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El cambio estratégico de Estados Unidos y el derecho internacional humanitario: implicaciones para la guerra entre Rusia y Ucrania

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## United States' strategic shift and International Humanitarian Law: Implications for the Russia-Ukraine war

El cambio estratégico de Estados Unidos y el derecho internacional humanitario: implicaciones para la guerra entre Rusia y Ucrania

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**ABSTRACT.** The Russia-Ukraine conflict, stemming from post-Soviet tensions, critically challenges International Humanitarian Law (IHL) and global stability. Russia's perception of Ukraine within its sphere of influence clashed with Ukraine's westward shift, particularly in the post-2014 Maidan Revolution. The 2022 full-scale invasion intensified the conflict, revealing IHL's limitations against hybrid warfare and inadequate international responses. This war has reshaped Eastern European security and global geopolitics, impacting the global economy. The 2025 Munich Security Conference symbolizes a crucial juncture: the potential for a new multipolar order fostering peace versus a protracted conflict redefining global power. This paper examines the role of IHL application, diplomatic negotiations, and emerging actors in seeking resolution. It explores whether these factors will lead to sustainable peace or a frozen conflict that will reshape the global power map for decades.

**KEYWORDS:** conflict, geopolitics, International Humanitarian Law, Russia, Ukraine

**RESUMEN.** El conflicto entre Rusia y Ucrania, derivado de las tensiones postsoviéticas, supone un grave desafío para el Derecho Internacional Humanitario (DIH) y la estabilidad global. La percepción que Rusia tenía de Ucrania dentro de su esfera de influencia contrastó con su desplazamiento hacia el oeste, en particular tras la Revolución de Maidán de 2014. La invasión a gran escala de 2022 intensificó el conflicto, revelando las limitaciones del DIH frente a la guerra híbrida y las respuestas internacionales inadecuadas. Esta guerra ha transformado la seguridad de Europa del Este y la geopolítica global, impactando la economía global. La Conferencia de Seguridad de Múnich de 2025 simboliza una coyuntura crucial: el potencial de un nuevo orden multipolar que fomente la paz frente a un conflicto prolongado que redefine el poder global. Este artículo examina el papel de la aplicación del DIH, las negociaciones diplomáticas y los actores emergentes en la búsqueda de una solución. Explora si estos factores conducirán a una paz sostenible o a un conflicto estancado que transformará el mapa del poder global durante décadas.

**PALABRAS CLAVE:** conflicto, Derecho Internacional Humanitario, geopolítica, Rusia, Ucrania

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## Introduction

The conflict between Russia and Ukraine has exposed numerous violations of the fundamental principles of IHL, a normative framework designed to limit the effects of armed conflict on protected persons and objects that seemingly go unnoticed. From the annexation of Crimea in 2014 to the full-scale invasion in 2022, Russia has been singled out by the international community for conduct that violates core norms of IHL, such as the protection of civilians, the prohibition of indiscriminate attacks, and respect for territorial sovereignty. These actions have had a devastating impact on the civilian population and undermined international efforts to ensure a rules-based global order.

One of the most paradigmatic events in this context was Russia's annexation of Crimea in 2014, an action that challenged the norms of sovereignty enshrined in the United Nations Charter. The irony and worrying aspect of this situation is that, during the same period, Russia held the rotating presidency of the United Nations Security Council, the body charged with safeguarding international peace and security. This act, which was carried out through a referendum widely criticized for its lack of legitimacy and transparency, set an alarming precedent in which a global power used its geopolitical position to advance expansionist interests, ignoring the international norms it was meant to protect.

This annexation of Crimea not only violated the principles of sovereignty and territorial integrity but also triggered a series of Russian-backed military actions in eastern Ukraine, where separatist forces have been responsible for serious violations of international humanitarian law. Indiscriminate bombing, the use of prohibited weapons, and the execution of prisoners are just some of the practices documented on the ground. These actions have posed enormous challenges to the effective implementation of IHL, as hybrid attacks and covert tactics used by Russia often seek to evade direct accountability by operating through non-state actors.

Furthermore, the large-scale Russian invasion in 2022 significantly exacerbated these violations. Ukrainian cities have been targeted with indiscriminate attacks against civilian infrastructure, including hospitals, schools, and homes, constituting a flagrant violation of the principle of distinction in IHL. Restrictions on humanitarian access and mass population displacement have generated one of the most significant humanitarian crises in Europe since World War II. Despite its efforts, the international community has failed to ensure an effective response to these violations, exposing the structural limitations of IHL monitoring and compliance mechanisms in contexts of protracted conflict. The violation of IHL in Ukraine has not only intensified human suffering. However, it has also highlighted the need to strengthen international mechanisms to ensure state accountability and adequately protect populations affected by armed conflict. This analysis seeks to delve deeper into these issues and propose solutions that will more effectively address contemporary challenges to IHL.

Following the US Vice President's speech at the Munich 2025 conference, the Russia-Ukraine conflict should not represent a geopolitical problem for Europe, nor should the

potential economic threats posed by China's international relations. The real threat is the internal erosion of the humanistic values inherent to the union and shared with the US.

## Methodological framework

The research uses a qualitative methodology with an analytical and descriptive approach. It is widely recognized as appropriate for studies seeking to identify key thematic axes and understand complex phenomena, such as international security and its impact on global dynamics (Acevedo-Navas, 2023). This approach allows for an in-depth exploration of the political, social, and economic interactions that shape armed conflicts and the interpretation of the norms and principles that regulate them, such as IHL. According to Creswell (2014), qualitative research is characterized by its ability to interpret social phenomena in their natural contexts, essential for analyzing a conflict as multifaceted as the one in Russia and Ukraine. This method facilitates the collection of relevant data and allows for nuanced interpretations that integrate historical, legal, and geopolitical perspectives.

Documentary research design is a fundamental tool in this study, as it provides access to a wide range of secondary sources such as legal documents, international resolutions, reports from non-governmental organizations, and previous academic studies. According to Bowen (2009), documentary reviews are beneficial for assessing historical and legal contexts, providing evidence based on secondary data that facilitates a comprehensive understanding of the events analyzed. Applying this methodology makes it possible to identify patterns, contradictions, and connections that might not be evident through other research methods, offering a more systematic and holistic view of the topic.

Furthermore, qualitative analysis using an analytical and descriptive approach allows conflict to be approached from multiple perspectives, integrating theoretical frameworks and empirical evidence to construct a rigorous and balanced analysis. Maxwell (2013) argues that qualitative analysis fosters a deep understanding of the relationships between actors, contexts, and norms that influence conflicts. In the case of the study of international security and IHL, this approach allows for an examination of how geopolitical strategies, legal regulations, and social dynamics intersect to shape the reality of the Russia-Ukraine conflict. Therefore, this methodology ensures academic rigor and provides a solid basis for developing practical recommendations to strengthen the implementation of IHL and international cooperation.

## The conflict between Russia and Ukraine

The conflict between Russia and Ukraine has generated a wide range of legal problems manifested in direct violations of international humanitarian law and in Russia's exploitation of the law to consolidate its global political and economic influence. This study has classified these problems into four significant problems: 1) Violations of international humanitarian law; 2) Legal context of the annexation of Crimea; 3) Geopolitical and economic impact; and 4) Impunity and legal obstacles.

## Violations of international humanitarian law

The Russian invasion of Ukraine constitutes a direct violation of Article 2.4 of the United Nations Charter, which prohibits the use of force between States except in cases of self-defense or explicit authorization by the Security Council<sup>1</sup>. This principle, designed to maintain international peace and security, has been challenged by Russia both in its 2014 annexation of Crimea and its large-scale invasion in 2022.

It has also committed international crimes defined in the Geneva Conventions, such as indiscriminate attacks against civilians and the destruction of critical infrastructure (Ardila-Castro, Ramírez-Benítez & Cubides-Cárdenas, 2020). This has been ratified in the report of the Independent Commission of Inquiry on Ukraine<sup>2</sup>. Patterns of conduct have been documented, including summary executions, forced displacement, and systematic human rights violations, implying individual criminal responsibility under international criminal law.

Regarding attacks against civilian populations not participating in the conflict and attacks on civilian infrastructure, IHL also strictly prohibits these attacks by Article 48 of Protocol I Additional to the Geneva Conventions<sup>3</sup>. The same applies to the use of prohibited weapons. However, neither Russia nor Ukraine are signatories, as well as extrajudicial executions and sexual and gender crimes are also recorded in the reports.

## Legal Context of the Annexation of Crimea

The annexation of Crimea in 2014 represented a completely unconventional milestone, a turning point given that Russia presided over the United Nations Security Council. This underscores the contradiction in its conduct regarding its international responsibilities. Crimea's incorporation was justified by a referendum organized under Russian military occupation; an act widely questioned for its lack of legitimacy. This event underscored the expansionist policy that has consolidated in the separatist regions of Donbas through hybrid tactics to circumvent international sanctions and justify Russia's control over strategic territories.

The invasion of Ukraine, like the annexation of Crimea, constitutes a flagrant violation of the fundamental principles established in the United Nations Charter, in addition to Article 2.4 mentioned above and Article 2.3, which requires the peaceful settlement of international

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- 1 Art. 2.4. Members of the Organization shall, in their international relations, refrain from resorting to the threat or use of force against any State's territorial integrity or political independence or in any other manner inconsistent with the Purposes of the United Nations.
  - 2 The United Nations Human Rights Council established the United Nations Commission of Inquiry to investigate alleged violations and abuses of human rights, violations of international humanitarian law, and related crimes in the context of the aggression against Ukraine by the Russian Federation.
  - 3 Art. 48. PAI. To ensure respect for and protection of the civilian population and objects, the Parties to the conflict shall always distinguish between the civilian population and combatants and between civilian objects and military objectives. They shall accordingly direct their operations solely against military objectives.

disputes<sup>4</sup>. Both actions equally contravene Chapter VII of the Charter, which is intended to maintain international peace and security. As a permanent member of the Security Council, Russia has a tacit responsibility to promote compliance with the rule, not to subvert or qualify it by exploiting the justice system to its advantage. This corresponds to the classic concept of *lawfare*<sup>5</sup> (Romano, 2021).

There is also a violation of Article 39 of the Charter<sup>6</sup>, which grants the Security Council exclusive authority to determine the existence of threats or acts of aggression and to decide on appropriate collective measures. Russia has deliberately evaded this prerogative, failing to point out the potential discretionary nature of the other permanent members of the Security Council following statements made by the Secretary-General himself (Arbuet-Vignale & Rodríguez, 2022).

## Geopolitical and economic impact

This conflict has also had profound economic and geopolitical implications, highlighting Russia's ability to redirect its energy exports to emerging markets and at least partially counteract the effects of Western sanctions. According to Feás and Steinberg (2022), the Russian economy, although affected, has shown remarkable resilience by finding new buyers for its oil and gas in Asia, especially in China and India, which has allowed it to maintain key revenue sources that finance its war effort. This situation demonstrates that sanctions are ineffective when the sanctioned country has alternative means available in global markets.

Europe's dependence on Russian gas, which before the conflict represented nearly 40% of the European Union's energy supply, has become a tool of geopolitical pressure used by Russia. This dependence exacerbated global tensions by driving up energy prices and causing an inflationary crisis in Europe and other regions dependent on the international energy market. According to the analysis by Feás and Steinberg, the disruption to Russian gas supplies and the need to diversify energy sources have led the EU to redefine its energy strategy, but at a high short-term economic and social cost.

On the other hand, Russia has also taken advantage of the conflict to strengthen strategic alliances with countries in the "Global South," such as Iran, Turkey, and some African nations. These alliances provide access to alternative markets and help Russia create a counterweight to Western dominance in the international system. In the words of Barragán & Sribman (2022), this new reconfiguration of relations evidences a movement toward a more multipolar order, where emerging powers seek greater autonomy from traditional Western-dominated power structures.

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4 Ibis. 2.3. Members of the Organization shall settle their international disputes by peaceful means so as not to endanger international peace, security, or justice.

5 It is a system that is detrimental to Western democratic systems.

6 Ibis. 39. The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression. It shall make recommendations or decide what measures shall be taken by Articles 41 and 42 to maintain or restore international peace and security.

Finally, the conflict has accelerated the fragmentation of the international order and fostered a scenario in which regional alliances and economic diplomacy gain greater relevance. In this context, Russia has used war to destabilize established frameworks for cooperation while redefining its role as a key player in global energy and raw materials supply chains. As Castaño (2023) points out, this strategy reinforces Russia's narrative of opposition to the "unipolar order" led by the US and its allies, posing new challenges to global economic and political stability.

## Impunity and legal obstacles

The prosecution of international crimes committed in Ukraine faces serious operational and legal difficulties, mainly due to Russia's refusal to cooperate with ICC investigations. This confirms Cassese's (2003) observation that the principle of universal jurisdiction is a pillar in the fight against impunity, but its effectiveness depends on state cooperation. The lack of access to perpetrators and to Russian-controlled territories hampers the collection of evidence and the execution of arrest warrants, leaving a critical gap in efforts to prosecute crimes such as war crimes, crimes against humanity, and genocide.

Based on the principle of complementarity, the relationship between the ICC and national jurisdictions seeks to ensure that international crimes are prosecuted, local or international. However, as Bandurka et al. (2023) point out, the capacity of Ukrainian national jurisdictions to handle complex cases is limited by available resources and the pressure of the ongoing conflict, reinforcing the need for international support to strengthen the Ukrainian judicial system to enable it to take a more active role in accountability.

Russia's refusal to recognize the jurisdiction of the ICC or accept its competence reflects a broader challenge to the international justice system. Russia is not legally bound to comply with ICC demands as a non-party to the Rome Statute. This underscores the importance of alternative mechanisms, such as hybrid or regional courts, that could complement international efforts. This also echoes Heffes's (2022) argument that these structures can be more effective in contexts of state resistance, offering a pragmatic solution in cases of obstruction.

Given this context, there is an urgent need to reform and strengthen international justice mechanisms to prevent future violations of international law. Accountability is a means of delivering justice to victims and a key deterrent. The crimes committed in Ukraine have tested the effectiveness of international norms and revealed gaps that must be addressed to ensure that international justice is both practical and accessible in future conflicts.

## Future implications for International Humanitarian Law

Like any other state leader, the Russian president can be prosecuted for crimes under the jurisdiction of the ICC even if Russia has not signed or ratified the Rome Statute. Four specific circumstances should be considered, as detailed below.

## UN Security Council referral jurisdiction

The United Nations Security Council is central in triggering the ICC's jurisdiction in cases where international crimes threaten international peace and security. According to Article 13(b) of the Rome Statute<sup>7</sup>, the Council may refer situations to the ICC even if the state in question is not a party to the Statute, if it is acting under Chapter VII of the UN Charter<sup>8</sup>. This allows the ICC to investigate and prosecute war crimes, crimes against humanity, and genocide in situations that would otherwise be beyond its jurisdiction. As Broomhall (2003) points out, this power underscores the link between international criminal justice and maintaining global peace and security. However, its effectiveness depends on the political will of Council members.

The precedents of Darfur (Sudan) in 2005 and Libya in 2011 demonstrate how the Security Council has used its authority to refer situations to the ICC, even in cases where the States involved were not parties to the Rome Statute. In both situations, the resolutions were adopted in response to serious violations of IHL and human rights, allowing the ICC to act on crimes committed in these contexts. According to Cryer et al. (2019), these referrals highlight the importance of the Security Council as a bridge between the collective responsibilities of the UN and international justice mechanisms. However, they also illustrate the challenges inherent in its political functioning.

However, this mechanism faces significant limitations due to the veto power of the five permanent members of the Security Council: China, the United States, France, Russia, and the United Kingdom<sup>9</sup>. In the case of the conflict between Russia and Ukraine, Russia, as a permanent member, can, through its veto power, obstruct any resolution referring the situation to the ICC, thereby limiting the possibility of a unified international response. This scenario highlights the conflict between the political configuration of the Council and the foundations of international criminal justice, highlighting the urgent need to implement reforms to its governance structure to ensure that the interests of States do not hinder accountability for international crimes.

## Jurisdiction by territoriality

The ICC has the power to exercise jurisdiction over international crimes committed in the territory of a State Party to the Rome Statute or in a State that has accepted its jurisdiction, as established in Article 12(3) of the Statute. This allows a State, not a Party to the Statute,

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7 The Security Council, acting under Chapter VII of the Charter of the United Nations, refers to the Prosecutor in a situation where one or more of these crimes appear to have been committed.

8 Chapter VII of the United Nations Charter sets out the measures that the UN Security Council may take to maintain international peace and security in situations of threats, breaches of the peace, or acts of aggression.

9 The veto power in the United Nations Security Council is based on Article 27.3 of the United Nations Charter; it is the exclusive power of the five permanent members to block any resolution or substantive decision, regardless of its support among other Council members.

to accept the ICC's jurisdiction in specific situations. According to Schabas (2020), this mechanism is essential to expand the ICC's reach in contexts where international crimes could go unpunished due to the absence of effective judicial mechanisms at the national or regional level.

Indeed, Ukraine accepted the ICC's jurisdiction through declarations in 2014 and 2015 under the scope provided by Article 12(3)<sup>10</sup>. These declarations allow the ICC to investigate war crimes, crimes against humanity, and genocide committed on Ukrainian territory since the beginning of the crisis in Crimea and Donbas. Ukraine's acceptance of jurisdiction is a strategic step toward ensuring accountability for serious violations of international humanitarian law in a context where national courts face operational and jurisdictional constraints. This acceptance of jurisdiction allows the ICC to investigate and potentially prosecute senior Russian officials, including those at the highest levels of power, such as the Russian president if sufficient evidence is found to link them to crimes committed on Ukrainian territory. However, as Fernández (2018) points out, the effectiveness of these investigations depends mainly on international cooperation, as the ICC does not have its police force to execute arrest warrants, and defendants who remain on Russian territory are beyond its practical reach.

## The principle of individual criminal responsibility

Article 27 of the Rome Statute establishes that no official position, including the rank of head of state or government, exempts a person from international criminal responsibility. This principle breaks with the tradition of sovereign immunity, which historically protected political and military leaders from prosecution by international tribunals. Article 27 represents an evolution of international criminal law, as it reaffirms the principle of equality before the law and establishes that hierarchy cannot be used as a defense against justice.

This provision implies that the Russian president, like any other leader, could be held criminally responsible if proven directly or indirectly involved in international crimes such as genocide, war crimes, crimes against humanity, or crimes of aggression. This provision ensures leaders do not evade justice by exploiting their positions to maintain impunity. Regarding crimes of aggression, the Rome Statute establishes that high-ranking officials who design or carry out acts of aggression shall be held directly accountable, regardless of their rank or the political context in which they operate.

However, although Article 27 ensures no immunity, the practical application of this principle faces significant challenges, especially in ongoing conflicts where the accused remains in power. According to Schabas (2020), international cooperation and the apprehension of defendants are essential for trials. However, they are often met with political resistance and lack of access to the territory where the accused resides. In the case of the Russian president,

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10 Article 12(3) of the Rome Statute provides that a State that is not a party to the Rome Statute may accept the jurisdiction of the International Criminal Court (ICC) over international crimes committed on its territory or by its nationals.

his position as head of state, as a permanent member of the United Nations Security Council, and his ability to influence international allies will, as has been demonstrated, hamper the effective implementation of the Rome Statute, underscoring not only the need to strengthen international justice mechanisms to address these barriers but also the ineffectiveness of such mechanisms vis-à-vis certain countries.

### Practical limitations

Although legally possible, the prosecution of a sitting president faces significant challenges, as they typically enjoy functional immunity under customary international law, which protects them from prosecution in foreign courts for acts committed in the exercise of their functions. However, the ICC does not recognize immunities from its jurisdiction, as established in Article 27 of the Rome Statute. According to Cassese (2003), this provision is a significant advance in international criminal law, as it seeks to ensure that even sitting leaders can be held accountable for grave international crimes. This principle ensures that state immunity does not become a shield for impunity, promoting the rule of law in international contexts.

Despite this provision, the political and diplomatic challenges associated with the capture and extradition of a head of state are considerable. Since the ICC does not have its enforcement force, it will always rely on the cooperation of states to arrest and surrender the accused. As Schabas (2020) points out, political allies and geopolitical tensions can seriously complicate the effective enforcement of arrest warrants in cases like that of the Russian president. The refusal of some states to cooperate with the ICC, even for fear of economic or political retaliation, demonstrates the practical limitations faced by international justice mechanisms, reinforcing the need to strengthen the global commitment to upholding these norms.

Despite the robustness of the normative framework, it remains vulnerable to a lack of political will on the part of states, especially in conflicts with significant geopolitical implications. According to Schabas (2020), the ICC's effectiveness in capturing indicted leaders, such as the Russian president, depends directly on the support of the international community and the willingness of states to comply with their obligations under the Rome Statute. In cases where an accused enjoys the backing of powerful allies, this dependence can become a significant obstacle to international justice. If the Russian president remains on Russian territory or in allied countries, the possibility of facing trial at the ICC is drastically reduced; as a non-party to the Rome Statute, he has no legal obligation to cooperate with the ICC, meaning that any arrest warrant issued by the international tribunal would be virtually unenforceable within his borders. Strategic allies such as China or Iran could also refuse to execute arrest warrants for political reasons or in defense of principles such as state sovereignty.

Olásolo et al. (2018) comment that this lack of state cooperation undermines the principles of universal justice and reinforces the need to develop alternative mechanisms, such as coordinated international sanctions, to exert pressure on states that protect those accused of serious crimes. Although the main focus of international investigations has been on crimes committed by Russia during the conflict, and considering that Ukraine is defending its terri-

tory, it should not be overlooked that cases of violations of IHL by Ukraine have also been reported, cases provided by the same reports of the United Nations High Commissioner for Human Rights (OHCHR), Amnesty International and the Human Rights Monitoring Mission in Ukraine, which point out concern about the location of Ukrainian military targets and their proximity to population centers, which could be interpreted as the use of human shields in the conflict, the use of weapons with indiscriminate effects, arbitrary detentions and ill-treatment.

## New policies and geopolitical realignment

JD Vance has adopted a skeptical stance on US involvement in the conflict, arguing that an escalation in support for Ukraine could lead to a more significant global conflict. His position reflects a shift in US foreign policy, seeking to reduce direct involvement in European conflicts and focus on emerging strategic threats.

These statements raise the possibility of reducing military support for Ukraine if they were to gain the support of the US Congress. This would confront Ukraine with a decrease in the flow of arms and assistance and its ability to resist Russia. A gradual withdrawal of US support could also encourage the European Union to assume a more proactive role in defense and security, rethinking the need for the union to assume its strategic autonomy. JD Vance's position suggests a shift away from the doctrine of humanitarian intervention in conflict, with its associated effects on the application of IHL following the weakening of international justice mechanisms. This sets a global precedent that could encourage similar actions in other conflict scenarios and actors. This change in US foreign relations will also impact NATO, rethinking its dependence on Washington in security and defense matters.

## Consolidation of a new multipolar order

If the stance of J.D. Vance and others in the US reduces support for Ukraine, this could accelerate the consolidation of a multipolar order, where powers such as China, Russia, and India assume a more decisive role in global security. This shift would redistribute power and affect the interpretation and application of IHL, as each geopolitical bloc could develop its vision of the legitimate use of force and international jurisdiction. The lack of a unified normative framework would weaken the international community's ability to enforce the rules in armed conflicts.

Similarly, less Western intervention in Ukraine could be interpreted as a weakening of the international institutions charged with ensuring accountability for war crimes. This would incentivize states and non-state actors to challenge existing norms with greater impunity, eroding the effectiveness of mechanisms such as the ICC and the UN Security Council. The fragmentation of international consensus would also hamper coordinated action in future conflicts, allowing major powers to apply IHL according to their strategic interests.

In this context, the global response to human rights violations and war crimes would become more selective and politicized, leaving open the possibility that some conflicts would

remain untouched. While the West has promoted the investigation of crimes in Ukraine, other conflicts, such as those in Syria and Yemen, have received an uneven response due to the conflicting interests of the powers. If the international system enters a phase of greater polarization, IHL will lose its universality, becoming an instrument subject to geopolitical interpretations rather than the principles of impartial justice.

### **Strengthening European autonomy in security**

If the US reduces its commitment to Europe, the EU would be forced to take a more active role in its security, encouraging the development of a more autonomous defense policy. This scenario would strengthen institutions such as the Common Security and Defense Policy (CSDP) by promoting the creation of joint military capabilities and greater strategic coordination among member states. Without reliance on the US and NATO as guarantors of European security, the EU would have to invest more resources in defense, develop a unified military industry, and strengthen its response capacity to external threats. This change would represent a milestone in Europe's strategic autonomy, aligning with initiatives such as the EU Strategic Compass, which seeks to strengthen European resilience in security and defense matters.

In this context, IHL could receive a boost on the continent, as Europe, with greater control over its defense policy, would be more committed to complying with international norms. The EU has historically been a promoter of IHL and the international justice system, supporting the role of the ICC and promoting accountability in international conflicts. With more decisive leadership in security matters, Europe could exert more significant diplomatic pressure to prosecute war crimes and strengthen transnational justice mechanisms, ensuring that violations of IHL do not go unpunished. Furthermore, the European bloc could consolidate its influence in international forums by promoting initiatives to improve the practical application of IHL in conflict zones.

On the other hand, greater European independence in security could also translate into a foreign policy that is more focused on conflict prevention and international mediation, in contrast to the more interventionist approach of the US. The EU could prioritize preventive diplomacy strategies and strengthen the rule of law in unstable regions, strengthening its role as a guarantor of global peace. However, for this vision to materialize, member states must overcome their internal differences in defense matters and agree on sustainable financing mechanisms for a more effective standard policy.

### **Conflict stalemate and prolonged instability**

If a viable diplomatic solution does not accompany the reduction of Western support for Ukraine, the conflict could become a protracted war, similar to the frozen conflicts in Georgia (South Ossetia and Abkhazia) or Transnistria (Moldova). In these regions, the lack of an effective peace agreement has led to chronic instability, where simmering hostilities and the presence of foreign military forces have prevented the consolidation of a stable legal order. Studies such as those by Toal and O'Loughlin (2013) have noted that these protracted

conflicts generate gray areas in international law, where IHL rules are applied unevenly or are not enforced due to the lack of international recognition of the parties to the conflict and the limited capacity of international bodies to intervene effectively. In the case of Ukraine, a similar scenario would mean the consolidation of territories under prolonged occupation, where violations of IHL, such as forced displacement, attacks on civilians, and the use of prisoners of war for propaganda purposes, could continue without immediate consequences for those responsible.

In this context, the lack of effective accountability mechanisms would become a significant obstacle to applying IHL. The ICC and other international tribunals have faced difficulties prosecuting crimes in protracted conflicts where there is no cooperation from the states involved or where the veto power of the UN Security Council blocks international justice initiatives (Schabas, 2020). The persistence of a war without a clear resolution would allow the actors in the conflict to continue violating humanitarian norms without facing effective sanctions, further undermining the principle of international criminal responsibility. As Akhavan (2001) points out, in protracted conflicts, the lack of a transitional justice process and the weakening of the international presence foster a climate of impunity, where civilian populations are trapped in cycles of violence without absolute protection.

## The new geopolitical strategy of the United States

US foreign policy under the current Donald Trump administration has shown a marked inclination toward unilateralism, characterized by decisions prioritizing national interests over traditional alliances and multilateral commitments. This approach has generated criticism of institutions such as NATO and the EU for economic reasons and the well-known distrust of international organizations.

The basis lies in the perception that alliances and multilateral commitments can limit national autonomy and interests; this perspective holds that, by acting independently, the US can respond more effectively to global challenges and protect its strategic priorities without the restrictions imposed by international coalitions. This approach has been evident in decisions such as withdrawing from international agreements and renegotiating trade treaties to obtain more favorable terms for the country.

The current US administration has criticized both organizations regarding NATO and the EU, arguing that they do not equitably share financial and security burdens.

The current Trump administration has pointed out that many European countries fail to meet the 2% of GDP defense spending target, resulting in a disproportionate burden on the US. According to NATO (2024), Spain spent only 1.28% of its GDP on military spending, making it the allied country that invests the least in defense relative to its economy. Trump has urged allies to increase their defense spending to 5% of GDP, arguing that the limited investment by others is another way of taking advantage of the US; criticisms that reflect a perception that traditional alliances may be misaligned with their contemporary interests.

From the above, one could understand the argument explaining how unfavorable trade agreements and international financial commitments have been for the US economy, such as imposing tariffs on European products, justified as a measure to correct trade imbalances and protect domestic industries. This situation has generated distrust in international institutions due to the perception that they may undermine national sovereignty and act in ways that are not always in the best interests of the United States. The effectiveness and impartiality of organizations such as the World Trade Organization (WTO) have also been questioned, and the country has withdrawn from agreements such as the Paris Agreement on climate change, arguing that these commitments impose unfair restrictions on the US economy.

In the short term, this unilateral stance may offer domestic political benefits and strengthen the electoral base that values the defense of sovereignty and national interests. It projects an image of strong and decisive leadership and attracts the attention of sectors of the electorate that perceive these international alliances as commitments that limit the country's autonomy. This allowed for the negotiation of more favorable terms without the concessions that multilateral agreements often require.

The speed with which these policies are implemented may respond to a strategy to capitalize on the electoral mandate and swiftly fulfill campaign promises. This speed should demonstrate effectiveness and determination, consolidating political support and establishing a *fait accompli* that may be difficult to reverse. However, this same haste has also generated criticism for the lack of consultation and coordination with traditional allies, which has led to new diplomatic tensions and questions about the US commitment to the established international order.

The recent visit of the Ukrainian president to the White House on February 28, 2025, represents a milestone in the evolution of the conflict with Russia, with the US signaling a possible change in its stance regarding support for Kyiv. Following the meeting, reservations regarding the continued US military and economic support and the risks of an escalation in international tensions became evident. The lack of consensus between the two leaders has generated uncertainty about the future of bilateral cooperation, with direct implications for Ukraine's strategic capabilities and the balance of power in the Eurasian region.

From an analytical perspective, this episode suggests, on the one hand, a reduction in US support, the subsequent fragmentation of the Western bloc, and the acceleration of the consolidation of a multipolar order in which China, India, and other emerging actors play a more decisive role in international governance. On the other hand, the lack of an effective resolution to the conflict could lead to a prolonged war of attrition and a context of chronic instability similar to other frozen conflicts in the post-Soviet region. In this scenario, the fragility of IHL and the structural limitations of the ICC in ensuring accountability for war crimes would be even more evident.

The repercussions of this geopolitical reconfiguration transcend the bilateral sphere and affect the stability of the international system. While some European leaders have reaffirmed their support for Ukraine, the lack of cohesion among Western allies could weaken

the mechanisms of pressure on Russia and allow it to strengthen its strategic position. As the situation evolves, the international community's ability to articulate an effective response will determine the future of the conflict and the sustainability of an international order based on legal norms and multilateral cooperation.

## Conclusions

The Russia-Ukraine conflict itself exposes the profound limitations of IHL in the face of new forms of hybrid warfare, where established norms are challenged by tactics deliberately designed to evade the responsibility of the actors. Russia's actions include indiscriminate attacks, systematic disinformation, and restrictions on humanitarian aid, revealing not only a systematic violation of IHL but also the ineffectiveness of international mechanisms to stop these practices. The failure to impose immediate and tangible consequences on those who violate these norms jeopardizes the protection of civilians and calls into question the relevance of IHL as a regulatory tool in contemporary conflicts.

The United Nations Security Council, instead of acting as an impartial arbiter for the preservation of international peace and security, has become trapped within its power structure. This structure prioritizes the interests of its permanent members over global justice. Russia's ability to block resolutions seeking to curb its aggression while occupying a privileged position within this body highlights a fundamental contradiction within the system. This situation reflects structural ineffectiveness and a lack of political will on the part of the international community to reform a system that perpetuates inequality between states.

The sanctions imposed by the West against Russia, although significant in economic terms, have also proven insufficient to alter the Kremlin's strategic decisions. Instead, Russia has reconfigured its trade relations by strengthening ties with countries in the Global South, such as India, China, and Turkey, allowing it to maintain key revenues and sustain its war effort. This situation highlights that economic sanctions affecting a country's population and economy are not an infallible tool to curb the ambitions of an authoritarian government operating under an alternative geopolitical paradigm.

Although the ICC-led international justice system establishes solid principles for accountability for war crimes, crimes against humanity, and genocide, its effectiveness is limited by a lack of cooperation from states. In Russia's case, its refusal to recognize the ICC's jurisdiction and the protection its territory provides to senior officials accused of crimes have created an environment of impunity. The ICC's inability to act effectively in contexts of state resistance reinforces the perception that international justice is a symbolic rather than a practical instrument. This raises the need to explore alternative mechanisms, such as hybrid or regional courts, and to foster more robust international cooperation to overcome current obstacles and ensure accountability.

The conflict has also exposed the profound disconnect between the ideals that underpin international institutions and their inability to respond effectively to the challenges of

today's world. The UN and the ICC were designed to maintain peace and ensure justice, but their responses to the conflict have been ineffective and slow. This gap between expectations and results erodes trust in these institutions and weakens their legitimacy. The lack of structural reforms, such as eliminating the veto in the Security Council or creating coercive tools to ensure the implementation of resolutions, perpetuates the perception of ineffectiveness.

JD Vance's recent statements reflect a shift in perceptions of the conflict in US policy circles, which will have long-term consequences for the shape of the global order and the application of IHL. The conflict in Ukraine is not only a territorial struggle but also a testing ground for the effectiveness of the rules-based international system. While Vance's position can be interpreted as a call for strategic prudence, it also raises challenges regarding the continuity of international justice mechanisms and the role of the West in upholding international humanitarian law. In this sense, the coming years will be crucial in determining whether the international legal framework can adapt to a multipolar world or whether it is relegated to a merely symbolic role in the face of the geopolitical interests of global powers.

These developments have redefined US international relations policy, prioritizing strategic autonomy and economic interests over multilateral commitments. While this approach has allowed for the renegotiation of agreements and reduced dependence on international organizations, it has also weakened cooperation with traditional allies, particularly NATO and the EU. The growing distrust in institutions such as the WTO and the Paris Agreement reinforces the idea that the US seeks to reshape geopolitical order in its favor by assuming a position of independent leadership. However, this strategy carries long-term risks, as a lack of coordination and the distancing of allies could lead to further fragmentation of the international system and a loss of global influence. In this context, the effectiveness of this approach will depend on its sustainability and the US's ability to maintain its hegemonic position without the support of established multilateral structures.

The growing ineffectiveness of international institutions has opened up an opportunity for powers with divergent strategic visions and profound cultural and ideological differences to seek common ground in a changing global landscape. When multilateral organizations fail to guarantee a balance of power or impose fair rules for all, the great powers, previously at odds with each other over their political and economic models, find pragmatic reasons to come together, challenging the established order and redefining the dynamics of cooperation and rivalry in global geopolitics.

The recent reconfiguration of geopolitical dynamics surrounding the conflict between Russia and Ukraine highlights the structural weaknesses of the international security system and the fragility of global governance mechanisms. The lack of cohesion within the Western bloc, evident after the meeting between Presidents Zelensky and Trump, raises questions about the sustainability of the current international order based on legal norms and multilateral cooperation. This scenario underscores the urgency of strengthening the regulatory frameworks governing armed conflicts and providing international institutions with more excellent coercive capabilities to ensure compliance with IHL and accountability for war crimes.

Without a coordinated and effective response from the international community, the conflict risks perpetuating itself in a cycle of strategic attrition, consolidating a new balance of power characterized by multipolarity and competition between regional spheres of influence. The absence of effective mechanisms for conflict resolution and the prevention of IHL violations could further erode the legitimacy of multilateral organizations such as the UN and the ICC, weakening the principle of accountability and fostering impunity in contexts of protracted war.

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