Is international law not international at all? Russian approaches to secessionism

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International law and the life and death of states

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Contents

1. Introduction

International law is seen as a universal framework agreed upon by the community of states. However, there have been numerous occurrences throughout history where seemingly accepted norms and principles have been the subject of strictly different interpretations and understandings by the actors. Whether or not this is done on purpose is a matter of debate. In this discourse, an idea has emerged that international law may not be international at all (Roberts, 2017). Lack of universality can be attributed to the localization of legal principles, overlapping jurisdictions of international organizations, or simply defiance of certain states who offer their interpretation of a rule-based system. This is especially evident in powerful states who, to enhance their self-interests, diverge from established norms and offer a distinct explanation that serves as a justification for their actions. Additionally, the proliferation of regional organizations and the seemingly selective application of international law in states' actions has put the universality of law in question. The trend became evident in the last century with increased foreign direct interventions and separatist conflicts, frequently resulting in violations of the principle of territorial integrity and the establishment of quasi-entities. While such occurrences became common, international law did not have a single and direct answer on the legality of such matters. Most notably, ICJ's advisory opinion on Kosovan independence left more questions than answers to the international community (Ker-Lindsay, 2011, pp.1-11). Consequently, the widespread violations of international law by states and the indecisive rulings by international organizations stark the idea that international law is not universally applied.

Since the fall of the Soviet Union, 15 new republics emerged from its remnants. As a result, the shift has resulted in numerous ethnic conflicts, many of which were fought and settled in a manner that violated internationally accepted principles of territorial integrity and self-determination (Lynch, 2002, pp.831-848). Conflicts in Chechnya, Georgia, Ukraine, Azerbaijan, and Moldova serve as clear examples of the trend. Russia, as the successor of the Soviet Union, became heavily involved in post-soviet regional politics by directly engaging in ethnic conflicts, brokering peace treaties, and establishing regional organizations such as CIS (Allison, 2013, p.120-149). Namely, the early 1990s saw Russia escalate conflicts in Georgia, Azerbaijan, and Moldova which were followed by Russian-led agreements between belligerents and the deployment of Russian peacekeeping forces instead of the UN oversight (Lynch, p.848). Alma-Ata Declaration of 1991 which dissolved the USSR and founded the Commonwealth of

Independent States (CIS) was signed by eleven signatories (later twelve, with Georgia). Central to the declaration, was the commitment to respect "each other's territorial integrity and the inviolability of the existing borders" (Alma-Ata Declaration, 1991). However, time would prove that this declaration was merely a symbolic rather than binding agreement as Russia violated the principle of territorial integrity of its neighbouring states on multiple occasions. Paradoxically, while Russia supported and endorsed separatist movements in the post-soviet sphere under the pretext of remedial secession and the right to self-determination, it prosecuted the secessionist movements in Chechnya (Souleimanov & Aliyev, 2015, pp.158-180). Therefore, evident inconsistency in Russia's approach to secessionism externally and internally, underlines a solid challenge to the universality of international law and the surrounding debate.

Interestingly, in the post-Soviet conflicts, a clear pattern emerged, characterized by ethnic clashes that resulted in separatist movements justified under the guise of remedial secession (Fearon, 2004, pp.394-415). Remedial secession refers to a form of self-determination where a minority's existence is threatened by the parent state which carries out persecution policies against the distinct group (Vidmar, 2010, pp.37-56). Therefore, the separation of the given entity from the state is considered to be a last-ditch effort to end oppression. In the UN charter era, the dissolution of Yugoslavia and the separation of Kosovo are sometimes referred to as cases upholding the remedial secession principle. It is noteworthy, that Russia used a selective approach to remedial secession. Namely, in the case of Chechnya, it denied the Chechen population the right to self-determination as it violated the principle of Russia's territorial integrity, while in Georgia it intervened militarily to "protect" Ossetian and Abkhaz populations from the Georgian government (Cheterian, 2009, pp.155-170). Consequently, the inconsistency in the Russian approach to secessionism can be used to point out the fragmentation of international law and its selective usage by powerful states. As a result, this research aims to answer the following question:

How does Russia's approach to secession challenge the narrative of the universality of international law?

By examining the Russian approach to international law and more specifically to the subject of secessionism, the research will demonstrate the lack of universality of international law. Moreover, the study will delve into Russia's handling of separatism internally, in Chechnya and

externally, in Georgia. In the following sections, the writing will overview the existing debate regarding the universality of the law. Among international law scholars, opinions differ about fragmentation and its consequences on law. Some argue that fragmentation exists, and the universality has been extremely limited due to the utilization of international law by powerful states as tools (Deplano, 2013, pp.67-89). Others point out that while states may see small benefits by breaking laws, obedience to international legal systems ultimately serves their long-term interests, prompting them to take part in international organizations and institutions (Charney, 1993, pp.529-551). Thus, after discussing conflicting opinions on the matter, the theoretical framework and analysis part will be used to address primary and secondary sources regarding Russia's approaches to secessionism. Specifically, by analysing Russian primary sources, this writing will try to explain the selective application of international law in Russia's separatist conflicts internally and externally. Therefore, Chechen and Georgian cases will be discussed in detail.

2. Literature review

This section draws on the existing debate associated with the fragmentation of international law. As mentioned above, the key disagreement revolves around the universality of law and its broader implications on a state's behaviour. Initially, the research will look at the scholarly articles enforcing the notion of a universal legal system, while simultaneously denying the possibility of a serious fragmentation of law. The universality of international law can be defined as an international law which is valid for and binding on all states. Universality is thus understood as globally applicable excluding the possibility of regional (customary) international law and the creation of particular legal sub-systems (Higgins et al., 2017). Simma (2009, pp.266-297) in his writing attempts to demonstrate that heterogeneity does not exclude the universality of international law. The author argues that the overarching global nature of the international legal system is not necessarily limited to the diverse legal principles, regional organizations, norms, and values around the world (pp.266-267). Based on this view it is stated that if the current legal system can expand and accommodate such a measure of heterogeneity it has the potential to become a true public international law (p.268). Interestingly, Simma (2009) acknowledges that although encompassing, international law's universality has been challenged at various levels. At the first level, challenges to the universality of international law relate to global validity, legitimacy, and

the applicability of the legal system (p.270). Specifically, aggressive regionalism and the associated "rogue states" aim to bypass the United Nations and its institutions. The second level of challenges centres on the unity and coherence of international law (p.271). Simma (2009) underlines that there are challenges related to the interconnectedness of norms and principles, however, he adds that the International Law Commission and the International Court of Justice represent the pillars of unity and enforcement mechanisms of the international legal system (p.271). The third level of issues relates to the diverse perceptions of law, treaties, principles, and norms across different regions and cultures. Cultural diversity can pose a threat to the universality of law according to Simma (2009), though through institutions like ICJ and ILC heterogeneity will be reconciled (p.297). Thus, the author draws its focus on the effectiveness of international institutions and concludes that despite its challenges the universality of international law is in good shape.

Within the scholarly community that argues for the universality of international law, there is a trend of emphasizing the key roles international institutions play in facilitating the spread of legal norms and principles globally. According to them, these institutions serve a crucial part in increasing trust and cooperation among states. This, in the long run, further decreases the violations of law as adherence to the international legal system serves the long-term interests of states (Abbott & Snidal, 1998, pp.3-32). Adherence includes engaging in negotiations, abiding by the signed treaties, and respecting the decisions made by international courts. Charney (1993) acknowledges concerns about the fragmentation of the international legal system, however, he concurs with the idea that it is in states' interest to uphold treaties and participate in diplomatic processes (p.533). According to the author, current challenges necessitate cooperation, making the role of international law and its institutions more crucial than ever (pp.543-545). Moreover, Charney (1993) underlines multilateral organizations, such as the UN, that enhance the overall engagement of state and non-state actors on mutual concerns. By encompassing global state and non-state actors, organizations like the UN can enforce compliance and collective action on issues such as peace and security. This view is in clear correlation with Simma (2009) who denies the fragmentation of international law and places its bet on ICJ and ILC to promote multilateral discussions among states. Therefore, based on the literature we gain insight into the one side of the argument which emphasizes the crucial role of international organizations in facilitating communication, and international courts and tribunals enforcing the legal system. Additionally,

fragmentation is being perceived as a mere result of functional differentiations of governance from national and international perspectives. If anything, this difference has made international institutions more aware of the challenges to universality which should be resolved by long-term state participation and the continuation of multilateral arrangements.

On the contrary, Krisch (2005, pp.369-408) argues that international law is both an instrument of power and a constraint to its exercise. According to him, multilateral institutions serve three key functions: regulation, pacification, and stabilization (p.373). First, multilateral norms can reduce the transactions of regulation. Second, international institutions give weak states influence to take part in negotiation processes which later gives them the incentive to accept and abide by the resulting agreements (pacification). Third, international institutions are less vulnerable to shifts in power, thus they will remain stable even amidst the decline of the hegemon (pp.373-381). Like previous authors, Krisch (2005) highlights the positive role of international organizations, though takes a realist stance and argues that the sole interest powerful states have regarding international law is the legitimization of their actions (p.374). For instance, if the state seeks to enhance its hegemonic goals it can utilize the principles and norms of international law to justify its interventions in other states under the guise of enforcing a universal legal system and its validity. In past, the principle of "Responsibility to Protect" was used numerous times as a pretext for illegal invasions (Pattison, 2015, pp.935-957). Thus, according to Krisch (2005) due to doubtful applications of international norms and principles the credibility and universality of international law has been limited (pp.372-373). Moreover, the writing argues that when faced with constraints, states can disengage from international law and seek alternative means to their desired outcomes (p.380). The typical pattern observed is that after the instrumentalization of international law fails, powerful states replace it with domestic legal tools that fit the state's national interests (p.369). By resorting to domestic jurisdiction, the state receives greater flexibility and control over the accomplishment of its goals. In addition, domestic legal tools can be tailored to fit the state's national interests and provide political legitimacy among the population. As mentioned above, the concept of universality is defined as a globally applicable legal system, yet with Kirsch's (2005) mention of states' withdrawal from the International legal framework based on selective interests, the universality is proved to be in trouble.

Benvenisti and Downs (2007, pp.1-41) reinforce the point that states selectively interact with international law to enhance their self-interests and gains. Additionally, their writing

disregards international institutions as lacking the necessary means to enforce their universality and prevent instrumentalization (p.3). According to the authors, the issue of fragmentation is more serious than commonly assumed by the likes of Simma (2009) and Charney (1993). To be specific, fragmentation is caused by two factors: I) deliberate efforts by powerful states to reduce their accountability internationally; and II) overlapping responsibilities of international institutions. Like Kirsch (2005), Benvenisti and Downs (2007) emphasize states' desire to avoid accountability by selectively engaging in international treaties and organizations. Additionally, the authors add the factor of institutional design. The writing argues that international organizations that are meant to represent international law have overlapping jurisdictions and ambiguous boundaries (p.11). This in turn gives powerful states leverage to threaten a given venue for another. Consequently, an organization's bargaining power becomes drastically limited which makes it more difficult to achieve consensus with the state (p.18). Interestingly, the article mentions that dominant states can influence the structural core and the operations of international institutions to consolidate their agenda. They do this by limiting weak states' involvement, making the system less universal, less diverse, and less representative (p.37). As in the modern era geopolitical hierarchy is viewed as illegitimate, it is in the core interest of hegemons to perpetuate current standings and in doing so reduce their accountability both domestically and internationally. Consequently, in the authors' eyes, the fragmentation of the international system is deliberately enforced by actors which in turn limits the universal applicability of international law.

3. Theoretical framework

Based on the existing scholarship on the fragmentation of international law, the paper aims to answer the research question set in the introduction, by applying Kirsch's (2005) idea of instrumentalization and withdrawal, in the context of Russia's approach to the international legal system and secessionism. Moreover, the theoretical framework provides a clear understanding of how states cunningly engage with International legal norms and organisations to advance their geopolitical interests. Thus, examining Russia's approach to secessionism will have a significant impact on how the international legal system's universality is perceived based on real-life state practice.

Firstly, it is important to note that Kirsch (2005) takes a realist position when referring to international organisations and their overall influence on states. According to the author, dominant

states often aim to change international law in a way that accommodates their superior power (p.396). Russia is a former colonial state that used to dominate Eastern European, Caucasian, and Central Asian states. As Lauri Mälksoo (2015) writes in his book, Russian Approaches to International Law: "If we ought to pin down Russia's history and interaction with international law to one single central theme that would capture most preoccupations, it would probably be the concept of 'territory' and the phenomenon of territorial acquisitions" (p.73). Mälksoo underlines that this interaction was a direct response to Russia's semi-peripheral status in the world economy, as well as its geographical distance from central Europe (pp.73-75). Thus, instead of Human Rights, the Russian domestic legal system has always prioritized community interests over individualist values (Pipes, 1992, p.84). Such community interests usually refer to the concept of the Russian World (Русский мир), which is a Russian political doctrine appealing for a reunification of all Russian-speaking peoples in a single community (Pieper, 2020, p.769). Such actions seem to mimic the hardcore realist paradise which distinguishes the balance of power and strength in contemporary politics. As Nikolayevich Khlestov (2013), director of the International Treaty Department at the Ministry of Foreign Affairs of the USSR argued in his article: "Depending on the character of the foreign policy of the state, the doctrine gives bigger or smaller importance to certain or other norms of international law (pp.19-22). Therefore, reflecting on Kirsch's (2005) concept of instrumentalization and withdrawal seems to offer a valuable explanation of Russia's doctrine in international law. Namely, Russia is a state that takes pride in its historical dominance, and its selective approach to international institutions and legal systems can be explained by the prioritization of territorial acquisitions and its disregard for the principle of territorial integrity of neighbouring states.

Expanding on Kirsch's (2005) writing, Russia's current approaches to international law offer a good example of a state strategically manipulating legal frameworks to advance national interests, in this respect a restoration of Russia's former glory. Additionally, there seems to be the case that the Russian understanding of international law is widely different from the Western perspective, creating confusion in the process. For instance, Russia's participation in the UN is governed by its definition of a rule-based international law (narrowly based on the UN Charter) and a concept of multipolarity where Russia and China play out against Western interests in the UNSC (Remler, 2020, pp.1-13). Based on dominant thought in Russian academia, offered by Chernichenko (2003) international law is a result of the interaction of different cultures and

civilizations, rather than universality (676–677). Hence, this narrative suggests that the academic side of Russian society alongside the political, views international law as universally inapplicable to all societies.

Consequently, Russia is the focus of this research due to its bloody history with separatist conflicts and its dubious approach to international law. Since 1992, Russia has been entangled in supporting secessionist movements externally, in Georgia, Moldova, and Ukraine, while fighting them internally, in Chechnya and the rest of the North Caucasus (Hughes & Sasse, 2001, pp.1-35). Interestingly, Russia's rhetoric for each conflict has exhibited variations, seemingly based on its prevailing political interests. This, added with other examples of defiance and selective engagement, in turn, tends to favour Kirsch's (2005) theory of instrumentalization and withdrawal. To examine the phenomenon, the hypothesis is presented:

H_1: Russia's approach to secessionism underscores the absence of universality in international law

In this research, Russia's approach to secessionism potentially influences the universality of international law. Note, that secessionism and remedial secession are used interchangeably since Russia generally frames secessionist cases as being remedial in nature. As mentioned, remedial secession refers to extreme measures taken by ethnic minorities to defend themselves against perceived oppression by the central government (Vidmar, pp.37-56). Notably, in instances of Georgia in 2008 and Ukraine in 2014, Russia has consistently voiced the narrative of Western-backed post-soviet states perpetrating genocide against Russian citizens within their borders. Thus, to generalize, the term secession also encompasses remedial secession. Additionally, this hypothesis suggests that Russia is using a discerning strategy for the international legal system by first engaging in international treaties but then defecting or selectively interpreting them if needed to enhance the geopolitical interests of the state. It could be argued that the hypothesis assigns Russia the role of a Machiavellian state which adapts to the current rule-based international legal system solely considering its own strategic goals and influence (Biba & Franěk, 2023, pp.1-7).

4. Methodology

Russia serves as a case study where we analyze its approach to international law. Within this broad case of Russia, two sub-cases are scrutinized, and the data is obtained accordingly. The first sub-case involves the first Chechen war, while the second entails the 2008 Georgia war. In both sub-cases, Russia played a dominant role in the initial fighting and later brokerage of temporary settlements of the disputes. Consequently, Chechen and Georgian wars are looked at to observe patterns of Russian approach to international law. Particularly, its leveraging of the RtoP principle and its violation of territorial integrity. There are key reasons why current sub-cases were chosen for the analysis. First, both Chechnya and Georgia represent a pivotal moment in Russia's political history, where its adherence to international law was tested and observed globally. Second, in both cases, Russia played a main character in escalating conflicts, fighting, and settling peace agreements (Cheterian, pp.155-170; Wilhelmsen, 2005, pp.35-59). Third, while the Chechen conflict was an internal issue for Russia, wars in Georgia were external. Therefore, by offering contrasting dynamics, this writing can present a better understanding of how Russia dealt with secessionism within its borders, internally, and beyond, in the case of Georgia.

Table 1: Clarification

First Chechen War	**2008 Russia-Georgia war**
1. Location: Chechen Republic, Russia, Caucasus 2. Type of Conflict: Secession 3. Timeline: 1994-1996 4. Result: Non-recognition of Chechen independence by Russia	1. Location: Georgia, Caucasus 2. Type of Conflict: Secession 3. Timeline: 2008 4. Result: Recognition of Abkhazia's and South Ossetia's Independence by Russia

A. Research Design

To examine the hypothesis and answer the research question, this study relies on qualitative data. More specifically, content/discourse analysis is used to examine treaties, agreements, reports, and other material. Russia's approach to secessionism can be measured by examining Russian government officials and their speeches/transcripts, as well as Russian IL academia and its perceptions of the international legal system. By dissecting rhetoric, this writing can access and

analyze the underlying intentions behind Russia's policy on secessionism. Namely, statements by officials often shed light on the broader strategic intent of the given action (Halperin & Heath, 2020, pp.174-175). Consequently, available data is looked at by potentially transmitting a bigger picture implication on the subject. On the other hand, universality can be measured via perceptions, compliance, and interpretations of laws by different states, including Russia. Consequently, discourse analysis allows this writing to delve into the beliefs, attitudes, intentions, and subjectivity (pp.174-175).

B. Methods of Data collection

Data obtained for this research is divided into primary and secondary sources. Primary sources like treaties and agreements on a state level are referred to, for instance, when comparing an intended outcome of an agreement and the current level of implementation. Moreover, relevant legal documents involving Russia and secessionism are taken into account. On the other hand, secondary sources such as scholarly articles, books, and news reports containing the transcript of interviews are also utilized. Data is searched through Google Scholar and Leiden Library by inserting keywords like Russia, Georgia, Chechnya, secession, separatism, and international law. Sources are collected from the time after the collapse of the Soviet Union in 1991. As the later parts of the thesis will show, studying Russia's policymaking in the 1990s is challenging due to the lack of documents in English. Therefore, the sources collected are both in English and Russian. The latter sources were translated accordingly.

C. Limitations

Regarding the research limitations, it is key to note that due to the word-count constraints, it was not possible to analyze more sources and cases. Specifically, in the last 30 years, Russia has been involved in numerous conflicts both internally and externally, yet most of those are not discussed in detail. The limited scope hampers a better understanding of Russia's attitude to geopolitics and its implications for the universality of international law. Furthermore, the accuracy of measuring rhetoric and content cannot be incorporated with a certain confidence, as the interpretation of one's reasoning and intentions can be highly subjective too. That is, context dependency and different language can impact the research and further complicate the pitfall (Halperin & Heath, pp.384-386). This tends to be the case with the research utilizing discourse

analysis, though this thesis relies not only on official rhetoric but also factual evidence to uphold the findings. By integrating legal documents, interviews, historical evidence, and secondary sources in the writing, the possible subjective interpretation of the data can be minimalised.

5. Data Collection/Analysis

To observe possible asymmetries in Russia's approach to secession, this paper first analyses the First Chechen War as an example of an internal conflict. The North Caucasus is sometimes referred to as Russia's 'inner abroad' (Trenin, 2011, p.120). The region is a surviving bit of the former Russian empire as the population of the region maintains a cultural identity significantly different from the Slavic population of the core. Specifically, Chechnya is a majority Muslim region whose ethnic population is indigenous to the North Caucasus region (Hughes, 2001, pp.11-48). Russian imperial expansion in the area began in the 18th century and was followed by 150 years of struggle between local north Caucasian Muslim nations and imperial Russia (p.18). Naturally, when Chechnya rose in rebellion against Russia in 1994, it was followed by a military campaign to quell the uprising – with no success. It is notable, that while the first Chechen war was secessionist, the second war was considered a counterterrorist campaign by Russia due to the radicalization of Chechen Islamist groups and the involvement of third-state actors such as the Islamic State (Souleimanov & Aliyev, pp.167-168). As a result, primary sources of the first Chechen war will be given more emphasis in the discussion.

Before proceeding to the actual rhetoric analysis, it is key to mention that the Russian political leaders and their delivery both in speeches and in official documents, do not explicitly mention international law. Namely, they do not invoke, for example, any specific clauses from the UN charter, but they do mention principles such as territorial integrity, responsibility to protect, and right to self-determination. The following can be said not only for the sources featured in this research but also in general – Russian policymaking tends to abstain from specifying the clauses and articles of the international legal system and its organisations. Consequently, the lack of seemingly explicit mention of international law within primary sources is not considered to be the drawback of the thesis. Therefore, by looking at the evidence in the following sub-sections, the thesis will draw clear conclusions based on wider implications of the Russian policymakers' rhetoric, and the official documentation.

A. First Chechen War

In 1994, Russia took measures to militarily bring Chechnya back under its control. The first source analysed is the decree issued by the government of the Russian Federation on December 9th, 1994. It states:

"On ensuring state security and territorial integrity of the Russian Federation, legality, rights and freedoms of citizens, disarmament of illegal armed groups on the territory of the Chechen Republic and adjacent regions of the North Caucasus"

"The Ministry of Internal Affairs of the Russian Federation is to suppress attempts to promote and agitate national and religious hostility in the zone of armed conflict."

"The Ministry of Emergency Situations of Russia, the Ministry of Health and Medical Industry of Russia is to deploy the necessary forces and means to provide assistance to the population of the Chechen Republic affected by the armed conflict."

Being an official document, the decree serves as a legal justification for military intervention under two pretexts – 1. Ensuring the territorial integrity of the Russian Federation, and 2. Disarmament of illegal armed groups on the territory of the Chechen Republic. Enshrined in Article 2(4) of the UN Charter, the principle of territorial integrity is part of customary international law (United Nations Charter art. 2, para. 4). Thus, the decree issued by the Russian Federation puts a legal emphasis on ensuring the right to defend its territorial integrity. Additionally, Chechen insurgents are referred to as illegal armed groups, underlining Russia's attitude towards internal separatists. Separatist is a subjective definition, as for one state they could be freedom fighters, while for other states they could be an illegal group of bandits. Based on Russian rhetoric Chechen fighters represented illegal fighters who threatened Russia's territorial integrity, as well as the population of the conflict zone. On December 27th, 1994, Yeltsin addressed the population:

"First, Russian soldiers and officers are defending the unity of the Russian Federation, it is the key condition for the exitance of the Russian state. The Chechen Republic is part of Russia,

as written in the constitution. Not one territory has the right to secede from Russia." (Yeltsin, 1994, 0:50-1:12)

"Regime of Grozny (capital of Chechnya) is unlawful. It has violated core principles of the constitution of the Russian Federation" (1:45–1:54)

"The re-establishment of order and justice in the Chechen Republic is causing a fierce resistance from Nationalist and Extremist forces" (9:43–10:00)

Again, Yeltsin's rhetoric is focused on maintaining Russia's territorial integrity as stated in its domestic constitution and international law. In the speech, Yeltsin emphasizes that the Russian army is defending the unity of the Federation, highlighting the government's strict denial of any possible internal secessionist movements. By invoking the Russian constitution, the president relies on the legal framework to justify military intervention in the region of the North Caucasus. Additionally, Chechen separatists are referred to as nationalists and extremists, which delegitimizes secessionists and justifies the brute use of force against them. It is key to note Russian rhetoric directed towards Chechen rebels and compare it to its rhetoric towards Ossetian and Abkhaz rebels in 2008. This will be addressed in the later paragraphs. Furthermore, Yeltin's reference to the unlawfulness of the Grozny regime aligns with the established principle of territorial integrity as stated in the UN Charter. Bouncing back to Kirsch (2005), it is evident that Russia was instrumentalizing the principle of territorial integrity to achieve its strategic objectives.

B. Russia-Georgia War of 2008

Georgia is a post-soviet state that declared its independence from the Soviet Union in 1991. Like Russia, Georgia faced secessionist problems in the regions of Abkhazia and South Ossetia which led to wars in each region (Gerrits & Bader, 2016, pp.297-313). Although Russia indirectly provided vast military aid to the rebels, it was not until 2008 that it directly intervened in Georgia following the outbreak of the hostilities on August 7th, between Georgian government forces and Ossetian separatists. To provide some context, Georgia, alongside Ukraine, was promised membership in NATO, following Bucharest Summit in 2008 (Bucharest Declaration, 2008). Before that, many former Soviet-bloc countries were also admitted to the alliance, making Russia

fearful of NATO's further expansion to the east. From Russia's point of view, this was a deliberate effort by the Western states to encircle Russia (Rumer, 2007, p.25). Consequently, when hostilities erupted in South Ossetia where Russian peacekeepers were stationed, the Russian foreign ministry argued that Georgia's use of force against the Russian Federation was illegal and forced Russia to use the right to self-defence under Article 51 of the UN Charter (Allison, p.152). Thus, for Medvedev and Putin, separatists on the Georgian territory became freedom fighters who needed the support of a big brother to oppose the Western-backed Georgian government. On August 26th, Medvedev issued a statement:

"Russia continually displayed calm and patience. We repeatedly called for returning to the negotiating table and did not deviate from this position of ours even after the unilateral proclamation of Kosovo's independence. However, our persistent proposals to the Georgian side to conclude agreements with Abkhazia and South Ossetia on the non-use of force remained unanswered. Regrettably, they were ignored also by NATO and even at the United Nations." (Medvedev, 2008, para.5)

"It stands quite clear now: a peaceful resolution of the conflict was not part of Tbilisi's plan. The Georgian leadership was methodically preparing for war, while the political and material support provided by their foreign guardians only served to reinforce the perception of their own impunity." (para.6)

Medvedev's statement presents a contrasting view on Russia's handling of secessionist cases, internally and externally. In paragraph 5, Medvedev underlines Russia's position towards recent NATO actions in Kosovo, suggesting a possible revenge by recognizing Georgia's separatist entities in return. One could also argue that due to Kosovan independence, Russia was granted some form of legal justification to recognise Georgia's regions as independent (Allison, p.160). Therefore, this position could be seen as a strategic reciprocal action to perceived injustices in the international legal system. Additionally, it is visible that Medvedev attempts to blame NATO and the UN for their ignorant behaviour. From that point onwards, the statement also mentions the West's material support provided to Georgia, seemingly to wage a war. This in turn confirms the assumption that the Russian state viewed Georgia as a mere tool used by NATO to encircle Russia

(Rumer, p.25). As Mälksoo (2015) suggests, when talking about international law, Russia is influenced by its relations with the US, China, and other global powers. On the other hand, Georgia and Ukraine have an inferior role and are seen as part of the so-called regional public order (pp.177-178). Consequently, Medvedev's statement confirms that escalations between Russia and its sphere of influence are solely interpreted within the context of rivalry between Russia and the West, whereas smaller states do not have the ability and autonomy to conduct independent policies towards Russia.

"The peoples of South Ossetia and Abkhazia have several times spoken out at referendums in favour of independence for their republics. It is our understanding that after what has happened in Tskhinvali and what has been planned for Abkhazia, they have the right to decide their destiny by themselves." (para.7)

"The Presidents of South Ossetia and Abkhazia, based on the results of the referendums conducted and, on the decisions, taken by the Parliaments of the two republics, appealed to Russia to recognize the state sovereignty of South Ossetia and Abkhazia. The Federation Council and the State Duma voted in support of those appeals." (para.8)

In the second part of the statement, Medvedev presents the topic of Abkhazia's and South Ossetia's independence. Specifically, he refers to so-called referendums held in these regions and advocates for their right to self-determination. Comparing this with Yeltin's speech in the previous paragraphs regarding Chechen secessionists, who were described as "bandits", "illegal", "nationalists", and "extremists", it seems that Abkhaz and South Ossetian secessionists are referred to with more courtesy and support, indicating a shift in Russia's rhetoric between the two cases. By emphasizing referendums, Medvedev expresses Russia's recognition of those regions as fulfilling the will of the local population, and their supposed defence from the Western-backed Georgian central government. In doing so, Russia prioritized the minorities' right to self-determination over Georgia's territorial integrity, which violated its sovereignty (Remler, pp.7-8). Thus, based on this statement, two clear points can be drawn. First, Russia sees the Georgian conflict as a conflict with NATO, framing it as a continuation of a greater rivalry between the two blocks. Second, Russia is willing to withdraw from principles such as territorial integrity based on

the specific geopolitical considerations of each case. Hence, a clear line of connection is made between Kirsch's (2005) idea of instrumentalization and withdrawal, where Russia either instrumentalizes the principle of territorial integrity and RtoP as leverage to quell its own rebellion or abandons the principles when they no longer serve the interests of the state. As Kirsch's (2005) theory is reinforced with obtained data, this writing is also going to expand on the first point made in this paragraph, referring to NATO-Russia rivalry, and Russia's separate regional order. To bring this rhetoric to light we look at Medvedev's (then a prime minister) interview with the Georgian TV Channel Rustavi 2 in 2013:

"Softly speaking, we do not welcome Georgia joining NATO, regardless of your aims. This is not because we do not think your state does not have a right to do so – each country has the right to join its preferred military-political alliance – but because we conclude not from your approach, but from ours. Our approach is the following, this is our national interest – If a state existing near Russia will be part of another military alliance, whose rockets aim directly at Russian Federation's soil will be unacceptable for us." (Rustavi2Pozicia, 2013, 24:00-25:00)

Again, Medvedev's delivery suggests that although, officially, Russia recognizes Georgia's desire to join NATO, it is nonetheless unwilling to let it happen. As mentioned in the interview, Russia draws conclusions not from Georgian political interests but from its own. This view indicates a straight realist perspective on the topic which simultaneously enshrines the idea that Russian security interests are directly linked to keeping its former vassals at bay. This for one, violates the sovereignty of the other state (in this case Georgia). The way to summarise this approach, as seen in the interview is to say that in the Kremlin's view, only a few states can exercise genuinely independent and sovereign choices. Weaker states and international organizations are not taken as serious actors (Lo, 2015, pp .41-42). Consequently, Moscow's understanding of international law is very narrow in terms of actors, and vague simultaneously where certain principles could be interpreted differently and used as an instrument, as seen with the case of secessionism in Georgia and Chechnya.

"Do you think that we like Baltic states' membership in NATO? We have the same attitude on their membership. I want us all to have stable, and warm relations between our nations

(referring to Baltics, Georgia, and Ukraine), considering that there exists a centuries-old, very friendly history between our peoples. However, in this case, talking about the relation between the states, if Georgia or let's say Ukraine joins another military organization, we will not be able to ignore that fact" (25:13-25:50)

Usually, Kremlin policy tends to rely on weaponizing sentimental relations between post-soviet states and in the process underlining the similarities between the nations. This can be seen in the following part of the interview where Medvedev poses a topic of warm relations between Russia and its former dominions to reinforce the idea of historical unionism. CIS and CSTO organizations were built based on this rhetoric. Namely, while Russia officially lost control of the 15 republics in 1991, new political and economic organizations such as CIS were an attempt to continue its influence over the 'periphery'. For international law, it means that Russia tries to promote its version of a regional legal system which threatens the universality of international principles and norms (Remler, pp.1-13). More specifically, Russia's selective approach to secessionism, its definition of a rule-based law, and its role in limiting states' sovereign political decision-making demonstrate the existing regional order, which as seen in Medvedev's interview is promoted through the idea of historical ties.

6. Results

Upon the analysis of the sources, my findings suggest that Russia's approaches to secessionism undermine the universality of international law in two significant ways. First, Russia's handling of the subject varies based on its geopolitical interests. Second, the establishment of a regional sub-order where Russia represents a guarantor of peace and security undermines the core fundamentals of universality. Let's expand on the first point.

Neither Chechens nor Abkhaz or Ossetians had a right of secession. The problem arises from the successor states of the dissolved federation. Chechnya, Abkhazia, and South Ossetia were not Soviet republics, but rather a part of one. This is not affected by *uti possidetis* (Fisch & Mage, 2015, p. 232). From a legal perspective, the Russian approach to Chechnya, at least officially, was rightful, yet in the case of Georgia was illegal under Article 2 of the UN Charter (Cassese, 2008). The rhetoric used in the Chechen war and Georgia was opposite of each other. Moreover, the utilization of two sub-cases allowed this writing to underline Russia's instrumentalization of key

principles of international law. In Chechnya, Yeltsin emphasized the violation of the territorial integrity of Russia and held the rebels responsible for it. On the other hand, the same principle was violated by Russia regarding Georgia. According to the official narrative, this was done as a response to protect the local population from Georgian aggression (Medvedev, para.7). Therefore, RtoP was also used to justify the actions of the state in 2008. RtoP principle states that each country has the responsibility to protect its population from threats such as genocide, ethnic cleansing, and crimes against humanity (United Nations World Summit Outcome, 2005, para.138). However, the RtoP concerns the duty of a state to protect its people within its borders. It does not authorise cases where one sovereign state conducts a military intervention into another sovereign state to protect its nationals. Furthermore, the criteria listed in RtoP were not deemed to be violated in 2008 by any major reports (Evans, 2009, pp.25-28). Hence, two key principles, territorial integrity, and RtoP were first instrumentalized and later abandoned based on the case implications. This is directly in line with Kirsch's (2005) article mentioned in the theoretical framework.

As for the second point, Russia's establishment of regional order once again demonstrates its departure from the seemingly universal international legal system and its organisations. The universality of law refers to its global applicability regardless of regional sub-order, culture, and other social or historical contexts (Higgins et al., 2017). For Russia, facilitating organisations such as CIS and CSTO represents an opportunity to politically influence parts of its former empire. Back in 1993, Yeltsin advocated for Russia to be granted "special powers as a guarantor of peace and stability on the territory of post-soviet states" (Solchanyk, 1996, p.30). This was a reference to Russia's policy, declaring that it is the sole dominant power in the region, based on its historical interests in the now-sovereign countries. Within CIS's operations, Russia holds a significant influence, often shaping economic and political agendas aligned with its geopolitical interests (pp.29-31). This has a pivot role in fostering the proliferation of secessionism within the region, as Russia's established sub-order allows it to apply the principles of international law selectively. Apart from Georgia, cases of leveraging the RtoP principle have been observed in Ukraine and Moldova (Borsi, 2007, pp. 45-50). Thus, the sovereignty of the member states of CIS and the neighbouring countries is constantly impacted by Russia's self-interests. As Medvedev referred to it – Georgia has the right to join NATO, yet we do not draw conclusions based on your interests but ours (24:00-25:00). This reinforces the idea that Russia remains a power with a colonial mindset whose leaders and academia, maintain a realist view of contemporary politics where

diplomacy is only done with major powers (Mälksoo, pp.177-178). Therefore, while general international law is built on the idea of equality, Russia's regional sub-system is led by its historical national interests of retaining influence over territories controlled by it in the past. This divergence underscores the absence of universality of international law which is created by an alternative legal and political standard in the region of the former USSR.

Notably, prominent scholars in Russian academia, such as Shumilov (2012) discern the Russian doctrine of international law as using international legal instruments to shift the global political dynamics in its favour (pp.15-26). Thus, for Russia as well as its academia the state interests and international legal system are interconnected with each other. Based on the analysis of this writing, sources imply that Russia pursues a policy of instrumentalization and withdrawal – it uses international legal principles as weapons only to abandon them when not needed anymore. This is especially evident with the Russian approach to secessionism, which is the reason why secessionism was chosen as the focus point of the observation. While this observation can be applied to a variety of powerful actors in contemporary politics, Russia has a distinctively interesting view of its surroundings which translates into the creation of its regional sub-order. As the US diplomat George F. Kennan observed – 'the jealous and intolerant eye of the Kremlin can only distinguish, in the end, only vassals and enemies, and the neighbours of Russia, if they do not wish to be one, must reconcile themselves to being the other' (Zakaria, 2014). In this regard, post-soviet states are viewed as subordinate nations closely tied with Russia based on social and historical context. This in return grants Russia a legal right to violate the 'Western-dominated' rule-based international legal system and achieve its strategic purposes. However, this approach emphasizes the selective nature of Russia's doctrine towards secessionism internally and externally where the international legal system is proved to be heavily reliant on social and historic factors which shape the regional legal sub-system. This contradicts the concept of universality by definition.

7. Conclusion

This writing was set to find out how Russia's doctrine of international law and specifically secessionism undermined the perceived universality of international law. Using two sub-cases of Chechnya and Georgia the research found that Russia's approach to secessionism internally and externally varied based on its strategic interests. Although this observation may seem obvious, it

confirms the fragmentation of international law and adds to the debate about the topic. Specifically, based on the case study two crucial trends of state practice were observed. First, the leveraging of the principles of territorial integrity, self-determination, and the RtoP by Russia. Second, the creation of a localised sub-system based on the 'civilizational' backgrounds. More importantly, by qualitatively analysing sources, this writing delved deep into the official rhetoric and provided a thorough analysis of key decrees, statements, and interviews which helped to confirm the hypothesis. Additionally, while the Russia-Georgian war of 2008 is widely covered in prominent literature, the first Chechen war has received a limited and outdated analysis due to the timing frame and the lack of necessary data. Regardless, this thesis offers a translated decree issued by the government of the Russian Federation on the conflict, as well as President Yeltin's address to the population. These sources contain valuable information and will enrich the stage for future research.

Studying Russian approaches to secessionism and the international legal system, in general, can help world leaders and policymakers to see the threat of instrumentalization of legal principles as well as the reasons behind it. This could prove vital in addressing any strategic manoeuvre by a state within international institutions, as understanding the means of avoidance can help develop a better enforcement mechanism of the current legal order. Additionally, future research should capitalize on the limitations of this writing and conduct a more detailed examination of other post-soviet conflicts, to better encompass Russia's doctrine and interpretation of international law. Namely, data should be obtained and analyzed from conflicts in Azerbaijan, Moldova, and Ukraine which will enhance the understanding and offer comprehensive implications of post-Soviet conflicts.

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