

## Research Article

# INTERNATIONAL RELATIONS AND ITS EFFECT ON ENFORCEMENT OF INTERNATIONAL LAW: THE CASE STUDIES OF UKRAINE AND SYRIA

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## ABSTRACT

**Background:** *The aims of international law are to uphold global peace, protect human rights, and hold states accountable if violations of international law occur. However, in practice, its implementation and effectiveness are not uniform due to the dynamics of international relations (IR). In Syria, it has been difficult for the global community to hold the regime accountable for human rights violations, largely due to its powerful allies like Russia. Similarly, the Ukrainian conflict raises serious questions about the efficiency of international law when dealing with Russia's violations of the sovereignty and territorial integrity of Ukraine. This study aims to analyse the role of IR in shaping the application of international law in these two conflict zones, with a focus on how external support has enabled the aggressors to persist despite legal challenges.*

**Methods:** *This research adopts a qualitative research methodology. It relies on desk-based research to collect data by using primary and secondary sources. Primary sources include treaties, UN resolutions, and international legal frameworks. These also include statements from significant actors involved in the Syrian and Ukrainian conflicts, providing insight into the legal frameworks governing international law. Secondary sources include academic articles, reports from international organisations, and expert analyses. This offers context on how international law has been applied or ignored in both cases.*

*Through a comparative analytical approach, the study examines areas of similarity and difference in the implementation of international law in Syria and Ukraine. It highlights shared factors, such as powerful state actor involvement, which includes Russia, and the role of geopolitical interests in hindering effective legal enforcement. It simultaneously points out some*

differences, such as the international recognition of the Ukrainian government against the fragmented recognition of Syrian opposition groups, and how such differences have shaped responses to both crises.

The research emphasises the roles of geopolitical interests and external state actors – Russia, China, and the Western powers – in shaping international responses. The study also examines the themes of sovereignty, humanitarian intervention, and the UN veto power. It highlights how IR impacts the enforcement of international law. Using the case of Ukraine and Syria, the research contributes toward an understanding of the intersection between international law and IR, particularly those challenges emanating from geopolitical interests.

**Results and Conclusion:** The study concludes that international relations significantly shape the enforcement of international law in both Syria and Ukraine, albeit with distinct outcomes. In Syria, the survival of Assad's regime is due to sustained military, economic, and political support from Russia, China, and Iran. These states have used their influence, particularly in the UN Security Council, to block foreign interventions. This demonstrates how geopolitical interests can paralyse international legal mechanisms. In Ukraine, a more unified international response has resulted in economic sanctions, military support, and legal actions against Russia. However, the geopolitical leverage of Russia, particularly in energy and military strength, has limited the effectiveness of these measures. Russia's alliance with China further complicates efforts, as China has not clearly condemned or voted against Russia's war against Ukraine in the UN Security Council. Moreover, China and other Russia's allies have undermined sanctions by continuing trade and economic relations with Russia, weakening the collective impact of the international Western sanctions.

The findings highlight that while international law is influenced by global politics, the degree and type of influence depend on the geopolitical stakes involved, revealing the vulnerability of the system when confronted by powerful states. It calls for reforms to strengthen international legal frameworks, ensuring they are not undermined by the geopolitical interests of key global actors.

## 1 INTRODUCTION

On 17 December 2010, Mohammed Bouazizi, a fruit seller, burned himself to death in Tunisia as a reaction to being harassed by the police. This reaction sparked a revolution known as the Arab Spring, which initially began in Tunisia before it spread across many states, like Libya, Egypt, Bahrain, Yemen, and Syria.<sup>1</sup> In some nations, like Egypt, the revolution ended in peaceful ways, allowing citizens to replace their presidents with minimal loss of life. However, in other states, like Libya, the revolution escalated violently, leading to many people being killed, prompting the United Nations (UN) to intervene and support the protesters of Libya seeking to oust their president.<sup>2</sup> In Syria, protesters

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1 Nick Kochan and Robin Goodyear, *Corruption: The New Corporate Challenge* (Palgrave Macmillan 2011) 2, doi:10.1057/9780230343344.

2 Jean-Pierre Filiu, *The Arab Revolution: Ten Lessons from the Democratic Uprising* (OUP 2011) 380.

are still fighting their president, resulting in over 90,000 deaths and more than one million Syrians forced to flee the state.<sup>3</sup> This conflict has become one of the most complex conflicts of the Arab Spring.

The complexity of this conflict is due to the involvement of multiple international actors, each with competing interests. Initially a domestic uprising, it quickly attracted the interest and involvement of outside powers such as Russia, Iran, and eventually the US and Turkey. The support of Russia for the Assad regime, both militarily and diplomatically, has been a central factor in prolonging the conflict.<sup>4</sup> Besides that, Iran's strategic interests in the region have bolstered Assad's hold on power.<sup>5</sup> It also means that the West, while vocal in their support for opposition forces, has not openly intervened militarily. Furthermore, any attempts at enforcing international law through the UN have been consistently hindered by both Russia and China using their veto powers.<sup>6</sup> The current dynamics in international relations (IR) have rendered international law ineffective in the protection of civilians and prohibition of aggression.

Alongside this, the conflict in Ukraine in Eastern Europe represents another critical case study where international law has proven ineffective in both effectively preventing or resolving state-driven aggression. In IR, the Ukraine crisis has presented a significant turning point in the post-Cold War era. The crisis started in 2014 when Russia annexed Crimea, an action that was widely condemned for violating Ukraine's sovereignty and territorial integrity.<sup>7</sup> Despite these violations, international law failed to prevent the actions. The subsequent diplomatic efforts to resolve the crisis, such as the Minsk agreements, did little to de-escalate the situation.<sup>8</sup> The annexation was an event that called for economic sanctions against Russia, further increasing tension between Russia and the West. However, despite these sanctions and international outcry, Russia retained control of Crimea, highlighting the limitations of international law in resolving such disputes.<sup>9</sup>

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3 Saad Abedine, Joe Sterling and Laura Smith-Spark, 'UN: More than 1.5 Million Fled Syria, 4 Million More Displaced within Nation' (CNN, 17 May 2013) <<https://www.cnn.com/2013/05/17/world/meast/syria-civil-war/index.html>> accessed 27 September 2024.

4 Samuel Charap, 'Russia, Syria and the Doctrine of Intervention' (2013) 55(1) *Survival* 40, doi:10.1080/00396338.2013.767403.

5 Hamidreza Azizi and Julien Barnes-Dacey, 'Beyond Proxies: Iran's Deeper Strategy in Syria and Lebanon' (*European Council on Foreign Relations (ECFR)*, 5 June 2024) <<https://ecfr.eu/publication/beyond-proxies-irans-deeper-strategy-in-syria-and-lebanon/>> accessed 16 October 2024.

6 Charap (n 4) 36.

7 Harald Edinger, 'Hooked on a Feeling: Russia's Annexation of Crimea Through the Lens of Emotion' (2023) 44(4) *Political Psychology* 749, doi:10.1111/pops.12889.

8 Sebastiaan Van Severen, 'The Minsk Agreements: Has the Glimmer of Hope Faded?' in Fabienne Bossuyt and Peter van Elsuwege (eds), *Principled Pragmatism in Practice* (Studies in EU External Relations 19, Brill 2021) 19, doi:10.1163/9789004453715\_003.

9 Ajai Gaur, Alexander Settles and Juha Väättänen, 'Do Economic Sanctions Work? Evidence from the Russia-Ukraine Conflict' (2023) 60(6) *Journal of Management Studies* 1401, doi:10.1111/joms.12933.

The situation worsened in 2022 with Russia's full-scale invasion of Ukraine. The invasion has been characterised by breaches of humanitarian law, mass displacements, and civilian casualties.<sup>10</sup> It prompted a stronger international response, including economic sanctions and military aid to Ukraine from Western powers.<sup>11</sup> Nevertheless, the geopolitical influence of Russia, particularly through its control of global energy markets and its strategic military alliances, has limited the effectiveness of these international measures. The Ukraine conflict, much like Syria, exposes the ineffectiveness of international law when powerful states choose to bypass or manipulate legal norms for their strategic interests. It has raised critical questions regarding the efficacy of international institutions like the UN and the role of international law in managing aggression by powerful states. Therefore, this research addresses the question: *How has the application of international law been influenced by international relations in the Syrian and Ukrainian conflicts?*

IR heavily influences how international law is applied.<sup>12</sup> Geopolitics and power relations within IR have consistently shaped how it is executed. Global interests in different geopolitical dynamics always break or weaken its implementation.<sup>13</sup> A clear example is the use of veto power within the United Nations Security Council (UNSC), where superpowers can make it impossible to undertake resolutions. In the case of Syria, Russia and China have repeatedly used their veto power to block voting resolutions, and the opposite situation is what is facing Ukraine.

The application of the legal principles of State Sovereignty and Responsibility to Protect (R2P) depends on political consensus. While in Syria, divisions among world powers have made it impossible to enforce R2P,<sup>14</sup> in Ukraine, there has been international support that has protected sovereignty, and yet, Russia's power still restrains full accountability. Economic interests, coalitions, and domestic politics have further made enforcement difficult. When powerful states have conflicts of interest, legal intervention is weakened or delayed.<sup>15</sup> The wars in Syria and Ukraine indicate how IR can shape or constrain international law, with legal norms often being at a distance from reality.

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10 Tetiana Tsiselska, 'Violation of International Humanitarian Law and Forced Deportation of Ukrainian Children by the Russian Federation during Russian-Ukrainian War' (master's thesis, University of California 2023) 4 <<https://escholarship.org/uc/item/6553q3sc>> accessed 7 October 2024.

11 Gaur, Settles and Vääänen (n 9).

12 Robert J Beck, 'International Law and International Relations' (*Oxford Research Encyclopedia of International Studies*, 11 January 2018) <<https://oxfordre.com/internationalstudies/display/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-406>> accessed 20 November 2024.

13 William Mallinson and Zoran Ristic, *The Threat of Geopolitics to International Relations: Obsession with the Heartland* (Cambridge Scholars Publ 2016).

14 Muditha Halliyadde, 'Syria – Another Drawback for R2P: An Analysis of R2P's Failure to Change International Law on Humanitarian Intervention' (2016) 4(2) *Indiana Journal of Law and Social Equality* 215.

15 Wojciech Michnik, 'Great Power Rivalry in the Middle East' (*Elcano Royal Institute*, 18 January 2021) <<https://www.realinstitutoelcano.org/en/commentaries/great-power-rivalry-in-the-middle-east/>> accessed 17 November 2024.

The research serves two purposes. First, it undertakes an analysis of the operation of international law in the Syrian and Ukrainian conflicts and, crucially, how international actors have created the challenges to enforcing international law. In Syria, despite clear evidence of mass atrocities, international legal mechanisms to hold the Assad regime accountable have failed. This reflects the difficulties in applying international law in situations where key global powers have vested interests. Similarly, in Ukraine, there has been a more coordinated response through sanctions and legal actions against Russia. However, the geopolitical reality of Russian influence on global politics has still constrained the full enforcement of international law.

Second, this research aims to explore the role of IR in prolonging the Assad regime in Syria and shaping responses to Russian aggression in Ukraine. In both cases, the strong external actors have structurally altered the directions these conflicts have taken. In Syria, diplomatic and military support from Russia has saved Assad from international legal repercussions.<sup>16</sup> The international response is more aggressive in Ukraine, where there are Western economic sanctions and military aid. Still, the limits of such actions against a State with geopolitical influence like Russia are apparent. By comparing these two cases, this research highlights the ways in which IR, particularly the actions of global powers, affect the enforcement of international law, revealing the complex interaction between legal norms and political realities in present conflict zones.

## 2 THEORETICAL FRAMEWORK

### 2.1. Legal Foundations of Humanitarian Intervention and Responsibility to Protect (R2P)

Modern international law established after the Treaty of Westphalia (1648) recognised several principles that mainly centred around the notions of sovereignty and territorial integrity.<sup>17</sup> As time progressed, political power became accompanied by writings made by agreements and treaties, conventions, or organisations like the United Nations, which formalised and widely expanded the scope of international law in the 20th century. In 1947, the United Nations General Assembly (UNGA) established the International Law Commission to advance the “progressive development of international law and its codification” in accordance with provisions of the UN Charter.<sup>18</sup> Under the UN Charter, the United Nations Security Council (UNSC) has the authority to make decisions against any

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16 Charap (n 4) 37-8.

17 John Dugard, *Recognition and the United Nations* (Grotius Publ 1987) 104.

18 Charter of the United Nations (UN Charter) (24 October 1945) 1 UNTS XVI, art 2 <<https://www.un.org/en/about-us/un-charter>> accessed 27 September 2024.

state whose actions are considered a “threat to the peace, breach of the peace, or act of aggression”. These decisions include military or nonmilitary measures.<sup>19</sup>

Humanitarian intervention is this practice that involves the use or threat of military power by one state in another’s territory, often without the consent of the affected state, to put an end to gross and systematic violations of human rights. It is considered justifiable only when the state in question is “unwilling or unable to protect” its people.<sup>20</sup> Humanitarian intervention has become one of the most effective performances to stop extreme abuse of human rights, like genocide.<sup>21</sup> It is defined as “the threat or use of force by a State, group of States, or international organisation primarily for the purpose of protecting the nationals of the target State from widespread deprivations of internationally recognised human rights.”<sup>22</sup>

Humanitarian intervention can be of two types. The first, non-forcible intervention, does not involve kinetic force and includes measures like economic sanctions, diplomatic pressures, and other peaceful efforts. For example, during the apartheid era, sanctions were imposed on South Africa to end systemic racial discrimination. The second type, forcible interventions, involves military action, often considered a last resort to protect civilians from immediate harm.<sup>23</sup> A notable example of forcible intervention occurred In 1999 when NATO conducted airstrikes against Serbian forces in Kosovo to protect civilians.

Indeed, humanitarian intervention is not mentioned verbatim as a legal act in international law.<sup>24</sup> However, it is an exemption to the “general prohibition in international law and pact of all forms of intervention in the domestic affairs of a sovereign State”.<sup>25</sup> This exemption, nevertheless, is explained to be made specifically on the basis of its humanitarian aims.<sup>26</sup> Although international law protects the sovereignty of States, Article 41 of the UN Charter allows the UNSC to take any measures to stop any act that could be a “threat to the peace”.<sup>27</sup> Article 42 of the UN Charter further permits the use of force to stop the threat if necessary.<sup>28</sup>

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19 *ibid*, art 41.

20 Jack Rabin (ed), *Encyclopedia of Public Administration and Public Policy* (1st update suppl, Taylor & Francis 2005) 144.

21 Melissa Labonte, *Human Rights and Humanitarian Norms, Strategic Framing, and Intervention: Lessons for the Responsibility to Protect* (Global Institutions, Routledge 2013) 15.

22 Sean D Murphy, *Humanitarian Intervention: The United Nations in an Evolving World Order* (Procedural Aspects of International Law Series 21, University of Pennsylvania Press 1996) 11-2.

23 Robert Kolb, ‘Note on Humanitarian Intervention’ (2003) 85(849) *International Review of the Red Cross* 119, doi:10.1017/S0035336100103557.

24 Ashley Deeks, ‘The NATO Intervention in Libya – 2011’ in Tom Ruys, Olivier Corten and Alexandra Hofer (eds), *The Use of Force in International Law: A Case-Based Approach* (OUP 2018) 749, doi:10.1093/law/9780198784357.003.0056.

25 David A Reidy and Mortimer NS Sellers, *Universal Human Rights: Moral Order in a Divided World* (Rowman & Littlefield 2005) 142-3.

26 Jennifer Szende, ‘Selective Humanitarian Intervention: Moral Reason and Collective Agents’ (2012) 8(1) *Journal of Global Ethics* 63, doi:10.1080/17449626.2011.635679.

27 UN Charter (n 18) art 41.

28 *ibid*, art 42.

However, the doctrine of humanitarian intervention remains contentious, particularly in relation to state sovereignty. Scholars, such as *E. S. Creasy*,<sup>29</sup> and *T. J. Lawrence*,<sup>30</sup> have supported humanitarian intervention, often invoking natural law principles. They argued that states have a moral responsibility to act in matters of widespread human suffering and violations of basic rights, even if it means intervening in the affairs of another state.

In contrast, some authors, including *A. W. Heffter*,<sup>31</sup> and *T. Funck Brentano* and *A. Sorel*,<sup>32</sup> viewed humanitarian intervention as inconsistent with the principles of positive international law and state equality. For them, intervention undermines the sovereignty and legal equality of states<sup>33</sup> – principles that are foundational to the international legal system. They contend that allowing states to intervene in one another's affairs would destabilise international order.

Some scholars adopt a middle ground, recognising that while humanitarian intervention might not be “legally right,” it could be “morally justifiable.” This perspective frames intervention as an act of policy driven by ethics rather than strict legal principles. *E. Arntz* proposed that intervention should only occur collectively, in the name of humanity, and with the broadest possible consensus among states – excluding the offending state.<sup>34</sup> This approach aims to balance the need for humanitarian action with the preservation of international law's legitimacy.

Proponents like *A. Cassese*<sup>35</sup> and *L. Henkin*,<sup>36</sup> however, suggest that humanitarian intervention, when conducted under strict conditions, reflects an emergent norm in customary international law. For instance, *Bernard Kouchner* and *Mario Bettati* introduced the idea of “*devoir d'ingérence*” (“duty to intervene”),<sup>37</sup> emphasising the moral obligation of the global community to act when atrocities occur,<sup>38</sup> even in the absence of UNSC approval. These perspectives highlight the ongoing tension between the moral imperative to prevent atrocities and the legal principles of state sovereignty and non-intervention. They also underline the challenges of ensuring that humanitarian intervention is not used as a tool for political or strategic gain.

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29 Edward S Creasy, *First Platform Of International Law (1876)* (Kessinger Publ 2010) 297.

30 TJ Lawrence, *Principles of Public International Law* (5th edn, DC Heath 1913).

31 August Wilhelm Heffter, *Le droit international de l'Europe* (HW Müller 1883) 113.

32 Th Funck-Brentano et Albert Sorel, *Précis Du Droit Des Gens* (E Plon et Cie 1877) 223.

33 Kolb (n 23) 119.

34 William Edward Hall, *A Treatise on International Law* (A Pearce Higgins ed, OUP 1924) 344.

35 Antonio Cassese, ‘Ex Iniuria Ius Oritur: Are We Moving towards International Legitimation of Forcible Humanitarian Countermeasures in the World Community?’ (1999) 10(1) *European Journal of International Law* 23, doi:10.1093/ejil/10.1.23.

36 Louis Henkin, ‘Kosovo and the Law of “Humanitarian Intervention”’ (1999) 93(4) *The American Journal of International Law* 824, doi:10.2307/2555346.

37 Kolb (n 23) 125.

38 Mario Bettati et Bernard Kouchner, *Le Devoir d'ingérence: Peut-on les laisser mourir?* (Denoël 1987).

Although using force in humanitarian intervention has become a challenge in the global community, it has been a successful method in many international cases, like in 1999 when the US and NATO intervened in Kosovo and protected many Kosovar people from Serbia's attack, which created "more than a million Kosovar Albanian refugees".<sup>39</sup> As a consequence of these actions, the ICC indicted Serbian President Milosevic for crimes against humanity.<sup>40</sup>

More recently, in 2011, NATO's humanitarian intervention in Libya protected many civilians from the conflict that was caused by President Moammar al-Gadhafi, who sought to suppress protesters. This intervention by NATO successfully helped the protesters overthrow the "corrupt leader" al-Gadhafi while limiting the scope of conflict in the state.<sup>41</sup>

It is important to anatomise the Libyan case and compare it with the Syrian case, particularly concerning the reaction of the international community in both situations. As mentioned above, Libya's revolution was aimed at removing al-Gadhafi, who had ruled for over 40 years.<sup>42</sup> Rejecting the idea of leaving power and stepping down, al-Gadhafi decided to suppress the protesters using the Libyan army.<sup>43</sup> This response led to the deaths of many Libyan civilians, while others fled to neighbouring Tunisia and Egypt, creating a refugee crisis on Libya's borders.<sup>44</sup> Therefore, on 22 February 2011, when conflicts between the al-Gaddafi regime and the protesters escalated, the UNSC called on the government of the UNSC to "meet its responsibility to protect its populations".<sup>45</sup>

## 2.2. The Role of IR in the Responsibility to Protect (R2P)

The Responsibility to Protect (R2P) and humanitarian intervention are concepts championed by the international community for the prevention of crimes such as genocide. However, these concepts differ with respect to the area of intervention, the authority to intervene, and the type or structure of intervention. This practice earned its place amongst ambitious concepts of preventing atrocities, such as genocide or ethnic cleansing.<sup>46</sup>

R2P was adopted during the 2005 World Summit at the United Nations, positioning formally as a new doctrine with broader multilateral support.<sup>47</sup> R2P highlights state

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39 Jon Western and Joshua S Goldstein, 'Humanitarian Intervention Comes of Age: Lessons from Somalia to Libya' (2011) 90(6) *Foreign Affairs* 48.

40 *ibid.*

41 *ibid.*

42 Ronald Bruce St John, 'The Ideology of Mu'ammad Al-Qadhafi: Theory and Practice' (1983) 15(4) *International Journal of Middle East Studies* 475.

43 Filiu (n 2) 85.

44 Human Rights Watch, 'Libya: Events of 2023: World Report 2024' (*Human Rights Watch*, 2024) <<https://www.hrw.org/world-report/2024/country-chapters/libya>> accessed 7 October 2024.

45 Michael Goodhart (ed), *Human Rights: Politics and Practice* (3rd edn, OUP 2016) 53.

46 Sara E Davies and Luke Glanville (eds), *Protecting the Displaced: Deepening the Responsibility to Protect* (Brill 2010) 2, doi:10.1163/ej.9789004184039.i-210.

47 'More than 40 Delegates Express Strong Scepticism, Full Support as General Assembly Continues Debate on Responsibility to Protect' (*United Nations: Meetings Coverage and Press Releases*, 24 July 2009) <<https://press.un.org/en/2009/ga10849.doc.htm>> accessed 15 November 2024.



sovereignty as a responsibility; that is, in case one state fails to protect its people from mass atrocities, the rest of the world is obligated to act.<sup>48</sup>

The term humanitarian intervention is usually defined as the intrusion of external forces with the objective of “preventing genocide, war crimes, crimes against humanity, and ethnic cleansing”.<sup>49</sup> Its justification and legal grounds are less often upheld, especially since it is executed in the absence of the mandatory approval of the UNSC. The R2P doctrine addresses the criticisms of humanitarian intervention as it requires multilateral action and UNSC authorisation. For instance, on 26 February 2011, the UNSC agreed to the imposition of an arms prohibition against the whole of Libya and targeted sanctions against al-Gadhafi and his supporters in the form of an assets freeze and travel ban under Resolution 1970.<sup>50</sup> As al-Gaddafi’s forces were about to enter Benghazi, where the revolution began, the UK, France, the US, and Lebanon requested the UNSC to authorise military action.<sup>51</sup> This request was based on Chapter VII of the UN charter, which allows states to take “all necessary measures to protect civilians.”

The UNSC responded by authorising military action in Resolution 1973 on 17 March 2011. Subsequently, many states and organisations, like NATO, participated.<sup>52</sup> This humanitarian intervention was one of the successful interventions that led to the withdrawal of al-Gadhafi in record time.

The Second Gulf War (1991) is another example of the successful application of intervention under international law. In response to the invasion of Kuwait by Iraq, the UNSC authorised a coalition of states to use “all necessary means” (Resolution 678) to restore Kuwait’s sovereignty, a significant post-Cold War instance of collective action taken to defend territorial integrity.<sup>53</sup> Similarly, the interventions in the former Yugoslavia in the 1990s demonstrate how international relations can support the enforcement of international law. NATO’s military action in Kosovo (1999), for example, served the objectives of preventing “ethnic cleansing and genocide”, while the establishment of the

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48 B Welling Hall and Nadira Khudayberdieva, ‘International Law and the Responsibility to Protect’ (*Oxford Research Encyclopedia of International Studies*, 28 August 2019) <<https://oxfordre.com/internationalstudies/internationalstudies/internationalstudies/view/10.1093/acrefore/9780190846626.001.0001/acrefore-9780190846626-e-231>> accessed 17 November 2024.

49 *ibid.*

50 UN Security Council resolution 1970 (2011) S/RES/1970/2011 (26 February 2011) <<https://digitallibrary.un.org/record/698927>> accessed 27 September 2024.

51 Giacomina De Bona, *Human Rights in Libya: The Impact of International Society Since 1969* (Routledge Studies in Middle Eastern Politics, Routledge 2012) 156.

52 Michael N Schmitt, ‘Military Necessity and Humanity in International Humanitarian Law: Preserving the Delicate Balance’ in Michael N Schmitt, *Essays on Law and War at the Fault Lines* (TMC Asser Press 2011) 142, doi:10.1007/978-90-6704-740-1\_3.

53 UN Security Council resolution 678 (1990) [Iraq-Kuwait] S/RES/678/1990 (29 November 1990) <<https://www.refworld.org/legal/resolution/unsc/1990/en/8997>> accessed 27 September 2024.

International Criminal Tribunal for the former Yugoslavia (ICTY) advanced accountability for “crimes against humanity”.<sup>54</sup>

However, it is argued that R2P operates within the same limitations as humanitarian intervention, as it relies heavily on UNSC consensus. The veto power of the five permanent members (China, France, Russia, the UK, and the US) often blocks decisive action, as seen in Syria.<sup>55</sup>

The debate surrounding these doctrines has centred on the tension between the poles of legality and legitimacy. Legality calls for strict observation of international law,<sup>56</sup> specifically the UNSC authorisation under Chapter VII for military interventions. Yet, geopolitical deadlocks in the UNSC, however, prevent many of these from becoming operationally legal. Legitimacy is anchored on moral imperatives and principles of humanity, even when a procedure bypasses the requirements of law.<sup>57</sup> For example, NATO’s intervention in Kosovo (1999) lacked explicit UNSC authorisation but was widely justified as a legitimate response to prevent ethnic cleansing. In Libya (2011), the UNSC authorised military intervention under R2P to protect civilians. However, the mission eventually expanded into regime change, raising questions about its legitimacy and adherence to its original mandate.

### 2.3. The Role of International Relations in Shaping Legal Doctrines

International relations has profoundly affected how humanitarian intervention and R2P evolve and apply. When geopolitical interests align with humanitarian goals, such as in Libya, R2P can be executed effectively. In this case, the legitimised NATO-led military intervention successfully prevented large-scale massacres of civilians. Yet, the intervention has been criticised for exceeding its mandate,<sup>58</sup> highlighting the role of IR in defining both scope and perception.

In contrast, the Syrian conflict manifests the failures of these doctrines of IR. Despite the widespread recognition of atrocities, UNSC resolutions have been blocked by Russia and China, revealing their strategic interest in standing by Bashar al-Assad’s regime. This political deadlock reveals the failure of R2P in the face of geopolitical rivalry.<sup>59</sup> On the other hand, the influence of major powers’ political will has exposed the limitations of international law.

IR has significantly shaped the practice of humanitarian intervention and the adoption of R2P. NATO’s intervention in Kosovo (1999), carried out without the UNSC’s approval, spurred calls for a more multilateral approach, culminating in the development of R2P. However, the

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54 Henkin (n 36).

55 Halliyadde (n 14).

56 Kolb (n 23) 134.

57 *ibid* 132.

58 Deeks (n 24).

59 Halliyadde (n 14).

selective use of R2P – such as in Libya but not in Syria – has attracted allegations of double standards and even raised concerns over its validity as a universal norm.

The interventions in Somalia (1992) and East Timor (1999) exemplify how IR can support collective humanitarian action under legal frameworks.<sup>60</sup> UNSC-authorized operations in Somalia tackled a humanitarian crisis compounded by the collapse of the State, while in East Timor, multilateral intervention restored stability following a referendum on independence. These cases starkly contrast with the paralysis evident in Syria and Ukraine, where the dynamics of geopolitical rivalry have obstructed effective action.

### 3 INTERNATIONAL RELATIONS AND THE SYRIAN CONFLICT

Going back to the issue of Syria, it would be useful to explain the reasons for the conflict. The conflict can be traced back to the broader wave of unrest across the Middle East, known as the Arab Spring in 2010. The revolution in Syria began on 25 March 2011 in Daraa, a small city south of Damascus.<sup>61</sup> The protesters initially called for President Bashar al-Assad to step down. However, al-Assad's response was to suppress the revolution using military force, the exact same reaction as Libyan leader al-Gaddafi.<sup>62</sup>

As the conflict escalated, peaceful protests turned into violent clashes between the protesters and al-Assad's army, resulting in many deaths.<sup>63</sup> Al-Assad began to breach many international treaties and violate widespread human rights, including the genocide of the Syrian people, a breach of Article III of the Genocide Convention. This treaty is intended "to prevent and punish genocide."<sup>64</sup> In addition, the use of chemical weapons by al-Assad's regime, notably between 2014 and 2018, significantly breached the Chemical Weapons Convention (CWC).<sup>65</sup> During this period, around 106 chemical attacks were carried out against Syrian people,<sup>66</sup> leading to many civilians fleeing to other neighbouring countries, like Jordan and Turkey.

The reactions of al-Gadhafi in Libya and al-Assad in Syria to the protesters that arose in the wake of the Arab Spring share striking similarities. The only difference between the two revolutions lies in the international response.

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60 Kolb (n 23) 125.

61 Benjamin MacQueen, *An Introduction to Middle East Politics* (2nd edn, SAGE Publ Ltd 2018) 388.

62 Filiu (n 2) 85.

63 Robert J Lieber, *Power and Willpower in the American Future: Why the United States Is Not Destined to Decline* (CUP 2012) 66.

64 Convention on the Prevention and Punishment of the Crime of Genocide (adopted 9 December 1948) UNTS 78/277, art 3.

65 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (adopted 3 September 1992) UNTS 1974/45.

66 Nawal al-Maghafi, 'How Chemical Weapons Have Helped Bring Assad Close to Victory' (*BBC*, 15 October 2018) <<https://www.bbc.com/news/world-middle-east-45586903>> accessed 4 October 2024.

Libyan protesters were protected by the UN and other international organisations like NATO under Chapter VII of the UN Charter, which authorises states to take “all necessary measures to protect civilians.” This intervention was further justified under the international principle of the R2P. In contrast, Syrian protesters have not been afforded the same level of protection.<sup>67</sup> Despite widespread reports of the atrocities committed by al-Assad’s regime, there has been no similar intervention by the international community to protect Syrian protesters. This lack of protection has contributed to the transformation of the Syrian revolution into a sectarian war between Sunnis (the majority of the protesters) and Shiites (most of al-Assad’s army).<sup>68</sup>

Dealing with cases at the international level is not only based on international law; international relations also play a key role in shaping how states respond.<sup>69</sup> States’ attitudes in matters like humanitarian intervention can be understood through the lens of theoretical traditions of international relations, which explain why states act differently than others.<sup>70</sup> IR theories like realism and liberalism offer distinct principles for dealing with international issues.

The realist tradition, which emerged in Europe in the middle of the 19<sup>th</sup> century, reflects the European realpolitik of that time.<sup>71</sup> It is thought to be the richest theory due to its six principles that include many areas, like morality, power, politics, interests, human nature, and objective laws.<sup>72</sup> However, realism is primarily based on self-interest, meaning states applying this theory are less likely to intervene in any international issues if there is no self-interest.<sup>73</sup>

In contrast, the liberal tradition, which began in the 17<sup>th</sup> and 18<sup>th</sup> centuries, is seen as the most important theory in Western states, centred around the protection of human rights; thus, states applying liberal tradition are willing to intervene in any of the international issues if there is any major violation of human rights.<sup>74</sup> NATO justified its intervention in Libya by citing the protection of human rights, but it remains unclear why a similar approach was not taken in Syria. One possible explanation lies in the complicity of IR – the NATO States do not want to damage their relations with states like Russia or China, who support al-Assad’s regime.

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67 Schmitt (n 52) 214.

68 Radwan Ziadeh and others, ‘Crisis in Syria: What Are the US Options?’ (2012) 19(3) Middle East Policy 12, doi:10.1111/j.1475-4967.2012.00544.x.

69 AJR Groom, Andre Barrinha and William C Olson, *International Relations Then and Now: Origins and Trends in Interpretation* (2nd edn, Routledge 2019) 63-4, doi:10.4324/9780429061066.

70 Mervyn Frost, ‘The Role of Normative Theory in IR’ (1994) 23(1) Millennium 115, doi:10.1177/03058298940230010701.

71 Heather M Campbell (ed), *Advances in Democracy: From the French Revolution to the Present-Day EU* (Britannica Educational Pub 2011) 74.

72 Knud Erik Jørgensen, *International Relations Theory: A New Introduction* (Palgrave Macmillan 2010) 87.

73 Mark R Amstutz, *International Ethics: Concepts, Theories, and Cases in Global Politics* (5th edn, Rowman & Littlefield 2018) 48.

74 L Ali Khan, *A Theory of Universal Democracy: Beyond the End of History* (Martinus Nijhoff Publ 2003) 16.

To understand how states choose to interact with international legal institutions like the International Court of Justice (ICJ) and the International Criminal Court (ICC), IR theories offer valuable insights. From a realist perspective, states are likely to engage with these institutions only when their strategic interests are secured,<sup>75</sup> such as reinforcing territorial claims or countering adversaries. For example, Russia's actions in Syria demonstrate realist priorities, supporting Assad to maintain regional influence while actively avoiding the ICC or the ICJ involvement that could undermine these goals.

In the case of Syria, IR dynamics are evident, with key allies of the al-Assad regime – China, Russia, and Iran – playing pivotal roles in shielding it from international accountability. Russia and China, as permanent members of the UNSC with veto power, are the strongest allies of al-Assad and have the ability “to prevent action that they viewed as being antithetical to their national interest.”<sup>76</sup> Despite strong evidence of violations of human rights in Syria presented in the UNSC, China and Russia used their right of veto in October 2011 to block a resolution that was moved by Western States. This resolution called for a Syrian-led political process and condemned the “grave and systematic human rights violations” in Syria.<sup>77</sup>

In February 2013, China and Russia used the veto right against another resolution in the UNSC to “end violence in Syria and called for a peaceful resolution.”<sup>78</sup> Iran, on the other hand, has supported al-Assad by sending weapons to his army.<sup>79</sup> The relationship between Syria and Iran goes back many years and is built on shared political interests, especially concerning Middle Eastern issues, such as in the Palestinian case in which they support Hezbollah and Hamas against Israel.<sup>80</sup>

China and Russia, furthermore, have strong political and economic motivations for supporting al-Assad and opposing any international humanitarian intervention in Syria. For China, economic interests play a significant role in supporting the al-Assad regime. It is important to mention that when al-Assad visited China in 2014, he became the first president of Syria to visit China since the establishment of their diplomatic ties in 1956.<sup>81</sup> In addition, Syria was the “largest trading partner in 2011, with Syrian exports to that State

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75 Emily Tripp, 'Realism: The Domination of Security Studies' (*E-International Relations*, 14 June 2013) <<http://www.e-ir.info/2013/06/14/realism-the-domination-of-security-studies/>> accessed 16 November 2024.

76 Jussi M Hanhimäki, *The United Nations: A Very Short Introduction* (2nd edn, OUP 2008) 3, doi:10.1093/actrade/9780190222703.001.0001.

77 Roy Allison, *Russia, the West, and Military Intervention* (OUP 2013) 200, doi:10.1093/acprof:oso/9780199590636.001.0001.

78 Muḥamad S Olimat, *China and the Middle East: From Silk Road to Arab Spring* (Routledge 2012) 108.

79 Patrick E Thomas, *Cobra Strike* (iUniverse 2012) 68.

80 Adam C Seitz and Anthony H Cordesman, *Iranian Weapons of Mass Destruction: The Birth of a Regional Nuclear Arms Race?* (Praeger Security International, Praeger 2009) 84-7.

81 'Syria's Assad in China, Seeks Exit from Diplomatic Isolation' (*Voice of America (VOA)*, 21 September 2023) <<https://www.voanews.com/a/syrian-president-in-china-on-first-visit-since-beginning-of-war-in-syria-/7277603.html>> accessed 7 October 2024.

totalling more than \$2.4 billion”.<sup>82</sup> China is also a “major participant in the oil industry of Syria, which until the onset of fighting was in an uptrend”.<sup>83</sup> Having faced major economic losses in states affected by the revolutions, China is taking significant steps to protect its interests in Syria.<sup>84</sup> Syria not only represents a key economic partner but is among China’s strongest allies in the Middle East.<sup>85</sup>

Russia’s relationship with Syria is even deeper, both economically and politically. Syria is one of Russia’s most important clients for arms,<sup>86</sup> importing about \$4 billion worth of weapons per year. Russian companies have also invested heavily in Syria’s infrastructure and energy sectors, with investments worth more than \$18 billion as of 2009. After losing \$4 billion in Libyan arms and other contracts, Russia is not willing to lose the same amount in Syria.<sup>87</sup> Politically, Syria is Russia’s stronger ally in the Middle East,<sup>88</sup> and Russia seeks to protect this alliance to maintain its influence in the region through Syria.<sup>89</sup> This reflects a clear application of realist thinking.

Both Russia and China are driven by strategic interests, using their veto power to protect the Assad regime, ensuring their influence in the Middle East remains intact. This behaviour contrasts with liberalism, which advocates for intervention to uphold human rights. In this case, the failure to act highlights the dominance of *realpolitik*. For Iran, its support for Al-Assad serves as part of a broader regional strategy aimed at countering Western and Israeli influence. The strategic alliances between these states emphasise how realist principles can overpower humanitarian concerns and international legal standards. It demonstrates the politicisation of international law, where legal decisions are often subordinated to geopolitical concerns.

## 4 AGGRESSION AGAINST UKRAINE FROM AN IR PERSPECTIVE

From the current conflict in Ukraine, two instances carry critical importance. The first is Russia’s annexation of Crimea in 2014, and the second is the full-scale invasion of Ukraine in 2022.

In 2014, following the “Euromaidan protests and the ousting of pro-Russian president” in Ukraine, Russia moved swiftly to annex Crimea, citing the protection of ethnic Russians as

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82 Ted Galen Carpenter, ‘Tangled Web: The Syrian Civil War and Its Implications’ (2013) 24(1) *Mediterranean Quarterly* 7, doi:10.1215/10474552-2018988.

83 *ibid.*

84 *Olimat* (n 78) 193.

85 Yan Xuetong, *Ancient Chinese Thought, Modern Chinese Power* (Daniel A Bell and Sun Zhe eds, Princeton UP 2013) 140.

86 John OB Agbaje, *Prophetic Force: A Demystification of Eschatology* (Authorhouse 2012) 334.

87 *ibid.*

88 Talal Nizameddin, *Russia and the Middle East: Towards a New Foreign Policy* (Hurst 1999) 167.

89 Jimmy Carter, *The Blood of Abraham: Insights into the Middle East* (University of Arkansas Press 2007) 88, doi:10.2307/j.ctvb1hr61.

a justification.<sup>90</sup> Crimea voted in a contentious referendum to become a part of Russia. This referendum paved the way for Russia to formalise its hold over the region.<sup>91</sup>

The situation escalated dramatically in 2022 when Russia carried out attacks across Ukraine. This invasion has been seen as a serious violation of international law, resulting in the “largest conflict in Europe since World War II”.<sup>92</sup> Beyond the immense loss of human lives and displacement of millions of people, the invasion undermines fundamental principles of state sovereignty and territorial integrity, indicating a “clear violation of international law”.<sup>93</sup> Specifically, Russia’s annexation of Crimea violates Article 2(4) of the UN Charter, which “prohibits the use of force against the territorial integrity or political independence of any State”.<sup>94</sup>

Similarly, the recent full-scale invasion by Russia further violates the Geneva Conventions and international humanitarian law as it keeps on targeting civilians and vital infrastructure. No matter what self-described designations or claims of sovereignty are declared by local authorities of the self-named “Luhansk People’s Republic (LNR)” or “Donetsk People’s Republic (DNR),” Russian forces in Ukraine constitute an occupying force under international law.<sup>95</sup> Despite Russia’s recognition of these areas, the Fourth Geneva Convention (1949) still applies, outlining the obligations of occupying states, especially with regard to safeguarding civilians and civilian infrastructure. Russia’s recognition of these areas does not absolve it of its legal responsibilities under international law.

According to the occupation principle, Russia has a duty to ensure the safety and well-being of the civilian population under its control, a responsibility it has consistently failed to uphold. These violations not only threaten Ukraine’s sovereignty but also undermine the fundamental principles of international legal standards designed to safeguard civilians in war areas.<sup>96</sup> Besides this human rights violation, Russia is also accused of deliberate misuse of legal systems and frameworks by state or non-state actors to achieve political, strategic, or military objectives. Such actions exploit legal processes or instruments to give a veneer

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90 Eleanor Knott, ‘Existential Nationalism: Russia’s War against Ukraine’ (2023) 29(1) *Nations and Nationalism* 46, doi:10.1111/nana.12878.

91 ‘Crimea Referendum: Voters “Back Russia Union”’ (*BBC*, 16 March 2014) <<https://www.bbc.com/news/world-europe-26606097>> accessed 5 October 2024.

92 Scott Neuman and Alyson Hurt, ‘The Ripple Effects of Russia’s War in Ukraine Continue to Change the World’ (*NPR*, 22 February 2023) <<https://www.npr.org/2023/02/22/1157106172/ukraine-russia-war-refugees-food-prices>> accessed 5 October 2024.

93 Edinger (n 7).

94 UN Charter (n 18) art 2(4).

95 ‘Russia, Ukraine & International Law: On Occupation, Armed Conflict and Human Rights’ (*Human Rights Watch*, 23 February 2022) <<https://www.hrw.org/news/2022/02/23/russia-ukraine-international-law-occupation-armed-conflict-and-human-rights>> accessed 15 September 2024.

96 Hryhorii Berchenko, Tetiana Slinko and Oleh Horai, ‘Unamendable Provisions of the Constitution and the Territorial Integrity of Ukraine’ (2022) 5(Spec) *Access to Justice in Eastern Europe* 113, doi:10.33327/AJEE-18-5.4-n000447.

of legitimacy to actions that are otherwise coercive, aggressive, or unlawful, further eroding the rule of law, justice and human rights.<sup>97</sup>

Over 28,000 people have already lost their lives, and “about 1.5 million have been displaced” as a result of the armed war in eastern Ukraine.<sup>98</sup> Although it is prohibited for an occupying force to target civilians or civilian infrastructure under the Geneva Conventions, the extensive damage to houses, hospitals, and schools on both sides of the conflict line points to blatant violations.<sup>99</sup> The prohibition of attacking civilians, injured individuals, and non-combatants is further reinforced by the Hague Conventions (1907)<sup>100</sup> and Protocol I of the Geneva Conventions,<sup>101</sup> which further regulate methods of warfare. These acts have led to widespread condemnation and legal actions in international courts, although Russia's influence and UNSC veto power have hindered more direct intervention.

The international legal response to the actions of Russia in Ukraine has involved the ICJ and the ICC. The ICJ has addressed the situation following the application of Ukraine accusing Russia of falsely justifying its invasion under the Genocide Convention. In March 2022, the ICJ ordered, with a 13-2 decision, “that Russia must suspend its military operations in Ukraine”.<sup>102</sup> Despite this, Russia has ignored the judgment. The ICC, meanwhile, has opened investigations into potential “war crimes and crimes against humanity” committed during the invasion, including indiscriminate attacks on civilian populations and infrastructure and the forced deportation of Ukrainian civilians, particularly children.<sup>103</sup> However, as Russia is not a signatory<sup>104</sup> to the Rome Statute, which governs the ICC, the jurisdiction and ability of the court to enforce its rulings are limited.<sup>105</sup> These limitations outline the challenges faced by international legal institutions in their relation to powerful, non-cooperative states like Russia.

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97 Brad Fisher, ‘Russia’s Invasion of Ukraine and the Doctrine of Malign Legal Operations’ (2022) 5(Spec) Access to Justice in Eastern Europe 27, doi:10.33327/AJEE-18-5.4-a000456.

98 Mohamad Almohawes, ‘The Obstacles to the Right to a Fair Trial under the International Law: A Case Study of Al-Anfal and Srebrenica Genocide Trials’ (2024) 7(4) Access to Justice in Eastern Europe 71, doi:10.33327/AJEE-18-7.4-a000105.

99 Fisher (n 97).

100 Convention (IV) Respecting the Laws and Customs of War on Land (18 October 1907) CTS 205/277.

101 Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) (adopted 8 June 1977) UNTS 1125/3.

102 *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v Russian Federation)*, Provisional Measures (ICJ), 16 March 2022) para 82 <<https://www.icj-cij.org/case/182>> accessed 13 September 2024.

103 Ayesha Malik, ‘The Russian Invasion of Ukraine and International Law’ (*Research Society of International Law (RSIL)*, 28 March 2022) <<https://rsilpak.org/2022/the-russian-invasion-of-ukraine-and-international-law/>> accessed 13 September 2024.

104 *ibid.*

105 Rome Statute of the International Criminal Court (adopted 17 July 1998) UNTS 2187/90.



Global responses have come in the form of economic sanctions, also by diplomatic means, and military assistance. Western powers, including the US, the EU, and NATO members, have issued a round of sanctions targeting Russia's financial system and energy sector. These were set to weaken the economy of Russia and reduce its ability to sustain its war effort. Nonetheless, Russia's allies, such as China, have played a negative role by continuing trade with Russia despite Western sanctions. This has even lessened the effectiveness of the objectives of these sanctions.<sup>106</sup> To illustrate, China and other states maintained trade relations despite the sanctions placed on Western financial institutions like the SWIFT system, which was imposed to choke the Russian economy. They have, therefore, weakened the effect of the sanctions as far as the Russian economy is concerned.<sup>107</sup>

Diplomatic efforts have sought to isolate Russia on the international stage. There have been several rounds of peace talks, though they have failed due to Russia's unwillingness to compromise on its demands.<sup>108</sup> Meanwhile, military aid to Ukraine has been significant, with Western powers providing advanced weapons systems and financial assistance. This aid has been crucial in helping Ukraine defend against Russian aggression and reclaim some territories occupied by Russian forces.

The Ukrainian conflict has intensified existing geopolitical tensions between Western alliances, principally NATO and the EU, and Russia. For NATO, the conflict represents a direct challenge to European security and the stability of its eastern borders.<sup>109</sup> Russia, however, views Ukraine as within its sphere of influence, seeing it as a buffer against the expansion of Russia. Its geopolitical interests in Ukraine stem from historical, cultural, and strategic concerns.<sup>110</sup> Russia aims to prevent Ukraine from joining Western alliances, maintaining control over energy resources and transit routes, and asserting dominance in Eastern Europe.<sup>111</sup> This struggle for control, shaped by a complex interplay of geopolitical interests, has contributed to the conflict lasting longer.

From an IR viewpoint, the conflict in Ukraine highlights the clash between the realist and liberal traditions. Both theories underpin the strategies of the major global actors involved.

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106 'What Are the Sanctions on Russia and Have They Affected Its Economy?' (*BBC*, 23 February 2024) <<https://www.bbc.com/news/world-europe-60125659>> accessed 17 November 2024.

107 Bonnie S Glaser and Yanmei Xie, 'China-Russia Trade Relations and the Limits of Western Sanctions' (*German Marshall Fund of the United States (GMF)*, 11 June 2024) <<https://www.gmfus.org/news/china-russia-trade-relations-and-limits-western-sanctions>> accessed 16 October 2024.

108 Samuel Charap and Sergey Radchenko, 'The Talks That Could Have Ended the War in Ukraine' (*Foreign Affairs*, 16 April 2024) <<https://www.foreignaffairs.com/ukraine/talks-could-have-ended-war-ukraine>> accessed 15 September 2024.

109 'Deterrence and Defence' (*NATO*, 1 July 2024) <[https://www.nato.int/cps/en/natohq/topics\\_133127.htm](https://www.nato.int/cps/en/natohq/topics_133127.htm)> accessed 17 November 2024.

110 Bong-koo Kang, 'Understanding the Ukrainian Conflict from the Perspective of Post-Soviet Decolonization' (2020) 9(2) *Region 1*.

111 Denys Yurchenko, 'Russian Strategic Culture and the War in Ukraine' (*Foreign Policy Research Institute*, 2 July 2024) <<https://www.fpri.org/article/2024/07/russian-strategic-culture-and-the-war-in-ukraine/>> accessed 15 September 2024.

The realist perspective, emphasising state self-interest, power politics, and security concerns, can be clearly seen in the actions of Russia, which views Ukraine as a buffer zone against NATO. In this context, the invasion of Ukraine can be seen as a move to prevent the encroachment of Western military alliances into its sphere of influence.<sup>112</sup> The geopolitical positioning of Ukraine is vital to Russia's security doctrine. This aligns with realist ideas of balancing power to maintain regional security and dominance. This approach also supports Russia's action in avoiding the ICC and ICJ.

Russia has a variety of strategic objectives in Ukraine. One of the key factors is the role of Ukraine as a transit state for Russian gas supplies to Europe. Control over Ukraine allows Russia to exert influence over European energy markets, which has historically been a cornerstone of its foreign policy. Ukraine also holds significant natural resources, including coal, iron ore, and fertile agricultural land, which are economically important to Russia.<sup>113</sup>

Russia's interest in Ukraine, from a geopolitical viewpoint, is closely tied to maintaining its dominance over energy resources and transit routes. Ukraine serves as a critical transit state for Russia's gas exports to Europe, making it an integral part of Russia's economic and strategic interests.<sup>114</sup> This reliance on energy transit aligns closely with a realist perspective, where state behaviour is driven by material interest and achieving necessary resources. The strategic interest of Russia in Ukraine as a transit state for its gas exports to Europe is the best proof of how power and economic leverage feature its foreign policy. From a realist perspective, Russia's focus on exploiting economic benefits, even in the face of harsh sanctions, underscores the importance of regional dominance in securing national interests.

Conversely, the liberal tradition gives a clear insight into the reactions of the Western powers, including the US, NATO, and the EU. The liberal worldview that supports international institutions, human rights, and collaboration serves as the foundation for the coordinated Western reaction to Russian aggression. From this angle, sanctions, military aid, and diplomatic measures to support Ukraine align with the liberal view that intervention is necessary by the international community when there is a violation of human rights.<sup>115</sup> In short, these actions of the West thus display their commitment to liberal principles: upholding international law and promoting democratic governance in Ukraine.

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112 Felix Rösch, 'Realism, the War in the Ukraine, and the Limits of Diplomacy' (2022) 44(2) *Analyse & Kritik* 201, doi:10.1515/auk-2022-2030.

113 Elias Götz and Jørgen Staun, 'Why Russia Attacked Ukraine: Strategic Culture and Radicalized Narratives' (2022) 43(3) *Contemporary Security Policy* 487, doi:10.1080/13523260.2022.2082633.

114 Morena Skalamera, 'The Geopolitics of Energy after the Invasion of Ukraine' (2023) 46(1) *The Washington Quarterly* 13-6, doi:10.1080/0163660X.2023.2190632.

115 David L Sloss and Laura A Dickinson, 'The Russia-Ukraine War and the Seeds of a New Liberal Plurilateral Order' (2022) 116(4) *American Journal of International Law* 798.

Moreover, Ukraine's legal actions in the ICJ and collaboration with ICC investigations reflect the liberal commitment to defending sovereignty and dealing with war crimes, which are supported by liberal Western allies. This is not the case for Syria, where the fractured governance coupled with realist calculations through external factors such as the UNSC vetoes undertaken by Russia have prevented legal accountability.

It is not only an issue of the territorial integrity of Ukraine *per se*, but also a continuous struggle to impose liberal values such as self-determination and international cooperation on the part of the US and its allies.<sup>116</sup> The US has led in providing military aid, committing billions of dollars worth of advanced weapons. This is aside from the major diplomatic role played by the Biden administration in gathering global support for Ukraine and the aligning of Western allies in their stance against Russia.<sup>117</sup> The liberal tradition speaks for human rights. Military aid and sanctions will be delivered to protect a sovereign state against external aggression.

Apart from imposing sanctions, the EU has provided economic aid towards the stabilisation of the Ukrainian economy, which has taken a heavy toll in this war. Additionally, EU States have opened their borders to millions of Ukrainian refugees by offering asylum and humanitarian aid.<sup>118</sup> NATO, though not directly involved militarily, has expanded its presence in Eastern Europe and provided Ukraine with critical military equipment, training, and intelligence support. Collectively, these efforts have significantly enhanced Ukraine's ability to resist Russian aggression. These kinds of assistance all align with the liberal commitment to collective security and multilateralism, key tenets of the liberal worldview.

Furthermore, the involvement of NATO, even indirectly, can be understood through the liberal lens of collective security and the defence of a rules-based international order. Such actions, aimed at deterring further Russian aggression, reflect the alliance's commitment to maintaining peace and stability in Europe through cooperative measures. Liberalism also explains the economic sanctions imposed by the EU,<sup>119</sup> which are intended not only to weaken the war machine of Russia but also to encourage diplomatic solutions through international institutions.

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116 Kang (n 110) 20.

117 Ashley Parker, Tyler Pager and Marianna Sotomayor, 'Biden at War: Inside a Deliberate yet Impulsive Ukraine Strategy', *Washington Post* (Washington, 7 April 2022) <<https://www.washingtonpost.com/politics/2022/04/07/biden-war-ukraine/>> accessed 5 October 2024.

118 Elżbieta Ociepa-Kicińska and Małgorzata Gorzałczyńska-Koczkodaj, 'Forms of Aid Provided to Refugees of the 2022 Russia–Ukraine War: The Case of Poland' (2022) 19(12) *International Journal of Environmental Research and Public Health* 7085, doi:10.3390/ijerph19127085.

119 Christine Nissen and Jakob Dreyer, 'From Optimist to Sceptical Liberalism: Reforging EU Foreign Policy amid Crises' (2024) 100(2) *International Affairs* 675, doi:10.1093/ia/iaae013.

## 5 ANALYSES

In both the Syrian and Ukrainian conflicts, IR has significantly influenced the enforcement of international law.

### 5.1. Enhancing the Effectiveness of International Law

In some cases, IR can strengthen international law enforcement. The case of Ukraine is a clear example where the recognition of a legitimate government and collective international action have allowed relatively strong legal and diplomatic steps. The democratic government in Ukraine has exercised its sovereignty under international law to require military assistance, sanctions and legal action against Russia. This was coupled with Western alliances, which provided support in the response towards territorial integrity and sovereignty as international law.

Similarly, in Libya, international consensus led to decisive action under the R2P framework. The UNSC authorised military intervention. This marked one of the few instances where the geopolitical alignment of international powers effectively enforced international law. Despite the controversy that surrounded it, the intervention by NATO proved that when the interests of great powers align, international legal mechanisms can be implemented to prevent mass atrocities.

### 5.2. Undermining the Effectiveness of International Law

Despite clear legal frameworks aimed at preventing human rights abuses and protecting state sovereignty, the geopolitical interests of powerful states have hindered the consistent application of these laws.<sup>120</sup>

When analysing the conflicts in Syria and Ukraine, both reveal how powerful external actors – Russia being a dominant player in both – have undermined the legal mechanisms designed to hold perpetrators accountable. In fact, both conflicts are characterised by flagrant international law violations. Moreover, when looking at other issues in the world, like the war in Libya, the powerful actor involved was NATO, which intervened under the framework of R2P. In each of the cases, geopolitical interests decided the response.

The strategic investments Russia made in Syria and its military presence at the Tartus naval base speak to its interest in maintaining influence and power in the region. In Ukraine, geopolitical interests for Russia involve holding onto Crimea and preventing Ukraine from joining NATO and the EU. Libya, on the other hand, presents its own set of geopolitical

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120 Anne Orford, 'Regional Orders, Geopolitics, and the Future of International Law' (2021) 74(1) *Current Legal Problems* 149, doi:10.1093/clp/cuab005.

stakes for Western powers, who sought to stabilise the region, prevent humanitarian catastrophes, and protect their economic and strategic interests, especially in terms of oil.<sup>121</sup>

Upon further analysis of the cases of Syria and Ukraine, the paralysis of international institutions can be seen. For instance, in Syria, Russia and China, as veto-wielding members, have rendered the implementation of international law ineffective. This is true of the situation in Ukraine, where the UNSC was equally restricted from imposing binding resolutions on Russia due to its permanent status and veto power. This leaves a precedent to explain the structural shortcomings in the UNSC, whereby the geopolitical rivalry of the five permanent members tends to bar the enforcement of international law itself, and it is based on a coalition-based action. Moreover, both conflicts also highlight the failure to prevent civilian suffering despite the existence of robust international legal frameworks. In each case, the protection afforded by international humanitarian law has proven insufficient in the face of geopolitical interests, illustrating a common weakness in enforcement mechanisms.

Besides some notable similarities between the case of Syria and Ukraine, the differences between them provide insight into how to understand how IR undermines the role of international law. The divergences in international intervention that took place during those two conflicts are fundamental to understanding IR's varying impact on the enforcement of legal norms. Ukraine has witnessed a more robust international response, though it, too, is shaped by geopolitics and the nature of government. As a sovereign State with a democratic form of government, Ukraine has been able to exercise the rights provided under international law to demand cooperation in repelling aggression. In response, it has been provided with military aid, sanctions against Russia, and legal proceedings in international forums such as the ICJ. Such clear legitimacy has facilitated smooth coordination on the international stage, especially among Western allies in NATO and the EU.

On the other hand, while the international community has documented many violations in Syria, the response has been characterised by mere diplomatic deadlock with no intervention at all. From a geopolitical perspective, the Russian interest is to keep its presence in Syria to protect Assad's government and its foothold in the Middle East. Russia and China have repeatedly used their veto in the UNSC. Through this, they have successfully blocked the resolutions that would have likely led to more severe measures by the international community, including humanitarian intervention or accountability against Bashar al-Assad. This, therefore, demonstrates how IR, particularly in the strategic alliances of the powerful states, can render law enforcement ineffective.

In addition, the absence of a global consensus on the legitimacy of the Syrian regime<sup>122</sup> has further delayed decisive international action. Many states consider Assad's government

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121 Deeks (n 24).

122 Zaki Mehchy, 'Back in Control, Syria's Regime Tries to Build Its Legitimacy' (*Chatham House*, 14 October 2020) <<https://www.chathamhouse.org/2018/12/back-control-syrias-regime-tries-build-its-legitimacy>> accessed 17 November 2024.

as the legitimate authority, which limits the effectiveness of international law and the legal basis for humanitarian intervention. Besides that, the fragmented opposition in Syria has been another key obstacle to delaying actions. Lacking a united opposition makes the ruling party manage affairs on its own,<sup>123</sup> blocking international intervention to advance a viable plan for government, which has discouraged intervention on an international level. In contrast, Ukraine benefits from a clear and recognised government that has formally requested assistance, unlike the fractured political dynamics in Syria, which hindered international actors from taking action.

The geopolitical stakes in each conflict also differ, influencing the nature and intensity of international responses. Western alliances of NATO and the EU have provided military, economic, and legal support to Ukraine, driven by concerns over European security and the defence of international legal principles. Russia's actions – such as the annexation of Crimea and the occupation of sovereign Ukrainian territory – have come to be interpreted as a challenge to the foundational principles of territorial integrity and State sovereignty. Such violations have galvanised Western states to respond decisively, not only to protect Ukraine but also to deter similar actions by other states. Contrarily, despite the Syrian conflict being a humanitarian crisis, it has been largely framed as a regional issue with minimal implications for global stability. This divergence in geopolitical priorities has determined the level of international law intervention, with Ukraine's strategic significance drawing more attention and response from the international community than the situation in Syria.

Another significant factor that has accelerated support is the economic interdependence between Ukraine and its Western allies. This conflict is of utmost interest to Western states, particularly in relation to sanctions, energy policy, and the role of Ukraine in global energy markets. In contrast to Syria, where the stakes are lower and essentially regional, international responses have been more fragmented. This disparity in geopolitical and economic significance has contributed to the heightened priority given to resolving the Ukraine conflict by Western states.

Additionally, while both conflicts share the point of showing the inefficiency of international law, they differ in the legal challenges they present. In Syria, it is the violation of humanitarian law that comes into focus, but its enforcement is highly limited because of the lack of consensus in jurisdiction. In Ukraine, legal challenges are centred on sovereignty and territorial integrity. Notably, the ICJ and the European Court of Human Rights have taken an active role in supporting Ukraine's case.<sup>124</sup> This difference underscores how and when responses to international law violations differ from one case to another.

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123 Bassam Haddad and Ella Wind, 'The Fragmented State of the Syrian Opposition' in Mehran Kamrava (ed), *Beyond the Arab Spring: The Evolving Ruling Bargain in the Middle East* (OUP 2014) 397, doi:10.1093/acprof:oso/9780199384419.003.0015.

124 Diane Desierto, 'Human Rights Reparations and Fact-Finding Quandaries in the 2024 ICJ Judgments in Ukraine v Russian Federation' (*EJIL: Talk!*, 11 March 2024) <<https://www.ejiltalk.org/human-rights-reparations-and-fact-finding-quandaries-in-the-2024-icj-judgments-in-ukraine-v-russian-federation/>> accessed 17 November 2024.

It is also important to note that a closer comparison between Syria and Ukraine brings up not just the differences in the application of international law but also the deficiencies of any international legal framework when challenged by a powerful state. Events in Syria, nonetheless, have shown how geopolitical interests have hindered the application of international law. Al-Assad, with strategic support from Russia, has held on with impunity from either legal action or military intervention. This depicts that international law, *per se*, cannot often work as its enforcement depends upon the will of powerful states. The reaction in Ukraine has been more coordinated, with an emphasis on adherence to the principles of international law. Yet, the inadequacies of this reaction also tend to expose the broader challenges that international law faces in conflicts involving major powers. From sanctions to legal processes, in fact, the geopolitical leveraging by Russia through its position in energy markets and military capability has kept international law significantly ineffective in stopping the aggression. In this situation, the international legal framework applied still cannot fully mitigate or prevent state-driven violations when those violations are backed by significant political and economic power.

These two cases represent a broader implication of this research: the effectiveness of international law on any single state depends entirely on the power and political will of the other states involved. In conflicts like Syria or Ukraine, where clearly defined strategic interests are featured on the part of global powers, the legal norms are often compromised to accommodate the interests. The erosion of international legal frameworks, as seen in the humanitarian crisis in Syria and the territorial breach in Ukraine, underscores the sensitivity of the international legal system when powerful states can obstruct legal processes. This points to the existence of basic flaws in the prevailing international legal architecture, where geopolitical interest often prevails over legal obligation.

The comparison between Syria and Ukraine does, however, address the main research question: international law remains subservient to IR when geopolitical stakes are high. Powerful states have used their influence either to block enforcement mechanisms, as in Syria or to mitigate the consequences of legal actions, as in Ukraine. While international law is supposed to be impartial and universal, it is inconsistently applied because it depends upon the unity of the international community, which is usually fractured by the competing interests of major global powers.

## 6 CONCLUSIONS

From the foregoing discussion, the research reveals that even as international law attempts to provide a framework through which gross human rights violations and acts of aggression should be addressed, its application is nonetheless severely constrained by political dynamics in IR. The case studies of Syria and Ukraine illustrate that powerful states can undermine the enforcement of international law when their strategic interests are at stake. This thereby weakens the overall efficacy of international legal mechanisms.

The issue of Syria has become one of the most complex and unresolved issues in the world, with the international community struggling to take significant action to stop the bloodshed. In this case, IR played a pivotal role in preventing an international resolution at the UNSC, which called for a Syrian-led political process that “condemned graves and systematic human rights violations” in Syria.<sup>125</sup> China and Russia were the two states that vetoed the resolution primarily to protect their economic and political interests.<sup>126</sup>

Similarly, in the current conflict in Ukraine, international law has been challenged by Russia’s violation of Ukrainian sovereignty, yet the response has been different from that in Syria. While Western powers, through NATO and the EU, have taken retaliatory actions, Russia’s geopolitical influence and control over energy resources have limited the full enforcement of international law. For instance, some of Russia’s allies, like China, have played a negative role by continuing to conduct trade with Russia despite sanctions from the West. While international legal principles have been more strongly invoked in Ukraine compared to Syria, the core issue remains the same: when major states have an interest at stake, political strategy and self-interests often take precedence over international law. Although international legal principles have been invoked more strongly in Ukraine, the conflict underscores the same issue in Syria: when powerful states have vested interests, international law becomes secondary to geopolitical strategy.

In such cases, deeper structural issues are revealed through this interplay between IR and international law. IR not only influences the enforcement of international law but also questions doctrines like humanitarian intervention and the Responsibility to Protect (R2P). The inability to reach an agreement on recognising an alternative for al-Assad’s rule in Syria, for instance, speaks of the fragility of R2P as a doctrine because its implementation still hinges on political agreement among the major powers. Aggression from Russia has strained the state sovereignty of Ukraine, meaning there are gaps in international legal frameworks in addressing violations from powerful states. This research concludes that international law is highly contingent upon the balance of power within IR. International law was intended to be an independent system, but it is frequently subordinated to geopolitical considerations. This underscores the critical need for reforms that can safeguard legal mechanisms from such pressures.

To overcome the obstacles in the enforcement of international law, several suggestions can be proposed. First, reforms should be made towards the UNSC to place some limits on the utility of the veto power during humanitarian crises. This prevents powerful states from blocking key actions from being taken. Further, more members should join the UNSC to be more representative, with a lesser influence on the power of veto over the enforcement of actions. Additionally, regional organisations like the European Union and Arab League

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125 Allison (n 77) 200.

126 Gillian Duncan and others (eds), *State Terrorism and Human Rights: International Responses since the End of the Cold War* (Routledge 2013) 67.



should be more involved in implementing international law within their regions. Powerful states must comply by following the rule of law even if it goes against their interests. Furthermore, sanctions must be imposed collectively and strategically to become effective. Last but not least, awareness through education and diplomacy could minimise future violations and make nations respect legal rules. These steps would contribute to strengthening and improving the effectiveness of international law.

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## АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Дослідницька стаття

### МІЖНАРОДНІ ВІДНОСИНИ ТА ЇХ ВПЛИВ НА ДОТРИМАННЯ МІЖНАРОДНОГО ПРАВА: ПРИКЛАДИ УКРАЇНИ ТА СИРІЇ

**Могамад Альмогавес**

АНОТАЦІЯ

**Вступ.** Цілями міжнародного права є підтримка глобального миру, захист прав людини та притягнення держав до відповідальності у разі порушення міжнародного права. Проте на практиці його реалізація та ефективність неоднакові через динаміку міжнародних відносин (МВ). У Сирії світовій спільноті було важко притягнути режим до відповідальності за порушення прав людини, головним чином через його могутніх союзників, таких як Росія. Подібним чином український конфлікт піднімає серйозні питання щодо ефективності міжнародного права в боротьбі з порушенням Росією суверенітету та територіальної цілісності України. Це дослідження має на меті проаналізувати роль МВ у формуванні застосування міжнародного права в цих двох зонах конфлікту, зосередившись на тому, як зовнішня підтримка дозволила агресорам вистояти, незважаючи на правові виклики.

**Методи.** У цій статті використовується методологія якісного дослідження. Вона спирається на кабінетне дослідження для збору даних за допомогою первинних і вторинних джерел. Основними джерелами є договори, резолюції ООН, а також міжнародно-правові джерела. Сюди також входять заяви важливих учасників сирійського та українського конфліктів, які дають змогу зрозуміти правові джерела, що регулюють міжнародне право. До вторинних належать наукові статті, звіти міжнародних організацій та експертні аналізи. Це дає змогу зрозуміти, як міжнародне право було застосоване або проігнороване в обох випадках.

За допомогою порівняльно-аналітичного підходу у дослідженні розглядаються сфери подібності та відмінності в імплементації міжнародного права в Сирії та Україні. У ньому висвітлюються спільні чинники, такі як залучення потужних державних суб'єктів, зокрема Росії, і роль геополітичних інтересів у перешикоданні ефективного правозастосування. У статті водночас вказується на деякі відмінності, такі як міжнародне визнання українського уряду проти фрагментарного визнання сирійських опозиційних груп, і те, як такі відмінності вплинули на реакцію щодо обох криз.

У цій роботі підкреслюється роль геополітичних інтересів і зовнішніх державних суб'єктів – Росії, Китаю та західних держав – у формуванні міжнародної реакції. У дослідженні також розглядаються теми суверенітету, гуманітарного втручання та права вето в ООН. Підкреслює, як МВ впливають на дотримання міжнародного права.

Використовуючи приклад України та Сирії, дослідження допомагає зрозуміти перетин міжнародного права та міжнародних відносин, зокрема тих викликів, які виникають через геополітичні інтереси.

**Результати та висновки.** У дослідженні було зроблено висновок, що міжнародні відносини суттєво впливають на дотримання міжнародного права як у Сирії, так і в Україні, хоча й з різними результатами. У Сирії режим Асада зберігся завдяки постійній військовій, економічній і політичній підтримці Росії, Китаю та Ірану. Ці держави використовували свій вплив, зокрема в Раді Безпеки ООН, щоб блокувати іноземне втручання. Це демонструє, як геополітичні інтереси можуть паралізувати міжнародно-правові механізми. В Україні більш єдина міжнародна реакція призвела до економічних санкцій, військової підтримки та судових позовів проти Росії. Однак геополітичні важелі впливу Росії, зокрема в енергетиці та військовій силі, обмежили ефективність цих заходів. Альянс Росії з Китаєм ще більше ускладнює ситуацію, оскільки Китай чітко не засудив або не проголосував проти війни Росії проти України в Раді Безпеки ООН. Крім того, Китай та інші союзники Росії підірвали санкції, продовжуючи торговельні та економічні відносини з Росією, тим самим послабили колективний вплив міжнародних санкцій Заходу.

У висновках підкреслено, що хоча на міжнародне право впливає глобальна політика, ступінь і тип впливу залежать від залучених геополітичних ставок, що свідчить про вразливість системи, яка намагається протистояти могутнім державам. Стаття закликає до реформ, спрямованих на зміцнення міжнародної правової бази, які будуть гарантувати, що вона не буде підірвана геополітичними інтересами ключових глобальних гравців.

**Ключові слова:** міжнародне право, міжнародні відносини, гуманітарна інтервенція, геополітика, вирішення конфліктів, Рада Безпеки ООН, сирійський конфлікт, агресія проти України.