

# **War in Ukraine: How Did we Get there and is there a Way Out of It?**

*Guerra en Ucrania: ¿cómo llegamos allí,  
hay forma de salir de esto?*

*Guerre en Ukraine: comment y sommes-nous arrivés  
et existe-t-il un moyen d'en sortir?*

Rein Müllerson\*

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\* Professor Emeritus, Tallinn University. Member and former president of l'Institut de Droit International in Geneva.

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**ABSTRACT:** In 2022 the world has entered into a phase of geopolitical and geo-economic re-configuration with the emergence of multipolar elements. The armed conflict on the territory of Ukraine is a military phase of a geopolitical standoff between the collective West, embodied mainly by the United States and NATO, and those for whom Western domination is not acceptable, epitomized in that case by Russia. But how did the world, after the Fall of the Berlin Wall and justified expectations of a peaceful future, find itself in a situation where the use of military force has become almost normal, at least until it is used against those Europeans who had chosen the “right side of history”? How and why, towards the end of history, the most important principles of international law became twisted and reinterpreted to such an extent that soon there may not be a last man left to contemplate this end? As history gives some hints about right as well as wrong ways of ending military confrontations, I will try to show in this essay how it all went wrong and what could be done about it.

**Key words:** Ukraine, Russia, war, NATO, end of history, multipolarity, balance of power, military intervention, western hegemony.

**RESUMEN:** En 2022 el mundo ha entrado en una fase de reconfiguración geopolítica y geo-económica con la aparición de elementos multipolares. El conflicto armado en el territorio de Ucrania es una fase militar de un enfrentamiento geopolítico entre el Occidente colectivo, representado principalmente por Estados Unidos y la OTAN, y aquellos para quienes la dominación occidental no es aceptable, personificada en ese caso por Rusia. Pero ¿cómo es que el mundo, después de la caída del Muro de Berlín y las expectativas justificadas de un futuro pacífico, se encuentra en una situación en la que el uso de la fuerza militar se ha vuelto casi normal, al menos hasta que se usa contra los europeos que habían elegido el “lado correcto de la historia”? ¿Cómo y por qué, hacia el final de la historia, los principios más importantes del derecho internacional se torcieron y reinterpretaron hasta tal punto que pronto no quedará un último hombre para contemplar este final? En tanto la historia da algunas pistas sobre las formas correctas e incorrectas de poner fin a los conflictos militares, intentaré mostrar en este ensayo cómo salió todo mal y qué se podría hacer al respecto.

**Palabras clave:** Ucrania, Rusia, guerra, OTAN, fin de la historia, multipolaridad, equilibrio de poder, intervención militar, hegemonía occidental.

**RÉSUMÉ:** En 2022, le monde est entré dans une phase de reconfiguration géopolitique et géo-économique avec l'émergence d'éléments multipolaires. Le conflit armé sur le territoire ukrainien est une phase militaire d'un bras de fer géopolitique entre l'Occident collectif, incarné principalement par les États-Unis et l'OTAN, et ceux pour qui la domination occidentale n'est pas acceptable, incarnés en l'occurrence par la Russie. Mais comment le monde, après la chute du mur de Berlin et des attentes justifiées d'un avenir pacifique, s'est-il retrouvé dans une situation où l'usage de la force militaire est devenu presque normal, du moins jusqu'à ce qu'il soit utilisé contre les Européens qui avaient choisi la «bon côté de l'histoire»? Comment et pourquoi, vers la fin de l'histoire, les principes les plus importants du droit international ont été déformés et réinterprétés à tel point qu'il ne restera peut-être bientôt plus un dernier homme pour contempler cette fin? Alors que l'histoire donne quelques indications sur les bonnes et les mauvaises manières de mettre fin aux affrontements militaires, je vais essayer de montrer dans cet essai comment tout s'est mal passé et ce qui pourrait être fait à ce sujet.

**Mots clés:** Ukraine, Russie, guerre, OTAN, fin de l'histoire, multipolarité, rapport de force, intervention militaire, hégémonie occidentale.

## I. INTRODUCTION

In 2022 the crisis in world affairs having its roots in the more than thirty years long of history that started with the end of the relatively stable bi-polar world, going through the unipolar moment of the long 1990s —welcomed by Francis Fukuyama as the end of history— has now entered into a phase of emergence of multipolar elements in the geopolitical and geo-economic reconfiguration of the world. Depicting the war in Ukraine as between the two Slavic neighbours— one as an unprovoked aggressor (moreover, can somebody tell me how it differs from a ‘provoked aggressor’),<sup>1</sup> the other an innocent victim— helps only prolong the fighting. As I will try to explain below, the armed conflict on the territory of Ukraine is a military phase within a geopolitical standoff between the collective West, incarnated mainly by the United States and NATO as Washington’s military arm in Europe and beyond, and those for whom Western domination is not acceptable, epitomised in that case by Russia. It is a continuation of political intercourse with other means, using the definition of war by Carl von Clausewitz.

In February 2022 the Russian military indeed invaded Ukraine. Some have defined it as a brutal aggression (could somebody commit a compassionate or gentle aggression?), or as Charles-Maurice de Talleyrand could have put it: worse than a crime, a mistake (*c'est pire qu'un crime, c'est une faute*). It may well be all of that. It may have intended to be also a regime-change operation so far practiced mostly by Washington and its allies in different parts of the world.<sup>2</sup> For me it is, first of all, a great personal tragedy since I am intimately familiar with many people from both of these nations. In 2014 I published an article “*Ukraine: Victim of Geopolitics*”<sup>3</sup> analysing main

<sup>1</sup> Pope Francis was not wrong when he claimed that Russian invasion was not after all so unprovoked. The Head of the Roman Catholic Church disclosed that “a couple of months before the war he met a head of state, who he did not identify but described as “a wise man who speaks little, a very wise man indeed... He told me that he was very worried about how NATO was moving. I asked him why, and he replied: ‘They are barking at the gates of Russia. They don’t understand that the Russians are imperial and can’t have any foreign power getting close to them” Pope Francis says Ukraine war was ‘perhaps somehow provoked’, *The Guardian*, 14 June 2022.

<sup>2</sup> See more on it, Müllerson, Rein, *Regime Change: From Democratic Peace Theories to Forceable Regime Change*, Martinus Nijhoff Publishers, Leiden, Boston, 2013.

<sup>3</sup> Müllerson, Rein, “Ukraine: Victim of Geopolitics”, *Chinese Journal of International Law*,

aspects of the beginning of the conflict in the light of international law, such as the annexation, or as Russia put it, ‘reunification with the motherland’, of the Crimea. Both of these qualifications could be used for describing what was going on in March 2014. One could have even used the formula “unlawful, but legitimate”, borrowing from Western justifications of its illegal uses of military force, particularly against Serbia over Kosovo in 1999.

As I am writing this article for the Mexican Yearbook of International Law, I cannot restrain myself from commenting on an episode that took place in January 2015. Some months after the publication of the aforementioned article on Ukraine, I happened to be in Mexico City lecturing at several Mexican universities. One evening, however, I received a call from the Foreign Ministry of Mexico and was invited to meet the Minister, Jose Antonio Meade. To say that I was surprised would be an understatement. Then I could not have imagined that the Minister could be even aware of the presence of an insignificant professor in the country; to say nothing of the desire to meet. However, a car from the Ministry soon picked me up and late in the evening I arrived at the building of the Secretaria de Relaciones Exteriores, where President of Turkey Erdogan had just finished a lengthy speech. Drinking tea with the Minister and talking on European affairs, I could not suppress my curiosity and asked the Minister what had prompted him to see me. He told me one of his assistants- an international lawyer by formation- had read my article on Ukraine and, finding out I would lecture at UNAM, had advised the Minister to ask me on this conflict in Europe. As the Minister said, a bit jokingly, he had liked my non-aligned approach. For me it sounded, especially from the mouth of the Foreign Minister of a country that had been one of the leaders of the so-called ‘non-alignment’ movement, as the highest praise of my professionalism.

However, *revenons à nos mouton*. What Russia did in February 2022 is quite different from 2014 events. First of all, it has created a humanitarian disaster. From a geopolitical point of view, it may well be that Russia has miscalculated. Moreover, violations of Minsk accords by Kiev and the inability or unwillingness of Ukrainian Western partners to put pressure on Kiev on this matter, doesn’t justify Russian invasion. Even Washington’s militarisation of Ukraine, constituting NATO’s *de facto* membership— though without Arti-

Oxford, vol. 13, num. 1, March 2014, pp. 133-245, available at: <https://doi.org/10.1093/chinesejil/jmu011>.

cle 5 security guarantees, showing how little the US cares about Ukraine and Ukrainians— could not serve as a basis for such a display of force in Ukraine. More justifiable could have been a limited use of force to protect the people of Donetsk and Lugansk, who had lived for eight years under constant attacks from the Ukrainian army and extreme nationalistic paramilitaries.

However, though Russia is responsible for its own actions, there are those, both in Ukraine, and particularly in the West, who were working hard for years to transform Ukraine into a bridgehead, even a launching pad, against Russia not caring at all what it may mean not only for Russia, but also for Ukraine. Responsible for wars are not only those who pull the trigger first, but also those who make them, if not inevitable, then at least highly plausible. Russia's use of military force in Ukraine, illegal under the pre-1990s international law and probably a geopolitical miscalculation, has caused in parts of the world such a shock and awe that even the 2003 American attack of Iraq, proudly baptised Operation Shock and Awe, couldn't achieve. This shows that Russia has certainly lost the propaganda war, especially in the West, though people in so-called third world countries are, if not more sympathetic towards Russia's behaviour in Ukraine, then at least much less critical. And it is not that they feel less empathy for Ukrainian victims. They see the conflict in Ukraine as a challenge to the centuries old Western domination, as a rebellion against Western colonial and neo-colonial policies. Moreover, this is not the first unlawful use of force even in the post-WWII Europe. NATO's bombardment of Serbia in 1999 lasted two and a half months. And this is only in Europe. Twenty years long war of the US and its allies in Afghanistan, the destruction of Libya in 2011 and multiple military interventions in Africa have drawn even less attention and not much condemnation in the West. There is certainly a whiff of racism in the fact that wars waged against people of non-European extraction, especially if they have chosen a “wrong side of history”, aren't condemned as they must be. Although Josep Borrell, the EU foreign policy chief, may have not thought deep about the implications of his comparison of Europe with a well-cultivated garden, whereas the most of the rest of the world would be a jungle ready to invade the garden,<sup>4</sup> his slip of the tongue is not at all

<sup>4</sup> In neocolonial rant, EU says Europe is ‘garden’ superior to rest of world’s barbaric ‘jungle’, available at: <https://mronline.org/2022/10/19/in-neocolonial-rant-eu-says-europe-is-garden-superior-to-rest-of-worlds-barbaric-jungle/>.

accidental. Though usually such arrogance is covered by utilising politically correct language.

But how did the world, after the Fall of the Berlin Wall and justified expectations of peaceful future, find itself in a situation where use of military force has become almost normal, at least until it is used against those Europeans who had chosen the “right side of history”? How and why, in the process of the run towards the end of history, the most important principles of international law became twisted and reinterpreted to such an extent that soon there may not be a last man left to contemplate this end? Although we are today in unchartered waters, history nevertheless gives some hints about right as well as wrong ways of ending military confrontations. Below I will try to show how it all went wrong. At the end I also reflect on what could be done about it.

## II. THERE IS NO END OF HISTORY, EVEN METAPHORICALLY SPEAKING

More than thirty-three years ago the Berlin Wall came down; almost the same lapse of time has passed after the collapse of the Soviet Union and in autumn of 2021 my native country, Estonia, celebrated thirty years since the restoration of its independence. This was a period when the end of the Cold War was loudly and proudly proclaimed by many, both in the East and the West, and when quite a few international lawyers, me included, wrote about a coming era of primacy of law in world politics. This was also a title of one of my articles published in 1989<sup>5</sup> both in America and in the Soviet Union. These were also the ideas and phrases I inserted into speeches delivered by Michael Gorbachev and other Soviet leaders. As an active participant in those events, first in Moscow and later in Estonia, I had high hopes in the coming of a world, if not without any conflicts (so naïve I was not even then), then at least in the system of international relations where cooperation prevailed over confrontation, at least between reasonable actors. Together with Lori Damrosch, who had then just started her professorship at Columbia University after a period at the State Department, I

<sup>5</sup> See, e.g., Vereschcetin, Vladlen Stepanovich y Müllerson, Rein, “The Primacy of International Law in World Politics”, *Sovetskoe Gosudarstvo i Pravo*, vol. 7, num. 6, 1989.

co-edited a book written by a team of relatively young American and Soviet international lawyers, not having been tainted by the Cold War rhetoric and mentality, titled *Beyond Confrontation: International law for the post-Cold War Era*.<sup>6</sup> We genuinely believed in the possibility of a better world. Today, however, besides COVID-19 and other pandemics announced, environmental cataclysms, conflicts between liberal elites and those whom Hillary Clinton called ‘a basket of deplorables’, whose grievances have been exploited by populist politicians, we face also a renewed great power confrontation. What went wrong? Why didn’t our expectations bear fruit?

First, it has to be noted that not all has gone wrong and there have been many positive developments in numerous domains and in various places and there are also many areas of international law where, using the famous dictum of Louis Henkin, “almost all nations observe almost all principles of international law and almost all of their obligations almost all of the time”.<sup>7</sup> Many societies have become more prosperous and democracy has spread into places where it had been absent. In the 1990s, notwithstanding of the first Gulf War (or maybe even thanks to it), when the international community acted almost unanimously against an aggression, it seemed that the world had become also more peaceful than before. Even the rise of internal conflicts, as the restraining Cold War discipline had gone, and the increase of terrorist attacks, though a serious nuisance for many countries, emerged in the centre-stage of world politics, since the main threat to the survival of humankind had disappeared, hopefully for good, as it was believed. These were even not so much terrorist attacks, but inadequate responses to them, which created new and more serious problems. However, already in reactions to these responses one could discover seeds of coming divisions. If terrorist attacks in New York, London or Paris were seen as acts of those ‘who hate our freedoms’, similar assaults in Russia or China were depicted as responses of those whose freedoms were limited by authoritarian regimes. A small, but significant, sign of the hubris of those who considered themselves to be the winners in the Cold War and on the right side of history. And this hubris and the belief in the end of history forms *la toile de*

<sup>6</sup> Damrosch, Lori F. and Müllerson, Rein (eds.), *Beyond Confrontation: International Law for the post-Cold War Era*, Boulder, Westview Press, 1995.

<sup>7</sup> Henkin, L., *How Nations Behave: Law and Foreign Policy*, Columbia, Columbia University Press, 1979, p. 47.

*fond*, as the French say, or background, as the Anglo-Saxons say, to some most serious challenges and confrontations the world is facing today.

After the fall of the Berlin Wall most Western (and especially American) politicians, as well as other experts, seem to have been at least undeclared Fukuyamians (though most of them were usually denying this), who instinctively believed that there was only one correct historical trend, that is to say, liberal-democratic, that only they were on the right side of history. In that respect, liberal-democratic and Marxian ideologies, both of Western origin, are methodologically close and rather unsophisticated, if not to say, primitive. For example, in their otherwise rather interesting, balanced and forward-looking article two prominent American experts, Daniel Deudney and G. John Ikenberry, observed that “[J]ust as the Nazis envisioned a «new order» for Europe and the Soviet Union designed an interstate economic and political order, so, too, did the liberal West”.<sup>8</sup> So far, so good. However, using the same method that the Marxists had done, these two American professors came to the optimistic conclusion that “the foreign policy of the liberal states should continue to be based on the broad assumption that there is ultimately *one path to modernity* [emphasis added]- and that it is essentially liberal in character”, and that “liberal states should not assume that history has ended, but they can still be certain that it is on their side”.<sup>9</sup> This is only a slightly modified and moderated version of the deterministic, unilineal and unidirectional Hegelian, Marxian, Fukuyamian end of the history argument. Such end-of-history philosophy is used to justify the expansion of liberal democracy all over the world as well as the efforts to perpetuate unipolarity and to make those who are against it seen as being on the wrong side of history.

I am not going to dwell here upon the challenges facing liberal democracies, whose roots are mostly internal. Nevertheless, one thing needs to be mentioned. The collapse of the Soviet Union thirty years ago and the success of reforms in China since the coming to power Deng Xiaoping in 1978 confirm the failure of the communist utopia. However, the failure of this rival ideology and practices based on it did also disservice to the winner, at least in two respects. The winner believed that this was the end of history

<sup>8</sup> Deudney, D. and Ikenberry, G. John, “The Myth of the Autocratic Revival. Why Liberal Democracy Will Prevail”, *Foreign Affairs*, January-February 2009.

<sup>9</sup> *Idem*.

and nothing better could emerge. Such a teleological approach to history is not only wrong but also extremely dangerous, especially if one tries to follow it through in practice, particularly in foreign affairs. Secondly, the disappearance of the rival that had indeed underperformed in comparison with the Western model, started to reveal the latter's own internal contradictions that seemed to be secondary or were even suppressed during the Cold War. For example, liberalism and democracy, which have always had a kind of friend/enemy relationship (the more liberties, especially in the economic field, the less democracy and vice versa) became more inimical and less friendly, especially in the context of the latest wave of globalisation. Inequalities increased in practically all societies. However, the West continued to spread its model to all over the world, including the most unfertile places such as Iraq or Afghanistan.

Although societies have often borrowed from their neighbours what seems to work well, these are usually technological novelties or management practices and not ways of life. In anthropology, there is the notion of *schismogenesis*, meaning that peoples, instead of plagiarising ideas and practices from other societies, try on the contrary to remain or even become more distinctive, to retain and develop their special identity.<sup>10</sup> I see this, for example, in Russia in the form of what President Putin has called healthy, moderate or reasonable conservatism, as a kind of reaction to the attempts to Westernise Russia. I am not going to discuss here the meaning of this conservatism and to what extent it corresponds to characteristics and history of the Russian society, but for me, one thing is clear. The Kremlin has become more conservative and also more authoritarian thanks, at least partly, to the Western interference in Russia's domestic affairs and its encirclement by NATO. Moreover, there is a merit not only in biological and intra-societal diversity but also in inter-societal diversity since uniformity would be the end of experimentation and eventually also that of development, though it is necessary to note that if too much diversity within societies may lead to the disruption of societal bonds that hold them together, there are also societies whose diverse practices may be difficult to accept.

<sup>10</sup> See, Graeber, David and Wengrow, David, *The Dawn of Everything: A New History of Humanity*, London, Allen Lane, 2021, pp. 180-186.

### III. BALANCE OF POWER AND EQUILIBRIUM OF INTERESTS AS BASIS OF INTERNATIONAL LAW AND RELATIVELY PEACEFUL WORLD

Most Western politicians and experts, forgetful of lessons of history and believing in the end of history also welcomed the end of the bipolar international system with its balance of power where arrogance of one superpower was controlled by that of the other (or others). However, power also in international society, just as in societies organised as states, has the tendency to concentrate more and more in one or more centres. Adam Watson, after studying various international systems over the past 2,500 years, has observed: ‘Powers that find themselves able to lay down the law in a system in practice do so’.<sup>11</sup> The only exception may have been China that under the Ming dynasty, which after admiral Zheng He successful voyages to far away lands, decided to burn the fleet and close the country to the outside world.

The phenomenon of power concentration, be it in economics (the tendency toward monopolisation absent regulation) or in politics, seems to be a general rule of societal life. Even in academia we can see that some universities, think tanks and laboratories are successful in imposing their schools of thought, while effectively suppressing and marginalising dissenting views and opinions. In international society the tendency of a concentration of power leads to its super-centralisation. Swiss politician and journalist Guy Mettan observes that a “power when becoming hegemonic, as the Great Britain was after the Napoleonic wars, has a tendency to establish permanent supremacy, trying to destroy any rivalry until there is somebody who would bring it to its senses”. And he emphasises:

Any power without counter-power has a tendency to become absolute whether this takes place within a state or outside, if there is no other power (powers) who would be able restrain it; law in itself is not the sufficient guarantee against such tendencies. A candidate for a dictatorship can always change the constitution in his favour if there is nobody strong enough to challenge him and a power that is dominant internationally is able to “interpret” or re-write international law in ac-

<sup>11</sup> Watson, Adam, *The Evolution of International Society*, New York, Routledge, 1992, p. 291.

cordance with its own interest if there is no other power able to resist. And law becomes simply a façade that is called to conceal the pure relations of power.<sup>12</sup>

Any balance of power presumes, by definition, the existence of more than one centre of power, just as a separation of powers domestically presumes the existence of at least legislative, executive and judicial branches between whom a certain equilibrium must exist. With one single dominant centre of power there is either a totalitarian state (domestically) or an imperial system (internationally). This was well understood already by Emerich de Vattel, who in 1758 in his celebrated *The Law of Nations* wrote about the foundation of international law: "This is the famous idea of the political balance or equilibrium of power. We have in mind a situation where no power is able to dominate absolutely, to make laws for others".<sup>13</sup> In 1861, my distant predecessor as Professor of International Law at King's College, London, wrote that "the concept of equilibrium provided for by the treaties [he had in mind particularly the Utrecht peace treaty of 1713 that had put an end to the wars of the Spanish succession and treaties adopted by the Congress of Vienna of 1815] can guarantee even the sovereignty of smaller nations against the more powerful".<sup>14</sup> And Lassa Oppenheim wrote in the first edition (1905) of his famous treatise on international law: "Law of Nations can exist only if there is equilibrium, a balance of power, between the members of the Family of Nations".<sup>15</sup>

The Westphalian international society, *i.e.* society of sovereign states, which emerged in the aftermath of the Thirty Years War, was a regional international society, which managed to extend, mostly through colonial policies, its characteristics and principles to the rest of the world. Adam Watson writes: "The European society of states evolved out of the struggle

<sup>12</sup> Mettan, Guy, *Russie-Occident, une Guerre de Mille Ans: La Russophobie de Charlemagne à la Crise Ukrainienne*, Éditions des Syrtes, 2015, p. 239.

<sup>13</sup> "C'est ce qui donné naissance à cette fameuse idée de la Balance Politique, ou de l'Équilibre du Pouvoir. On entend par là, une disposition des choses, au moyen de laquelle aucune Puissance ne se trouve en état de prédominer absolument, et de faire la loi aux autres". Vattel, Emer de, *Le Droit des Gens. Ou principes de la loi naturelle*, London, Apud Liberos Tutor, 1758, t. 2, p. 40.

<sup>14</sup> Twiss, Travers, *The Law of Nations Considered as Independent Political Communities: On the Rights and Duties of Nations in Time of Peace*, Oxford, 1861, p. 140.

<sup>15</sup> Oppenheim, L.F.L., *International Law: A Treatise*, London, Peace, 1905, vol. I, p. 73.

between the forces trending towards a hegemonic order and those which succeeded in pushing the new Europe towards the independences end of our spectrum... The Westphalian settlement was the charter of a Europe permanently organised on an antihegemonic principle".<sup>16</sup> Only with the emergence of relatively equal centralised nation-states could modern international law (then often called the 'international law of civilised nations', *i.e.* European international law), with its concepts of sovereign equality, non-interference in internal affairs and non-use of military force take shape.

Of course, not all states were equal, and there was a constant struggle for dominance and attempts to either ignore international law, to re-interpret it in accordance with one's interests or to instrumentalise it for one's own purposes. However, with the exception of the relatively brief period of Napoleonic Europe, no power had been able to dominate the whole continent. And it was exactly for that reason, after Napoleon Bonaparte had disturbed the existing power balance to its very roots and established an almost continental-wide empire, that in 1815 in Vienna the victorious powers consciously and conscientiously created a continental international system that became known as the European Concert. It guaranteed the longest peaceful period the old continent had ever known. Importantly, it was not only the *de facto* balance that was restored after Napoleon had been defeated; it was also the recognition of the necessity of this balance for the European security (*i.e.*, there was practice plus *opinio juris*). Remarkably, it was also the inclusion of France in the concert of powers, notwithstanding the efforts of quite a few to humiliate the defeated enemy, to add insult to injury. Unfortunately, neither the winners of the First World War nor those of the Cold War were as wise as the Tsar Alexander I, Viscount Castlereagh and Clemens von Metternich had been in Vienna in 1815. Similarly, when Hitler tried to conquer the old Continent, the European powers together with the United States, established a united front against the aggressor, notwithstanding deep ideological differences between them. The UN Charter, particularly the composition and powers of its Security Council, also reflects the idea of balance of power, though due to the rise of new centres of power and underrepresentation of whole continents in the Council, its composition has become somewhat outdated. However, the idea is still valid.

<sup>16</sup> Watson, Adam, *op. cit.*, p. 182.

In that respect the world has not changed. Even today the arrogance of one superpower can be controlled and tamed by the might of another superpower (or coalition of powers); international law can be helpful and play its role in this process, but without such a balance it not only becomes helpless, it simply disappears, opening way to the emergence of imperial law or a situation where everyone has its own understanding of legality or rather legitimacy, the term widely used today. Any balance of power presumes, by definition, the existence of more than one centre of power. Just as the separation of powers domestically presumes the existence of at least legislative, executive and judicial branches, between whom a certain equilibrium should exist. Separation of powers within society organised as State and separation of powers in international relations play comparable roles. Both of these principles are meant to prevent concentration of power, which is a natural tendency leading to its super concentration, if not properly checked. Super-concentration of power usually ends in a Big Bang, similar to the explosion of black holes in the universe leading to the emergence of new galaxies. While totalitarian societies may explode in rebellions of those who have nothing to lose but their chains, in international relations, as the world history testifies, there always emerge those who start counter-balancing against the imperial centre. Such periods, if not handled carefully and responsibly, have a tendency to end in great-power wars. Unfortunately, today the world seems to be passing through such a dangerous period.

The Cold War international system was also a balance of power system. However, as a bipolar system, it was almost exclusively competitive where both poles not only constantly tried to outplay each other, but also believed in the world-wide triumph of their respective social, economic, and political systems. However, even in such an inauspicious environment international law developed and mattered. Moreover, the period of *détente* (1969–79) was marked by bi-lateral and multilateral agreements (the latter were sometimes initiated by the two superpowers and then sent to allies on a FYA- for your attention -basis), especially in the field of disarmament and confidence building measures, as well as with informal rules of the game and political understandings. Although such a system, with only two dominant actors, which, moreover, believed in and strove for absolute dominance was not the most stable one, this relative power equality was a constraint on each other's arrogance, had a soothing impact, even if these were the realities of Mutually Assured Destruction (MAD) more than re-

spect for international law that had the strongest pacifying effect. Martti Koskenniemi's ironic remark that "to apply [Karl] Schmitt's description of the new Nomos [law] to the behaviour of the Western Powers in Kosovo and Iraq, the 50-year interlude may be explained by the Cold War having prevented a full-scale moralization of international politics. Ironically, then, for a century, the Soviet Union may have taken the role of the Schmittian *Katechon*- restrainer of the coming of the Antichrist".<sup>17</sup> Of course, Moscow did not play the role of an idealistic or altruistic restrainer of Washington's arrogance; expansionist impulses of the Kremlin were similarly restrained by the American power, but one of the effects, or side-effects if you will, of the relative balance of power between Moscow and Washington, that none of them liked, was certainly that it put limits on the use of force in international relations, and not only between the two superpowers; it had restraining effects beyond.

This balance evaporated with the disappearance of the Soviet Union and for the first time in the history of humankind a unipolar world emerged. The unipolar moment of the 1990s, when there existed only one superpower (hyper power, using the term proposed by the former French Foreign Minister Hubert Védrine) dominating the whole world, was an anomaly in the history of geopolitics. Even the greatest empires of the past such as those of Alexander the Great or Genghis Khan, even the British Empire, on which the sun never sat, controlled only parts of the Planet Earth. After the end of the bipolar world the United States considered the whole world as the sphere of its vital interest, where no rival power could be allowed to rise. Such an anomalous situation, being an historical aberration, couldn't last for long and due to the mistakes of consecutive American administrations (Iraq, Afghanistan, Libya etcétera) it was even shorter than it could have otherwise been. And note, all these mistakes, though having different trigger mechanisms, had one and same ideological source: the burning desire to create a uniform world that would be governed from one centre (to make the world safe for democracy, as the saying went). Jean-Marie Guéhenno is right when in 2021 he writes that "today we have to admit, even if reluctantly, that what was presented as universal project, a "multilateral liberal world order", was a Western project, expressing a transient

<sup>17</sup> Koskenniemi, Martti, "International Law and Political Theology", *Constellations*, vol. 11, num. 4, 2004, p. 493.

moment when the West seemed to dominate the world. This ephemeral project served the interests of the American power that did not hesitate to break the rules if that seemed to be in its interest".<sup>18</sup> And Jean-Marie Guéhenno- a former French diplomat and UN Under-Secretary-General for Peacekeeping Operation- knows what he is talking about.

Yet, from the onset of the twenty-first century, not only have the 'usual suspects', China and Russia, begun counterbalancing, but various regional powers have also started to force multipolar elements into the emerging international system. However, such a trend has not been to Washington's liking, and through its containment and roll-back policies, either unilaterally or through NATO and even the European Union, the United States is targeting Russia and China in an attempt to perpetuate the unilateral moment of the 1990s. Either by misreading of history or for propaganda purposes the role of domestic political regimes in foreign policy has been too often overexaggerated. Even if, for example, China or Russia would have been liberal democracies (in the first case- pure utopia, in the second case- not in the foreseeable future, taking account of current trends to which Western policies have made considerable contribution), they wouldn't practice policies of bandwagoning and follow Washington's lead as most European and even non-European nations have done until recently. Not so much anymore and this is what is disturbing Washington and its closest allies. Russian or Chinese examples of disobedience may become contagious.

#### IV. NO INTERNATIONAL LAW OF COOPERATION WITHOUT BEING UNDERPINNED BY INTERNATIONAL LAW OF COEXISTENCE

International law as such, in contradistinction, for example, to imperial legal systems that have existed or the current EU law, cannot subsist in an international system with one dominant centre. International law as a more or less coherent system of rules and principles started developing after the Westphalian peace of 1648, which had concluded the devastating Thirty Years War in Europe. Before that period there had existed in Europe a multi-layered authority, where the Papacy, the Emperor of the Holy Ro-

<sup>18</sup> Guéhenno, Jean-Marie, *Le Premier XXIe Siècle: De la globalisation à l'émiettement du monde*, Paris, Flammarion, 2021, p. 46.

man Empire and a multitude of kings, counts, earls and dukes competed for a place under the Sun.<sup>19</sup>

As was described above, after the fall of the Berlin Wall this precondition for the existence of more or less effective international law disappeared. Although the 1990s were still relatively peaceful and the hope that law could play increasingly important role in international relations was still alive, it is also possible to see, at least with hindsight, the seeds in interpretation of law and practices that were leading not to the strengthening of international law or its progressive development, but to its undermining. And this notwithstanding the fact that these changes were then seen by many, particularly in the West, as steps on the way of progressive development (even revolutionary, instead of evolutionary) of international law, as leaving behind its outdated Westphalian model.

The post-Cold War unipolar moment led to attempts to transform existing international law into a unipolar normative system controlled from the single centre, where there should be no room, desire or need for counterbalancing. For a while, it seemed that the world and international law would indeed evolve in that direction. The widespread use of military force for humanitarian purposes, both authorised by the UN Security Council (therefore lawful, though not always necessarily legitimate) or bypassing the Council (illegal, but for some states and experts, legitimate); the rapid evolution of international criminal law and jurisdiction and high expectations that this could change the world for the better. Downgrading the role of state sovereignty and almost complete neglect of the principle of non-interference in domestic affairs, were also among the signs of such a tendency that would have led to the emergence of a kind of world law instead of traditional international law.

In my opinion, there was not much wrong with international law as it had existed before the Berlin Wall came down, though the Cold War international system then existing was not up to rather noble ideals of international law. However, there is always a gap between normative requirements of the law and reality. Law has to be better than the factual order to uplift the latter to legal expectations. Yet, the current state of the international system corresponds even less to most fundamental principles of international law than was the case before the 1990s. Such principles, enshrined,

<sup>19</sup> See Bull, Hedley, *Anarchical Society: A Study of Order in World Politics*, Macmillan, 1977.

for example, in Article 2 of the UN Charter and in the 1970 Friendly Relations Declaration,<sup>20</sup> have been weakened while new generally agreed norms of equal importance have not been able to arise and in the current geopolitical ambiance could hardly emerge. The main reason for this is the clash of the two incompatible visions of the future world—concentric and polycentric—and also following from those visions different understanding of the nature of the law for the future world: should it be a kind of world law or international law. Especially dangerous is the situation in the centre of Europe where the Western military alliance—NATO, using the temporal weakness of Russia has moved to the borders of its erstwhile enemy. 17 February 2022, Jean-Yves Le Drian, France's Foreign Minister, said in an interview for the Financial Times there are “no more rules” governing European security and stability because arms control pacts covering everything from intermediate-range nuclear missiles to transparency on military force movements have become “nearly obsolete or irrelevant”.<sup>21</sup> And the situation is the same in several other parts of the world. One of the 20th century's greatest legal minds, Wolfgang Friedmann of Columbia University, predicted as long ago as in the 1960s a trend towards the development of two strands in international law—the law of coexistence and the law of co-operation. If the first corresponds to the traditional inter-state international society where states, their sovereignty and independence from outside interference prime, the latter would correspond more to what Friedmann believed to be an emerging world society where not only or not even so much states but also individuals with their rights and various other entities, including supranational ones, would be influential actors.<sup>22</sup> Since then the development of international law has indeed bifurcated. In Europe, instead of international law we have the EU law. And human rights are no longer—and not only in Europe but worldwide—a matter exclusively within states' domestic jurisdiction; we even have international criminal courts and tri-

<sup>20</sup> Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (UN General Assembly, 24 October, 1970).

<sup>21</sup> “France urges revamp of Europe's security order in face of Russia threat”, *Financial Times*, 17 February, 2022, available at: <https://www.ft.com/content/49a53ff8-f154-4elf-8141-ed6ee8b6d6cc>.

<sup>22</sup> Friedmann, Wolfgang, *The Changing Structure of International Law*, Columbia, Columbia University Press, 1964.

bunals, though their functioning so far has also shown that mechanisms that work rather well within states have relatively limited, sometimes even distorted, effects when transplanted into the domain of international relations. We live in a world that has become Lockean in some places (Europe) but remains Hobbesian in many other regions, or as Robert Kagan has written, “Americans are from Mars, Europeans are from Venus”.<sup>23</sup> If in Europe the law of cooperation, even supra-national law, has indeed emerged, in the wider- Hobbesian- world where men from Mars act, the world still needs stricter observance of the law of coexistence with its respect for sovereignty of states notwithstanding differences of their political and economic systems, non-use of force and non-interference in domestic affairs principles.

The world, notwithstanding Kantian hopes prevailing at the end of the Cold War, is today revealing more and more its Hobbesian characteristics. Maybe it would have been better, at the turn of the centuries, instead of following Kantian instincts, concentrating our efforts on taming Hobbesian reflexes. And those who rather naively, like myself, but much more importantly those who, like Michael Gorbachev, believed and acted upon their naïve beliefs, contributed to the rise to power of those who highjacked positive but immature fruits raised at the end of the Cold War. However, on a more optimistic note, I believe that not all is lost. It would be necessary to strive for a realistically achievable status of international relations where no State, or a group of States, would impose its visions and values on the whole world that is too big and diverse to be ruled from one centre. The main role of international law should be the prevention and resolution of misunderstandings, tensions and conflicts between States without trying to impose uniformity on differing societies. The latter simply doesn't work. Moreover, it is counterproductive. Therefore, when in January 2017 Theresa May, then British Prime Minister, declared during her visit to Washington there is no ‘return to the failed policies of the past. The days of Britain and America intervening in sovereign countries in an attempt to remake the world in our own image are over’,<sup>24</sup> I felt cautiously optimistic. The British Prime Minister vowed never to repeat the ‘failed policies of the past’ in ref-

<sup>23</sup> Kagan, Robert, *Of Paradise and Power: America and Europe in the World Order*, New York, Alfred Knopf, 2003.

<sup>24</sup> Theresa May: US and UK will no longer invade foreign countries “to remake the world in their own image”, *The Independent*, 27 January 2017.

erence to Western military interventions in Iraq and Afghanistan, breaking from 'liberal interventionism' advocated by her distant predecessor Tony Blair and carried to the fruition by her immediate predecessor David Cameron in Libya. It is necessary to add that not only military interventions have all been failures but intervening in domestic affairs of other countries by means of economic sanctions or political pressure, if not authorised by the UN Security Council, have more often than not made things worse rather than better. Therefore, Hubert Védrine, the former French Foreign Minister, was right in emphasising in 2016 that "democracy and human rights will progress in future much less through the prescriptions and interference from the outside by the West than depending on the internal dynamics of individual societies".<sup>25</sup> These are right ideas not followed up by corresponding practices.

As a result of naïve (for many) and hypocritical (also for quite a few) attempts not only to unify the world, but to make it also uniform, it has become even more fragmented. A new great-power rivalry and confrontation is not only on the horizon; it is here and there. Although without any tangible results and quite dishonestly, as to the choice of participants, was organised the Summit of Democracies. Yet, the very idea of such a gathering is extremely reckless and worrying. Jean-Marie Guéhenno is right when he insightfully writes about the need for a new Copernican revolution, this time not in astronomy but in world affairs:

Radical reconfiguration, similar to one that happened five hundred years ago, of the picture of the world is today needed. It should help us leave behind the Western-centric picture of the world and embrace the humanity in all its diversity. It is necessary to see the world history not as an unstoppable movement towards worldwide liberal democracy. We have to find a more adequate and less simplistic way of describing the world than one where democracies oppose dictatorships.<sup>26</sup>

<sup>25</sup> Védrine, Hubert, *Le Monde au Défi*, Paris, Fayard, 2016, empl. 799. See also my article Müllerson, Rein, "Democratization through the Supply-Demand Prism", *Human Rights Review*, vol. 10, num. 4, November 2009, pp. 531-567.

<sup>26</sup> Guéhenno, Jean-Marie, *op. cit.*, p. 248.

In his well-argued opinion, one of the biggest mistakes, made by many in the West, is reducing the complexity of the world to these two modes of organisation of power: autocracy and democracy.<sup>27</sup>

Democracy is not something like God, motherhood or apple-pie. It is a form of the political organisation of society. Probably, the best that has so far existed. But today the word and the notion of democracy has acquired almost religious connotations, it has become virtually the only universal religion, for who are paying lip-service those who are opponents of democracy as well as those who may naively believe that they are genuine democrats. Therefore, all other political forms of organisation of society are beyond the pale, are ostracised and they should inevitably sooner or later give way to democracy, better with the adjective liberal. In my opinion, this is a dangerous illusion. There is a lot of naivety and duplicity in such beliefs. We have seen failures of exporting democracy in the Middle East. At best, these societies, after temporary euphoria- both inside the country and even more among outside expert community, have reverted to their authoritarian past; at worst, they have imploded with horrendous effects for the local people as well as for the wider world. Responsible authoritarianism may be better for many societies. In some tribal societies, instead of elections, especially if they are imposed from outside; it would be preferable, for example, for tribal leaders to gather for making decisions for the whole society and so on and so forth. Ostracising political regimes that don't correspond to liberal-democratic model and are closer to the authoritarian end of the spectrum is usually counterproductive. The world is not flat and we don't live (yet, if ever) in a global village.

#### V. WAR IN UKRAINE. A BATTLE IN THE GEOPOLITICAL RECONFIGURATION OF THE WORLD

François Lenglet writes about the situation in the world in 2022: "During thirty-two years the United States dominated the process of globalisation by means of the rules created by them, using their money and their navy while doing it. Geopolitical risks seemed to have disappeared together with the fall of the Berlin Wall and even the usual troublemakers had accepted, even

<sup>27</sup> *Ibidem*, p. 328.

if sometimes grudgingly, the leadership of “the American hyperpower”, as described by the former French Foreign Minister Hubert Védrine. Now this all is gone”.<sup>28</sup> Agreeing with such a diagnosis of the recent past, one must ask: what has come to replace it? In my opinion, the war in Ukraine is a battle between the ‘collective West’, led by Washington, and Russia about the future world order. Russia, being an aggressor *vis-à-vis* Ukraine, and risking its own future, is doing a dirty work on behalf of those, who strive for a multi-polar world instead of the perpetuation of the unipolarity of the 1990s. Therefore, Moscow’s war in Ukraine is met with understanding, if not sympathy, in many countries, though the referenda of autumn 2022 under the banner of the right of peoples to self-determination, organised by the Kremlin in the occupied (or as Russia puts it, ‘liberated’) territories of Ukraine, and their incorporation into the Russian Federation are disliked even in those capitals that have not condemned the Russian invasion. Beijing or New Delhi are certainly not happy with such a ‘liberal’ interpretation of the right of peoples to self-determination, though the minorities, aspiring to have their independent statehood, like the Catalonians in Spain or the Kurds in the Middle East, may enjoy such an interpretation of international law.

The war in Ukraine, in its essence, is not a conflict between Moscow and Kiev,<sup>29</sup> but a symptom and reflection of the collision of the two irreconcilable visions of the future world order- the perpetuation of the 1990s unipolarity under Washington’s dominance and the strive for a new multipolarity. It is waged beyond the pale of international law, nevertheless that the Kremlin often refers to it, yet interpreting it in a way that serves its own interests, while the collective West tries to conceal its violations of basic norms of international law (for example non-use of force or non-interference in internal affairs) by references to some kind of nebulous ‘rules based international order’. Among the active participants of the war in Ukraine, like among the staunchest supporters of the one or the other side, there aren’t any blameless actors, they all are wrong in one way or other; wrong both morally and legally. Wrong was the collective West in expanding NATO to the borders of Russia notwithstanding assurances given to

<sup>28</sup> Lenglet, François, *Rien ne va, mais... 2023, l'année qui peut nous sauver*, Plon, 2022, p. 41.

<sup>29</sup> Widespread in the Western media and expert community view that President Putin is obsessed with Ukraine is one-sided and misleading. Putin is obsessed, and with reason, by Washington’s and NATO’s use of the territory of Ukraine to encircle militarily Russia.

President Gorbachev in 1990,<sup>30</sup> supporting the 2014 *coup d'état* in Kiev and militarising Ukraine as a bridgehead against Russia and provoking Russia to attack and helping Ukraine fight Russia up the last Ukrainian. Wrong was Russia by responding to NATO's provocation and invading its neighbour, making thereby the reconciliation between these brotherly, as many may be justified to say, nations almost impossible. And it goes without saying that every armed conflict is a tragedy for thousands and millions of people.

Besides epitomising the current main geopolitical and geo-economical struggle in the world, the war in Ukraine also shows that, for political leaders of major powers, international law, human rights and humanitarian concerns serve mainly as propaganda tools. And this is not something new or unexpected. Let me fetch for the reader an example from the Cold War era to show that things, unfortunately haven't changed since then. After the Vietnamese invasion in 1978 of Cambodia (then called the Democratic Kampuchea) and the overthrow of the genocidal regime of Pol Pot, the United States continued to politically support this regime and its representatives in the United Nations. As Debbie Sharnak wrote:

The Carter Administration confronted the difficult choice of whether to vote to seat the Khmer Rouge's genocidal regime; support Samrin's communist, Vietnamese-installed government; or, to abstain from voting altogether. *After weighing geopolitical concerns about human rights costs against national interests in a Cold War context* [emphasis added], Carter's representative to the Credentials Committee, Robert Rosenstock, cast the vote in favor of seating the Khmer Rouge. As he rose from the table, someone grabbed his hand to congratulate him. Rosenstock looked up

<sup>30</sup> In December 2017, the National Security Archive published 30 documents unequivocally testifying that during the 1990 negotiations between Soviet and Western leaders, the highest officials of leading NATO countries had indeed promised that while a unified Germany would be in NATO, the alliance will not move an inch closer to Soviet (now Russian) borders. available at: <https://nsarchive.gwu.edu/briefing-book/russia-programs/2017-12-12/nato-expansion-what-gorbachev-hea>. Svetlana Savranskaya and Tom Blanton therefore conclude: 'The documents show that multiple national leaders were considering and rejecting Central and Eastern European membership in NATO as of early 1990 and through 1991, that discussions of NATO in the context of German unification negotiations in 1990 were not at all narrowly limited to the status of East German territory, and that subsequent Soviet and Russian complaints about being misled about NATO expansion were founded in written contemporaneous memcons and telcons at the highest levels', available at: <https://nsarchive.gwu.edu/briefing-book/russia-programs/2017-12-12/nato-expansion-what-gorbachev-hea>.

to find to his horror that he was shaking hands with Pol Pot's foreign minister, Ieng Sary. 'I felt like washing my hands', Rosenstock reported.<sup>31</sup>

Rosenstock's reaction to this episode, a mixture of disgust and resignation, encapsulates well the contradiction of what this vote ultimately signified. In the act of seating the Khmer Rouge at the United Nations, Jimmy Carter, the supposed human rights president, aligned himself with an ousted genocidal regime. The Russian invasion of Ukraine in February 2022 has eerie parallels with another episode from those times. In 1998 Zbigniew Brzezinski, President Carter's National Security Advisor, proudly confirmed that by giving covert support to radical Islamic forces in Afghanistan in the 1970s, President Carter and he had induced Moscow to intervene on the side of the pro-Soviet government in that country, thereby mirroring the Soviet Union in its own 'Vietnam'.<sup>32</sup> Asked as to whether he had any regrets in having supplied arms to 'freedom-fighters'-turned-terrorists, President Carter's Security Adviser responded: 'What is most important to the history of the world? The Taliban or the collapse of the Soviet empire? Some stirred-up Moslems or liberation of Central Europe and the end of the cold war?' When confronted with the statement that 'Islamic fundamentalism represents a world menace today', Brzezinski retorted: 'Nonsense'.<sup>33</sup> Didn't NATO's 'barking at the gates of Russia', using Pope Francis's eloquent definition, and its efforts of remilitarisation of Ukraine between 2014 and 2022<sup>34</sup> serve also a role of inviting Russia into its neighbouring country. Of course, even a provoked aggression remains an aggress-

<sup>31</sup> Sharnak, Debbie, *Jimmy Carter, Cambodia, and the United Nations: Human Rights in a Cold War Climate*, University of Wisconsin-Madison, April 2010.

<sup>32</sup> J. St. Clair, A. Cockburn, 'How Jimmy Carter and I Started the Mujahideen', Counterpunch, 15 January 1998.

<sup>33</sup> *Idem*.

<sup>34</sup> 9 December 2022 German ex-Chancellor Merkel said in her interview to *Die Zeit* that 'The Minsk Agreement was an attempt to buy time for Ukraine. Ukraine used this time to become stronger, as you can see today'. According to her, 'it was clear for everyone' that the conflict was suspended and the problem was not resolved, 'but it was exactly what gave Ukraine the priceless time' (moderndiplomacy.eu, 13 December 2022). This shows that not only Ukraine but also France and Germany, as guarantors of Minsk agreements, were not going, from the very beginning of their conclusion in 2015, to implement them.

sion and Russia should have known better, learning, *inter alia*, from the sad Soviet experience in Afghanistan.

In that respect, a comment on two concepts vented in recent years *ad nauseum* seems to be appropriate. The first concerns the idea that the nineteenth century (or for some the Yalta) model of zones (or spheres) of interest (or influence) is outdated. So, President Obama, in autumn of 2014 in Tallinn, affirmed that ‘we reject any talk of spheres of influence today’.<sup>35</sup>

This statement was applauded as enthusiastically as thirty years earlier there were applauded speeches of Comrade Brezhnev, though, I am sure, that in 2014 most Estonians were genuine in their enthusiasm. But they, like many people in the world, were also rather naïve since it is obvious that if Washington considers, say, Europe, the Middle East, the Asia-Pacific region, and many other areas as spheres of its vital interests, it must naturally deny everybody else’s right to make similar claims.

The second idea, constantly repeated in the West, is the so-called ‘open door policy’ of NATO. It is said that it is a sovereign right of every State to choose its alliances, to decide whether to belong or not to belong to NATO. Following this logic, one could also claim, for example, that every State has a sovereign right to have nuclear weapons, particularly, if they have not renounced this right by becoming a party to the NPT Treaty of 1968. However, we well know that biting sanctions have been used against some aspiring nuclear powers, while against others even targeted military strikes have been ‘on the table’. At the same time, it is even more obvious than the desire of some States to join the nuclear club that all States, big and small, have interests in not having their neighbours belonging to hostile military alliances. Therefore, in the super-power’s rivalry—and it is difficult to deny that this is what is going on in today’s world—any expansion of American influence, particularly its military components, to the borders of other powers will force the latter to react. Hence, I find disingenuous the idea that NATO should be a club, whose doors are wide open. If membership in the European Union, for example, doesn’t threaten vital security interests of third States (though even there may be problems), belongingness to a military alliance, whose main purpose, even whose *raison d'être*, is to counter militarily a specific State (or a group of States) constitutes a security threat to the latter. Therefore, any State, becoming a member of

<sup>35</sup> Remarks by President Obama to the People of Estonia, September 03, 2014.

a military alliance with a clearly declared adversary (adversaries), thereby declares that it considers this common adversary as its potential enemy and thereby forces the latter to react.

Already as a law student, I was puzzled by the Latin dictum *Fiat Justitia — Pereat Mundus* since it is clear that without the world both justice like injustice don't make any sense. One may, of course, sacrifice one's own life for the sake of a just cause, but being ready to destroy the world in the process is quite a different matter belonging to the domain of psychiatry. The freedom to join military alliances as a sovereign right that trumps all other considerations such as collective peace and security is a similar nonsense.

In his excellent book *The Ambassadors: Thinking about Diplomacy from Richelieu to Modern Times*<sup>36</sup> Robert Cooper analyses, *inter alia*, the 1962 Cuban missile crisis that may have quite a few parallels with today's Ukrainian crisis. He correctly observes that the Soviet nuclear weapons in Cuba would have constituted a significant new threat to the United States; as they would have been 'a cheap way to change the military balance, and that [was] Khrushchev's main motive'.<sup>37</sup> That is why Washington threatened to destroy the facilities being built on Cuba if the Soviets wouldn't withdraw them, notwithstanding that neither Moscow nor Habana were in breach of any norms of international law. Robert Cooper is also right that Soviet nuclear weapons in Cuba would have enhanced Soviet security, but they wouldn't have done much for Cuba— 'the reverse, in fact: they make it a target'.<sup>38</sup> The same is true with NATO's, particularly American, military presence in countries neighbouring with Russia. This may enhance American security, but it makes Russia's neighbours targets for the Russia's military. Robert Cooper, praising the leaders of the two superpowers for saving the world in 1962, writes of John Kennedy, whose opponents in Congress were eager to go to war, that the President had followed to the letter an advise from a book by Basil Liddell Hart that the future President had singled out when reading it: "Keep cool. Have unlimited patience. Never corner an opponent, and always assist him to save his face. Put yourself in his shoes... Avoid

<sup>36</sup> Cooper, Robert, *The Ambassadors: Thinking about Diplomacy from Richelieu to Modern Times*, Weidenfeld & Nicolson, 2021.

<sup>37</sup> *Ibidem*, p. 326.

<sup>38</sup> *Ibidem*, p. 327.

self-righteousness like the devil — nothing is so self-blinding”.<sup>39</sup> However, to follow this great advice, one must be a politician of John Fitzgerald Kennedy’s calibre, which in the political climate prevailing in most societies today is almost an impossible demand. In his latest book entitled *Leadership*<sup>40</sup> Henry Kissinger, having studied the strategies of some great political leaders such as Konrad Adenauer, Charles de Gaulle and others, bemoans about the dearth of political leadership in today’s world. In his interview to *The Spectator* in summer 2022 he was even more explicit:

All the pressures of modern political activity are so consuming that the long-range thinking and lived sense of history that for Churchill was second nature is almost impossible to arise. I can’t cite a current example of a western leader who embodies it. That is a great danger, because it means that any demagogue who can exploit immediate resentments can achieve a disproportionate influence. It is the biggest problem for the future of democracy. Great leaders have to understand their society and believe in it. But they also have to be able to transcend it, to point society from where it is to where it has never been.<sup>41</sup>

Today, the crocodile tears of most political leaders serve only propaganda purposes. Although the empathy among the common people for the victims of those who either died under the bombardments of Kiev’s regime between 2014-2022 or those who today lose their lives and property because of the Russian attack is genuine while unfortunately also often one-sided due to respective media brainwashing. Therefore, for political leaders, instead of references to international law or ‘rules based order’, it would be less hypocritical to state, as Dean Acheson—a distinguished American diplomat and lawyer, the Secretary of State from 1949 to 1953, did while answering the question about the legality of the US behaviour during the 1962 Caribbean crisis: “The power, position and prestige of the United States had been challenged by another state; and law simply does not deal with such questions of ultimate power- power that comes close to sources of sovereignty”.<sup>42</sup> For political leaders of major powers in the battle

<sup>39</sup> *Ibidem*, p. 341.

<sup>40</sup> Kissinger, Henry, *Leadership: Six Studies in World Strategy*, Allen Lane, 2022.

<sup>41</sup> Henry Kissinger on Ukraine and China, *The Spectator*, August 1, 2022.

<sup>42</sup> Acheson, Dean, “The Cuban Quarantine: Implications for the Future”, *Proceedings of the*

for, as well as against, geopolitical and geo-economical domination of the world; not only international law, but also morality and humanitarian concerns matter very little, if only as propaganda tools.

## VI. ANY WAY OUT OF THE CURRENT NIGHTMARE?

Without entering into the wishful thinking about the perpetual peace or a war to end all the wars, one could be still justified in asking what can be done to end the current geopolitical nightmare. How could the world come out from this conflict with a minimum of damage and without paving the way for new conflicts? There have been different ways of ending armed conflicts among which I would single out two opposites: the Versailles peace of 1919, which ended WWI, and the Vienna Congress of 1815, that drew a line under the Napoleonic wars. If the first paved the way for WWII, leading some historians to consider these two world wars as different stages of the same conflict, the second guaranteed relative peace in Europe for almost a century. The Versailles treaties not only humiliated and weakened Germany but also excluded it from what could be considered as a Concert of Europe for the twentieth century League of Nations. This was quite different from what had done the Congress of Vienna of 1815, though in contradistinction to how European powers had sleepwalked to WWI, it had been Napoleonic France that had wilfully invaded other European nations. Nevertheless, France became a part of the Concert of Europe, though without Napoleon, yet Talleyrand remained.

The Cold War ended with the triumph of the United States. Russia, notwithstanding all the efforts of Russian leaders in the 1990s to please Washington and to be liked in the West, was never included in the European security structures, which were led by the US and centred on NATO. This means that the Cold War ended with arrangements, which were closer to the Versailles spectrum of ending conflicts, with terrible consequences, as we see. Now the question is: would Western leaders, after the arrival of relative calm or stalemate in Ukraine, choose the way of Clemens von Metternich and Viscount Castlereagh, or that of those whom, after the First World War, paved the way for an even more terrible military conflict. And

*American Society of International Law*, 1963, p. 14.

even justifiable moral indignation, especially as it is whipped up in order to consolidate the ranks, is a poor guide in foreign policy decision-making. And it is true for all sides. Compromises and recognition of security concerns of all states will be must. It is necessary to admit that the world is too big, complex, and diverse to have its rich tapestry to be flattened into a carpet where only one pattern, be it of a Judeo-Christian, Anglo-Saxon, Confucian, Muslim or even secular liberal-democratic, would dominate. Coexistence, cooperation, and peaceful rivalry between societies with different political, economic, religious and social models is a *conditio sine qua non* for a relatively peaceful world. No system is perfect while some may be quite horrible, though outside attempts to improve them usually fail. And the centuries old truth that only an equilibrium or balance between major players can guarantee more or less sustainable, never perpetual, peace, has to be accepted.

## VII. REFERENCES

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