 11-12.

Plokhy, S. (2006). *The Origins of the Slavic Nations: Premodern Identities in Russia, Ukraine and Belarus.* Cambridge University Press. pp. 107-110.

Plokhy, S. M. (1993). *Ukraine and Russia in their Historical Encounter.* Canadian Slavonic Papers / Revue Canadienne des Slavistes, Vol.35(3/4).

Polupan, A. P. (2001). *More About Crimea / У карты Крыма.* Akademija.

Pomeranz, W. E. (2016). *Roots of Russia's War in Ukraine – Ground Zero: How a Trade Dispute Sparked the Russia-Ukraine Crisis.* Columbia University Press. pp. 45-55.

Pomeranz, W. E. (2016). *Roots of Russia's War in Ukraine – Ground Zero: How a Trade Dispute Sparked the Russia-Ukraine Crisis.* Columbia University Press. pp. 102-120.

Prakash, V. (2008). *Terrorism in Northern India – Jammu and Kashmir and the Punjab.* Kalpaz Publications. pp. 23-25.

Pui-Lan, K.-Yip, F. (2021). *The Hong Kong Protests and Political Theology.* Rowman and Littlefield. pp. 87-88.

Purcell, J. N. (2019). *We're in Danger – Who Will Help Us? Refugees and Migrants: A Test of Civilization.* Archway Publishing. pp. 66-68.

Reardon-Anderson, J. (2018). *The Red Star and The Crescent: China and the Middle East.* Oxford University Press. p. 34.

Republic of the Philippines v. The People's Republic of China, Award on Jurisdiction and Admissibility (Perm. CT. Arb.). (2017). *China's Official Position Paper.* Cambridge

Rogers, R. A. (2019). *The Struggle for Human Rights in Xinjiang.* Other Press. pp. 56-57.
Said, E. (1979). *Orientalism.* Vintage. pp. 107-109.

Sanders, G. (2005). *Human Rights & Human Welfare – Afghanistan*. Digital Commons: Review Digest – Human Rights & the War on Terror. Vol. 5(1), pp. 1-9.

Sasse, G. (2007). *The Crimea Question: Identity, Transition, and Conflict.* Chapter II. Cambridge: Harvard Ukrainian Research Institute.

Schmitt, E. *"No US Troops Will Be Punished for Deadly Kabul Strike, Pentagon Chief Decides." The New York Times. The New York Times, December 13, 2021.* Retrieved from: *https://www.nytimes.com/2021/12/13/us/politics/afghanistan-drone-strike.html* (accessed 29/06/2022)

Schubert, S. (2014). *Two futures: EU-Russia relations in the context of Ukraine.* European Futures, 2:52.

Schweller, RL. (2016). *The Balance of Power in World Politics.* Oxford Research Encyclopaedias.

Shifrinson, J. R. (2020). *Partnership or Predation? How Rising States contend with Declining Great Powers.* International Security, Volume 45(1). pp. 90-109.

Speri, A. *"How the U.S. Derailed an Effort to Prosecute Its Crimes in Afghanistan." The Intercept. The Intercept, October 5, 2021.* Retrieved from: *https://theintercept.com/2021/10/05/afghanistan-icc-war-crimes/.* (accessed 29/06/2022)

Statute of the International Court of Justice. - Retrieved from: *https://www.icj-cij.org/en/statute* (accessed 29/06/2022)

Storey, I. (2017). *The South China Sea Dispute.* ISEAS Yusof Ishak Institute, pp. 34-65.

Thakur, R. (2016). *Ethics, International Affairs and Western Double Standards.* SSRN. pp. 187-191.

The South China Sea Arbitration (The Republic of Philippines v. The People's Republic of China). Retrieved from: *https://pca-cpa.org/en/cases/7/* (accessed 29/06/2022)

Toal, G. (2019). *The Crimea conundrum – Legitimacy and public opinion after annexation.* Eurasian Geography and Economics, Vol. 60(1). pp. 30-37.

Treaty between the Ukrainian Soviet Socialist Republic and the Russian Soviet Federal Socialist Republic. (1990). Retrieved from: *http://www.zakon.nau.ua/doc/?code=643_011* (accessed 29/06/2022)

Troulis, M. (2021). *Structural Realism and Systemic Geopolitical Analysis*. Nova Science Publishers. pp. 89-95.

U.S. Energy Information Administration – Ukraine. Retrieved from: *https://www.eia.gov/international/analysis/country/UKR* (accessed 29/06/2022)

Umland, A. (2021). *Damage Control: The Breach of the Budapest Memorandum and the Nuclear Non-Proliferation Regime*. Soviet and Post-Soviet Politics and Society, Vol. 229. pp. 165-169.

United Nations Convention on the Law of the Sea (UNCLOS). Retrieved from: *https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf* (accessed 29/06/2022)

UNODA. "Convention on Cluster Munitions – UNODA ." United Nations. United Nations. Accessed April 12, 2022. https://www.un.org/disarmament/convention-on-cluster-munitions/.

Unoki, K. (2022). *Racism, Diplomacy and International Relations.* Routledge. pp. 122-123.

Van den Driest, S. (2021). *Crimea's Separation from Ukraine: An Analysis of the Right to Self-Determination and (Remedial) Secession in International Law*. Netherlands International Law Review, 62(3).

Vanhullebusch, M. (2018). *Global Governance, Conflict and China.* Brill. pp. 97-99.

Walt, S. (2002). *The Enduring Relevance of the Realist Tradition.* W.W. Norton Company. pp. 10-13.

Waltz, K. N. (1979). *Theory of International Politics – Laws and Theories.* Addison-Wesley Publishing Company. pp. 176-181.

Waltz, K. N. (1990). *Realist Thought and Neorealist Theory.* Theory, Values and Practice in International Relations, Volume 44(1). pp. 21-31.

Wang, G. (2013). *China: Development and Governance.* World Scientific Publishing. pp. 54-55.

Wendt, A. (1999). *Social Theory of International Politics.* Cambridge University Press. pp. 77-84.

Womack, B. (2006). *Asymmetry Theory and China's Concept of Multipolarity.* Journal of Contemporary China, Volume 13(39). pp. 201-204.

Womack, B. (2016). *Asymmetry and International Relations.* Cambridge University Press. pp. 111-113.

World Population Review – Data of 2021. Retrieved from: *https://worldpopulationreview.com/countries/ukraine-population*. (Last opened: 15/09/2021)
Расширенный русско-русский словарь, 131336 статей, (2020). *Kindle Edition*

新华字**典** *(Xīnhuá Zìdiǎn) – Chinese Character Dictionary, 11th Edition.* (2011). Commerce Press