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Igor Paryzkyi*
PhD in Law, Doctor of Economic Sciences, Professor
National Academy of Management
03151, 15 Ushynskyi Str., Kyiv, Ukraine
https://orcid.org/0000-0001-6835-5930

Violations of administrative and criminal law as component of political activity

Abstract. This study was conducted in light of the growing role of criminal law mechanisms in regulating political processes, and the transformation of the category of "political crime" within the international legal order. The study aimed to examine the evolution of the concept of political crime and identify models of its legal reinterpretation. The methodology involved applying historical-legal and comparative-legal analyses to compare the legal regimes of the United States, Turkey and the Russian Federation, as well as using case study methods and critical discourse analysis. The research revealed that the classical doctrine of political crime, which originated in nineteenth-century European law, was intended to protect political opposition from persecution, but was systematically degraded in the second half of the 20th century. After the Second World War, it was found that international law had abandoned the universal consideration of political motive in favour of the principle of individual criminal responsibility for international crimes. The establishment of international criminal justice was shown to lead to a significant narrowing of the scope of political immunities. The results of the analysis indicate that, in the 21st century, political crime has ceased to function as an autonomous legal category and has instead transformed into a multi-level mechanism for regulating the political sphere. In democratic states, it is mainly used to hold public officials accountable for corruption, abuse of power, and excess of authority. In contrast, in authoritarian and hybrid regimes, criminal law is systematically applied to criminalise political activity, shape selective law enforcement and neutralise opposition figures. The analysis also covered the spread of lawfare strategies, in which law is used as an instrument of political struggle and to delegitimise opponents. It was substantiated that international law is reinterpreting sovereignty not as an absolute privilege but as a form of state legal responsibility, expanding the boundaries of international jurisdiction and altering the legal status of senior officials. The practical significance of the study lies in the possibility of using its results in scholarly, analytical, and educational activities, particularly in the preparation of professional legal opinions, analytical materials, and comparative reviews in international criminal law

Keywords: authoritarian regime; repression; democratic institutions; tribunal; corruption

Introduction

The relevance of political activity to the violation of criminal law is given by the shift in the relationship of law and politics that took place in the second half of the 20th century and in the first quarter of the 21st century. In the circumstances of the institutionalisation of international criminal justice, universality of the competence of international judicial bodies and growing significance of criminal law for state security, political activity has two legal connotations. On the one hand, it is regarded as a threat to the constitutional order or public security. On the other hand, certain political activities use it to legitimise their unlawful acts and evade criminal liability. This double legal meaning makes the distinction between lawful political activity and criminally punishable acts unclear. It creates difficulties for law enforcement and inconsistency between national and international criminal law. In 19th-century and early 20th-century legal doctrine, political activity was regarded as a legitimate tool for combating power, an expression of freedom of opinion and a right to political resistance. This perspective was reflected in classical political crime theory and in the notion of the "political exception" in extradition law. According to this notion, political motivation was treated as a circumstance mitigating or excluding criminal liability. In this framework, the criminal law dimension of politically motivated acts was replaced by political or philosophical arguments referring to the public interest, revolutionary expediency or the fight against tyranny. These arguments were used to justify regarding the political sphere as a relatively autonomous realm free from criminal law. However, after the Second World War, the

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**Corresponding author*

establishment of the system of international criminal law and the gradual expansion of the jurisdiction of international judicial institutions led to this approach being revised. Political activity began to be viewed not only as a means of exercising rights and freedoms, but also as a potential means of committing international crimes, including aggression, crimes against humanity, war crimes and transnational corruption. In this context, there was a particular focus on clarifying the theoretical and practical criteria by which political motivation and personal status cease to be justifying factors and, conversely, acquire criminal law significance. This determined the focus of this study.

The interaction between law and politics in the criminal sphere was the subject of active scholarly debate between 2020 and 2025, as reflected in the numerous academic works produced during this period. In particular, D.M. Brinks & G. Pérez (2025) conceptualised the dual nature of recourse to legal mechanisms. The authors examined the consequences of the legalisation of social relations and analysed the destructive potential of "lawfare", which is characteristic of political regimes in the early 21st century. They demonstrated how judicial institutions can become arenas of political struggle where legal norms are used to delegitimise and remove opponents. F. De Francesco & P. Trein (2020) conducted a comparative analysis of issues of transparency of political influence, examining the correlation between levels of corruption and the dynamics of implementing lobbying registers. The researchers empirically demonstrated that although major corruption scandals prompt the adoption of regulatory mechanisms, such instruments remain ineffective without proper oversight. Against the backdrop of Russia's full-scale invasion of Ukraine, the issue of international responsibility took on particular significance, as addressed by V.A. Shatilo *et al.* (2023). The scholars substantiated the need for a comprehensive approach to qualifying the crime of aggression, highlighting gaps in the existing security system as of 2023. Particular focus was given to developing mechanisms to overcome the functional immunities of senior officials, which had previously rendered their effective criminal prosecution impossible. M. Shepitko (2022) highlighted the practical aspects of this problem, focusing on the procedural and forensic difficulties of investigating crimes during active hostilities. The author emphasised the specifics of collecting evidence in de-occupied territories. Access to crime scenes was limited, and a proposed adapted methodology for documenting war crimes under conditions of destroyed infrastructure was proposed.

E. Tsybulenko & H. Rinta-Pollari (2023) identified jurisdictional obstacles to prosecution. They assessed the limitations of the International Criminal Court's mandate, which lacks universal jurisdiction over the crime of aggression. Based on this, they argued that establishing a special tribunal to hold the highest leadership of the aggressor state accountable was inevitable. R. Veresha & V. Karpuntsov (2025) examined the transformation of the role of criminal law in the context of hybrid warfare. The authors analysed the semiotic aspects of qualifying new types of criminal acts arising from the evolution of conflict methods in the 2020s, proposing ways to adapt legal doctrine to existential threats to national security that transcend traditional criminal law. O. Berezovska-Chmil (2023) analysed institutional differences in the functioning of legal systems, comparing democratic and authoritarian regimes. She identified fundamentally different approaches to legitimising political decisions and understanding sovereignty, which directly affect the level of human rights protection.

V. Nahnybida (2022) analysed doctrinal problems relating to the implementation of state jurisdictional immunity when enforcing judicial decisions in third countries. They traced the evolution from absolute to functional immunity in private international law, examining the practice of levying execution on state property as a means of compensating for damage caused by sovereign acts. I. Skrypchenko (2024) studied the socio-psychological determinants of political violence using the example of the storming of the US Capitol on 6 January 2021. Using the theory of relative deprivation, the author demonstrated that subjective feelings of injustice and loss of status among certain social groups can be key mobilising factors. T. Slipeniuk (2024) systematised the tools for counteracting the abuse of procedural rights in Anglo-American legal systems, identifying effective safeguards and judicial doctrines that ensure good faith. This reveals the mechanisms that prevent criminal proceedings from being used for purposes unrelated to justice.

Despite the substantial body of research, previous studies have not adequately addressed the issue of political activity as a mechanism and instrument of criminal offences in the context of changing sovereignty and the proliferation of lawfare strategies. This study aimed to comprehensively examine the evolution of approaches to the criminal law assessment of political activity at national and international levels. To this end, the study set out to analyse doctrinal and historical-legal approaches to the concept of political crime and to outline the consequences of the instrumentalisation of criminal law for the international legal order and the concept of sovereignty.

Materials and Methods

The empirical basis of the study consisted of a set of regulatory legal acts. It also consisted of decisions of national and supranational judicial bodies. In addition, it consisted of reports of international monitoring missions. Finally, it consisted of diplomatic documentation. The study's chronological scope covers the period from the late twentieth century to the first quarter of the 21st century (1998-2025). This enabled the evolution of the instrumentalisation of criminal law to be traced, from the establishment of international criminal justice to the contemporary escalation of repressive practices. A separate group of sources comprised a historical document from the late eighteenth century, which was used to retrospectively analyse the genesis of the concepts of neutrality and sovereignty. In particular, Thomas Jefferson's letter to Edmond Charles Genet (1793) made it possible to trace the early ideas about the limits of state neutrality and responsibility in foreign policy conflicts. Sources were included in the sample if they contained legal norms or precedents regulating the intersection of national security, freedom of expression, and international responsibility. The sample included acts containing provisions on the criminalisation of political activity, the status of foreign agents, extradition and state immunities. Cases and standards pertaining to commonplace criminal infractions devoid of political or international implications were excluded.

The body of sources was structured at three levels, with each level containing a specific type of source. At the international level, fundamental instruments that define the limits of state sovereignty and responsibility were examined, including the Rome Statute of the International Criminal Court (1998) and Resolution No. RC/Res.6, “On the Crime of Aggression” (2010). The Penal Code of Turkey (2016) and reports by the European Commission (2015; 2022) were examined at the national level. For the Russian Federation, analytical reviews by immigration attorneys, reports by the U.S. Department of State (2023) and materials by Human Rights Watch (2022) were analysed. For the United States, the focus was on guidelines for applying the Foreign Agents Registration Act (1938), the UK-USA Extradition Treaty (2012) and analytical memoranda from the Center for Strategic & International Studies (2021).

Judicial practice constituted a separate empirical block. Decisions in the Case of Regina… (1999) and Case of Jones… (2006) were analysed to determine the limits of functional immunity. The Supreme Court of the United States’ decision in Perez Jimenez v. Aristeguieta (Supreme Court of the United States, 1963) was examined to define the scope of the “political exception” in extradition law. Using the case-study method, the Eain v. Wilkes decision was analysed to provide empirical material on US judicial approaches to distinguishing between political and ordinary crimes in extradition proceedings (Tuggle, 1981).

Materials from extradition proceedings concerning former heads of state, in particular the cases of Marcos Pérez Jiménez and Alberto Fujimori, were also used to analyse national courts’ approaches to distinguishing political and ordinary offences in corruption cases (Prusak, 2010). For historical-legal analysis, materials of the Nuremberg International Military Tribunal in the case of Julius Streicher were used to study early approaches to qualifying propaganda as an international crime (Nuremberg Trial Proceedings…, 1946). Issues of personal immunities in international law were analysed on the basis of the International Court of Justice decision in the Arrest Warrant case (Democratic Republic of the Congo v. Belgium), a key precedent for the doctrine of immunity *ratione personae* (Goldmann, 2009). The Grand Chamber judgment of the European Court of Human Rights in Selahattin Demirtaş v. Türkiye (No. 4) was cited as an example of the case-study method for analysing politically motivated criminal prosecution and its compatibility with Article 18 of the Convention (Yeşil, 2025). Materials by B. Çalı (2022) were used to examine the practices of executing ECtHR judgments and the institutional mechanisms for confronting legal conflicts between national sovereignty and international obligations.

The methodological strategy was based on rejecting universalist approaches in favour of specialised legal and political science tools. The comparative legal method was applied to analyse the legislation of the United States, Turkey, and the Russian Federation, including criminal codes, foreign agent laws, and extradition provisions, as well as international instruments such as the Rome Statute (1998) and Resolution No. RC/Res.6 (2010). The formal-dogmatic method was used to analyse the legal structure of criminal-law norms and immunities. The case-study method was applied to judicial precedents, including the Case of Regina… (1999) and Perez Jimenez v. Aristeguieta (Supreme Court of the United States, 1963). The neo-institutional method was used to analyse the functioning of judicial and law-enforcement bodies based on court decisions, reports of international organisations, and official state documentation. The limitations of the study are determined by the lack of access to materials from closed court proceedings in the Russian Federation and by the dynamic nature of the armed conflict. It complicates the final verification of the long-term legal consequences of ongoing legal transformations.

Results

The evolution of the boundary between politics and crime in international law. The notion of “political crime” is one of the most contested and conceptually indeterminate categories in legal scholarship. It has developed at the intersection of criminal law doctrine and the practices of political confrontation. Classical doctrine interpreted the concept through a dichotomous lens. On the one hand, it was the commission of acts directed against the basis of state security, such as treason, espionage, and insurrection, and acts that were subject to particularly severe criminal repression in national legal orders. On the other, it was an act committed for reasons of public interest, or political necessity. In its international law guise, this was a concept that was dealt with in a traditional manner in the context of extradition as a ground of refusal of extradition and the application of safeguards (Tuggle, 1981).

The development of the doctrine of political crime reflects changing notions of the individual in relation to sovereign power. In early-modern times, acts directed against the sovereign or established political order were viewed as *crimen laesae maiestatis*, as an attack on the sacralised basis of political power, and punished in exceptional ways that incorporated aggravated forms of capital punishment. As a result of the liberal bourgeois revolutions of the eighteenth and nineteenth centuries, and the gradual establishment of liberal legal notions, however, a different notion of political unlawfulness developed. Political opponents were no longer regarded as ordinary criminal law offenders or enemies, but as persons engaged in a legitimate political struggle to transform a socio-political order regarded as unjust (Olsson, 2022).

With the spread of liberal ideology and rising movements for national liberation in Europe in the nineteenth century, the doctrine of political offence exception was established in the law of extradition. Based on the premise that the sovereign states should not be used by foreign governments for purposes of political repression or vengeance, the doctrine recognised the right of individuals to resist oppressive regimes. Liberal states, particularly those that were neutral, like Switzerland and Belgium, extended this by granting asylum to those engaged in failed revolutionary struggles in other countries in an attempt to limit their involvement in the domestic politics of their neighbours (Bassiouni, 2014). An illustrative example of this is Thomas Jefferson’s stance in 1793, when he rejected France’s demand for the handover of political exiles.

He argued that extraditing political opponents would effectively constitute complicity in their persecution, given that the criminal legislation of most European states at that time was largely repressive (Thomas Jefferson to..., 1793). This position established the foundation for the subsequent incorporation of political offence reservations in bilateral extradition treaties, which persist in contemporary international law, including the UK-USA Extradition Treaty (2012).

During the tumultuous events of the Second World War and the actions of the Nuremberg Tribunal in the second half of the twentieth century, the concept of political crime changed dramatically. The doctrine of act of state was rejected and a principle of individual responsibility was established; compliance with orders of the state or political motivation would no longer absolve a person from punishment for mass crimes. Genocide, war crimes and crimes against humanity were declared to be excluded from qualification as "political" offences under international law, preventing use of the political-offence exception for avoidance of extradition, and limiting immunities for senior officials (Werle & Jessberger, 2020).

In the law of the 21st century, distinguishing "political crime" which confers a special status, from ordinary criminal conduct or even terrorism has become more complex. Multi-dimensional tests for characterising political crime have been applied in both judicial decisions of national courts, and work performed by international legal institutions such as UN committees. The aim of such tests is to differentiate political acts that may be regarded as legitimate from criminal conduct that should be punished. Factors that have been found to be important include the target of the violence perpetrated and the nature of the means employed. A leading example is the judgement of a US court in 1981 in Egan v. Wilkes, where it was held that tactics aimed at destabilising society by terrorising its civilian population, including bombings in public spaces, could not be classified as political offences even where a declared political motive was present (Tuggle, 1981). The court held that 'indiscriminate violence against civilians' negated the doctrinal premise of the political-offence exception to extradition; the act was not aimed at state institutions.

Distinguishing political from ordinary crime makes qualification of corrupt conduct difficult doctrinally. Politically exposed persons who are accused of corruption often allege that criminal prosecution is used as a tool of political pressure; "lawfare". At the same time, however, contemporary international law increasingly regards grand corruption not as a merely financial or economic offence, but as a systemic crime that undermines democratic structures, the rule of law, and basic human rights. In contemporary cases of extradition involving former heads of state, national courts face a multi-dimensional legal challenge. Financial abuses and profit-driven offences are not traditionally recognised as "political crimes" in the classical doctrinal sense because they generally lack an element of uprising or direct attack on the political order. However, the defence frequently asserts that the allegations are fabricated and driven by a shift in political leadership (Prusak, 2010).

US case law, including the decision in Jiménez v. Aristeguieta (Supreme Court of the United States, 1963), established an approach according to which financial crimes committed for personal gain do not acquire a political character merely because of the high official status of the person who committed them. The idea of "systemic corruption" has become an increasingly important part of 21st-century thinking. This is the idea that when rich people take over state institutions, it should be seen as a different type of crime. In some cases, this could be seen as a serious attack on the constitution or, in very bad cases, as a crime against humanity. Another criterion for legal differentiation is the assessment of political actors' public speech. While freedom of political expression is a fundamental element of a democratic order, international law clearly limits its scope. In particular, the international community has recognised that direct and public incitement to genocide or aggressive war is an autonomous international crime. The precedent set by the trial of Julius Streicher at the Nuremberg Tribunal demonstrated that systematic hate propaganda integrated into a state mechanism of persecution entails criminal responsibility, even in the absence of direct participation in the physical destruction of victims (Nuremberg Trial Proceedings, 1946). Among the international crimes the crime of aggression is unique in that it is a so-called "leadership crime". Only persons in a position of legitimate control or effective political or military leadership over the conduct of the State can commit it. Here the political status of the perpetrator does not grant impunity; it forms part of the crime's material element. In this respect, this is a radical inversion of the usual paradigm of international criminal law in that a high political office entails responsibility instead of immunity.

According to Article 4 of the International Law Commission's Draft Articles on the Responsibility of States for Internationally Wrongful Acts, the conduct of every organ of the state at any level and in whatever position in the hierarchy of the legislative, executive or judicial branch is deemed an act of the state, as is the conduct of all sub – territorial government or administrative organs. Also related to the investigation of political crimes is the concept of ultra vires conduct, or conduct of officials which is in excess of or contrary to the authority which has been granted to them. Article 7 of the Draft Articles provides for the attribution to the state of the conduct of a state organ or a person who has been empowered to exercise certain governmental functions, even if the powers have been exceeded, if that person has acted in an official capacity. This provision is essential to the enforcement of international responsibility of states.

Traditionally, customary international law distinguishes between immunity *ratione personae* and immunity *ratione materiae*. Immunity *ratione personae* applies to a restricted category of high officials and is unconditional for the duration of their office, established by the International Court in the Arrest Warrant case (Goldmann, 2009). Immunity *ratione materiae* applies to acts in an official capacity and survives after leaving office. However, it is said not to apply to international crimes. The UK House of Lords ruled in Case of Regina... (1999) that torture was not within the proper function of the state. In a civil matter, this was confirmed in the Case of Jones... (2006). This creates a situation of functional asymmetry between criminal and civil responsibility.

In the 21st century, the scope of international law has expanded to include democratic order and the environment among the protected interests. Within the regional systems of the Global South, a new approach is emerging that considers unconstitutional changes of government to be internationally wrongful acts. The African Union's Malabo Protocol (2014) proposes criminalising such behaviour, and the Inter-American human rights system has effectively delegitimised "self-amnesties" adopted by authoritarian regimes through judicial practice. The concept of ecocide has acquired particular significance (Fombad & Steytler, 2021). The definition proposed by an Independent Expert Panel in 2021 envisages responsibility for knowingly reckless acts causing widespread or long-term environmental damage. This could potentially enable the prosecution of political leaders and corporate executives (Center for Strategic & International Studies, 2021).

Perceptions of political crime have evolved significantly over time, reflecting shifts in the conceptualisation of sovereignty. Whereas a state's internal acts were treated as a domaine réservé under the classical Westphalian model, sovereignty is increasingly interpreted as a form of responsibility in contemporary international law. The category of "political crime" is losing its function. It is no longer a protective institution for the individual. It is becoming a basis for heightened responsibility among public officials. Within the contemporary international legal order, political power ceases to be a source of privilege and is increasingly regarded as a source of legally relevant duty (Peters, 2016). In sum, the evolution of the category of "political crime" marks a fundamental shift in legal paradigm. This shift goes from the liberal protection of opponents of power through the institution of non-extradition. It also goes to the consolidation of the principle of the inevitability of punishment for senior officials for international crimes.

Political activity within the system of criminal-law control. To explain the mechanisms by which political activity is criminalised, it is useful to consider the theoretical legacy of Ernst Fraenkel, particularly his concept of the "Dual State", developed on the basis of Nazi Germany and applicable to the analysis of hybrid regimes from later periods. Fraenkel distinguished between two interrelated yet functionally distinct dimensions of state power that coexist within a single political entity (Fraenkel & Meierhenrich, 2017). The normative state was defined as the segment of the state apparatus that operated on the basis of formalised legal norms. It also operated under formalised legal procedures and rules. This provided the necessary predictability to sustain economic activity, routine administration and the resolution of everyday social conflicts. In this dimension, judicial and administrative decisions were based on written law, allowing for the rational prediction of law-enforcement outcomes. In contrast, the prerogative state functions as a sphere of political arbitrariness, where decisions are dictated by expediency rather than law and the logic of emergency predominates, irrespective of any formal declaration. Unlike the predictable "authoritarian legalism" of the normative state, here the legal norm becomes a selective instrument for neutralising opponents, creating a condition of "dynamic uncertainty". The inability to predict how the law will be applied produces a "chilling effect" and induces self-censorship far more effectively than overt terror.

The development of the Russian legal order after 24 February 2022 was a shift from authoritarian law to a genuine military dictatorship. In these conditions, criminal law became part of an ideological system of oversight, creating a normatively determinate reality in which any public criticism of the official position of the state becomes a crime. The foundation of this repressive mechanism was the Federal Laws of 4 March 2022 (No. 31-FZ and No. 32-FZ), which instituted military censorship. The main provision of this law – Article 207.3 of the Criminal Code of the Russian Federation ("dissemination of knowingly false information") – provides for up to 15 years imprisonment (Human Rights Watch, 2022). Its legal meaning relies on a formal understanding of the criterion of "falseness": any information that contradicts briefings by the Ministry of Defence of the Russian Federation is automatically considered a crime. There is a presumption of the absolute truth of state sources in this understanding, with no consideration given to evidence of the bona fide mistake of the defendant. Complementarily, Article 280.3 of the Criminal Code ("discreditation") punishes evaluative judgments and even criticism of the army, again using the instrumentality of administrative prejudicial effect (criminal, as opposed to administrative, liability only arises after the repetition of an act) (U.S. Department of State, 2023). This article was tightened in 2024. This actualisation of the repressive potential of the system was continually strung along by the authorities. In July 2022, the censorship provisions were extended to all agencies of the Russian Federation that operate abroad (the National Guard, the Ministry of Foreign Affairs, and the Prosecutor's Office), effectively outlawing criticism of foreign policy. An important stage was the restoration in 2023-2024 of the institution of property confiscation for crimes against state security. This created an economic lever of pressure: the dissemination of "false information" for mercenary motives (including monetisation of online content) now entails the risk of asset seizure. By 2025, judicial practice had taken on the character of systematic terror. The qualification of anti-war statements through the aggravating circumstance of "political hatred" allows courts to impose custodial sentences (6-8.5 years) even for isolated posts without serious consequences. The granting of powers to Roskomnadzor to block resources extrajudicially led to the elimination of an independent media environment ("Dozhd", "Meduza", "Novaya Gazeta"). The scale of repression is confirmed by late-2025 statistics: more than 10,800 criminal cases under Article 207.3 of the Criminal Code, more than 550,000 administrative proceedings for "discreditation", and more than a thousand political prisoners convicted for non-violent protest (Immigration Attorneys, 2026). The normative dimension of the state was completely displaced by the prerogative one. The judiciary lost its subjectivity. It now functions solely as an administrative instrument. This is for implementing the regime's military-political decisions.

Unlike the Russian case, where the repressive legal framework was constructed within a short period to meet the needs of a specific military campaign, the Turkish experience illustrates the gradual erosion of democratic institutions through the long-term and consistent use of anti-terrorism legislation. In the academic literature, this model is described as "autocratic legalism", understood as the use of formally legitimate constitutional procedures and legal mechanisms to achieve authoritarian ends (Scheppele, 2018). The criminal prosecution of the former co-chair of the pro-Kurdish Peoples' Democratic Party, Selahattin Demirtaş, constitutes a demonstrative example of the instrumentalisation of the judicial system to neutralise political opposition. The Grand Chamber judgment of the European Court of Human Rights in Selahattin Demirtaş v. Türkiye (No. 4) of July 2025 reconstructs the logic of this mechanism in detail. The European Court of Human Rights found a violation of Article 18 of the Convention for the Protection of Human Rights and Fundamental Freedoms, one of the most serious findings in the Court's case law. It was established that the prosecution of Demirtaş pursued the ulterior aim of suppressing political pluralism and restricting freedom of political debate (Yeşil, 2025). The repressive framework rested on two key elements. In May 2016, the Turkish Parliament adopted a constitutional amendment temporarily lifting parliamentary immunity. The European Court of Human Rights characterised this step as a one-off measure aimed primarily at opposition MPs, in particular those of the Peoples' Democratic Party and the Republican People's Party; it amounted to an abuse of constitutional procedure and deprived the prosecution of foreseeability. A mechanism known as the "judicial carousel" was employed: after a national court ordered Demirtaş's release in 2019, the prosecution immediately initiated a new criminal case, formally based on the same facts but reclassified in legal terms. The European Court of Human Rights found this practice to be a deliberate circumvention of the state's international obligations.

The main tool used to criminalise the Kurdish opposition and civil society is Article 314 of Turkey's 2016 Penal Code, which makes it a crime to be a member of an armed organisation. This provision is problematic because of the extremely broad and unpredictable interpretation of both "membership" and the related category of "terrorist propaganda". Law enforcement practice equates lawful political activity with terrorism. Evidence of "membership" is drawn from public speeches and political statements. It is also drawn from social media posts that do not call for violence. Evidence is also drawn from lawyers' professional work defending political prisoners. Evidence is also drawn from participation in peaceful assemblies. In Selahattin Demirtaş v. Türkiye (No. 4), the European Court of Human Rights emphasised that the contested statements fell within the scope of protected political expression and did not incite violence. The absence of reasonable suspicion demonstrated that anti-terrorism legislation had been transformed into a political control instrument (Yeşil, 2025).

The concept of "institutional cohabitation", as explained by Fraenkel, is evident in Turkey when the normative and prerogative dimensions of the state coexist within the same bodies. A single judge may act lawfully in private disputes. At the same time, they may serve as an instrument of political repression. This can happen in cases against opponents of the authorities. This functional split resulted from the large-scale dismissal of personnel after the attempted coup in 2016, which led to the judiciary being staffed by loyal executors. The state of emergency (2016-2018) finally institutionalised this extra-legal sphere within the formal legal system through a system of unreviewable decrees (Akçay, 2021). The term "lawfare", originally coined by C. Dunlap Jr (2001) to describe a military strategy, has been transformed in the United States' domestic political context into an instrument for harming and delegitimising opponents through legal mechanisms. At the same time, the accusation of lawfare itself often serves a manipulative purpose, shifting the discourse from the legal realm (the fact of a legal violation) to the realm of political motives. This type of rhetoric undermines the court's role as a neutral arbiter and turns justice into a political object.

The prosecution of the events of 6 January 2021 has been the largest criminal trial in US history. One decision the prosecution had to make was whether to invoke the seditious conspiracy law (18 U.S.C. §2384). The challenge was drawing the line between a criminal conspiracy and political activity. The First Amendment gives almost total protection to political speech, such as urging people to overthrow the government, unless it is "inciting imminent lawless action". The prosecution persuaded the court that this was more than just a rhetorical exercise. This involved a tangible plan to violently disrupt the peaceful transfer of power. This involved stockpiling arms and planning their assault on the Capitol. Stewart Rhodes and other leaders received sentences of 18 to 22 years in prison, setting the important precedent that a violent attack against a democratic process is not protest. Legal commentators, however, warn that the statute's vague language could be used by other US administrations to silence leftist or green movements, as it prevents the enforcement of any US law by force. This could have ramifications for civil liberties (Zick, 2022).

Adopted to counter the propaganda activities of Nazi Germany, the Foreign Agents Registration Act (1938) was not particularly applied for decades and remained moribund. Its use exploded after 2016. This was in the context of an established Russian interference with the US electoral system. This was also in the context of a criminal investigation by Special Prosecutor Robert Mueller. The Foreign Agents Registration Act applies to a wider range of activities. This raises a debate. This debate is an academic and legal-political one. The debate relates to the issue of transparency vs. the stigmatising of certain political and expert activities. The definition of "foreign agent" is expansive, which is problematic. The Act does not require a formal contractual relationship or payment; it suffices that the activities were carried out "at the behest of" or "in the interest of" a foreign principal. This creates a zone of legal uncertainty. This affects NGOs, think tanks, consultants and journalists. Their work has a transnational element. Another issue is the politically selective enforcement of the Act: the instruments provided for under the Act may primarily target lobbyists linked to certain states, in particular China or Turkey, while similar activities on behalf of agents linked to the US's allies may be overlooked.

The US model, as outlined in the Foreign Agents Registration Act, emphasises disclosure and does not explicitly ban political or civic engagement. However, the term "foreign agent" is frequently and strategically employed by authoritarian regimes, such as the Russian Federation, to justify and legitimise their own oppressive actions. In such cases, references to the American experience function as a rhetorical justification device ("whataboutism"), despite the fundamental difference between transparency mechanisms and instruments for criminalising opposition activity (Table 1).

Table 1. Comparative analysis of instruments for criminalising political activity in national legal systems

Country	Key legal mechanism (instrument)	Object of application (target group)	Legal specificity and nature of sanctions
Russian Federation	Military censorship (Articles 207.3, 280.3 of the Criminal Code of the RF)	Anti-war activists, independent journalists, human rights defenders	Presumption of guilt: any information contradicting the official position is a crime. Sanctions include up to 15 years' imprisonment, confiscation of property, and liquidation of legal entities
Turkey	Anti-terrorism legislation (Article 314 of the Criminal Code: "membership in an armed organisation"). Lifting of parliamentary immunities	Political opposition (Peoples' Democratic Party), Kurdish activists, lawyers	Expansive interpretation: lawful political activity is equated with terrorism. Sanctions include prolonged pre-trial detention ("judicial carousels") and removal from elected office
United States	Foreign Agents Registration Act; Seditious Conspiracy (18 U.S.C. §2384)	Lobbyists for foreign governments; participants in violent actions against the state (6 January events)	Judicial oversight: adversarial proceedings; requirement to prove specific conduct (planning violence). Sanctions include compelled registration (stigmatisation) or imprisonment for violent offences

Source: compiled by the author based on Human Rights Watch (2022), Penal Code of Turkey (2016), Foreign Agents Registration Act (1938), U. Yeşil (2025), N. Robinson (2019)

A synoptic synthesis of the table data indicates that the legal instruments in question are equivalent in function, albeit with differences in normative elaboration and the severity of penalties prescribed. All of the instruments aim to constrain the space for legitimate political contestation. In an open dictatorship such as the Russian Federation, the state resorts to the crude criminalisation of dissent through military censorship. In a hybrid regime such as Turkey, the illegitimate procedural engineering of anti-terrorism legislation allows for the maintenance of a facade of legality. The US's implementation of the Foreign Agents Registration Act demonstrates that even in a democratic context transparency regulation may be used for purposes of stigmatisation in a highly polarised political arena, albeit with the mitigating safeguard of an independent judiciary. A common trend across all the considered jurisdictions is the gradual blurring of the boundary between the 'normative' and 'prerogative' state, where legal uncertainty becomes a tool of governance. The necessary basis for external projection of power is created by the internal consolidation of the repressive apparatus and the clearance of the political field, with national sovereignty being turned into a barrier that blocks the operation of international standards – an issue that will be examined in detail in the next section in the context of international immunities.

The international community's response and the legal consequences. One of the central conflicts of 21st-century international law is whether senior state officials, including incumbent heads of state, heads of government, and foreign ministers, can be held criminally responsible. In this area, two fundamental principles of international law come into conflict: the sovereign equality of states, which traditionally involves immunities to ensure stability in international relations, and the imperative to combat impunity for the most serious international crimes. The traditional understanding of immunity is clearly set out in the case law of the International Court of Justice, particularly in Arrest Warrant (DRC v Belgium) (2002) (Goldmann, 2009). In light of Belgium's legislative attempts to exercise universal jurisdiction over international crimes, the Court ruled that the issuance of arrest warrants by national courts against serving foreign officials contravenes customary international law. The ICJ upheld the absolute immunity *ratione personae* of incumbent head of state, head of government and foreign ministers for official and unofficial acts on functional grounds of effective exercise of the representative character of their position at the international level, The judgment outlined several alternative ways to hold such individuals accountable, including prosecution in their own state, the state of origin waiving immunity, accountability after leaving office, and the jurisdiction of international criminal tribunals. In doing so, the International Court of Justice effectively excluded national courts from pursuing serving foreign leaders. This left this field to international criminal justice. The Rome Statute of the International Criminal Court embodies a fundamentally different approach. Article 27 of the Rome Statute expressly removes the relevance of a person's official capacity, including that of head of state or government, for the purposes of criminal responsibility and the Court's exercise of jurisdiction. The "vertical" dimension of responsibility set out here means that immunities recognised in "horizontal" interstate relations cannot be invoked against international criminal adjudication. It is precisely this conceptual divergence between the International Court of Justice's approach and that of the International Criminal Court which generates tension within the contemporary regime of international immunities. A comparison of how immunities for senior officials are handled across countries shows that a different system for international criminal responsibility is emerging. This system depends not only on legal rules but also on geopolitical context (Table 2).

Table 2. Comparative analysis of regimes of international criminal responsibility and immunities of senior officials (Russian Federation, Turkey, United States)

Comparative criterion	Russian Federation (V. Putin)	Turkey (R. Erdoğan)	United States (officials)
Relationship with the ICC (Rome Statute)	Not a State Party. In March 2023 the ICC issued an arrest warrant for the President on suspicion of unlawful deportation of children	Has not ratified the Statute. Does not recognise the Court's jurisdiction. Not the subject of proceedings	Not a State Party. Actively resists the Court's jurisdiction through domestic legislation and sanctions
Immunity status (*ratione personae*)	The ICC applied Article 27 of the Rome Statute, rejecting reliance on official status as a shield	Full immunity under customary international law remains. No exceptions for the national courts of other states	De jure no immunity before the ICC (under Article 27), but de facto it is secured by the state's political and military weight
Legal basis of jurisdiction/ protection	Jurisdiction is based on Ukraine's declarations under Article 12(3) of the Statute in respect of crimes committed on its territory, regardless of the aggressor's nationality	ICJ case law guarantees the inviolability of the "troika" (head of state, head of government, foreign minister) from foreign criminal jurisdiction	The American Service-Members' Protection Act and a network of bilateral non-surrender agreements (Article 98 of the Statute)
Enforcement mechanism	Legal obligation of 124 ICC States Parties to arrest the suspect if he enters their territory	Absence of UN Security Council resolutions and formal investigations blocks attempts at prosecution	Authorisation for the US President to use military force to secure the release of US citizens detained by the ICC
Geopolitical consequences	Restrictions on international mobility, "toxicity" of contacts, risk of arrest	Retention of the role of regional leader and mediator; free participation in international summits	Creation of an exceptional regime in which national interests are placed above international legal norms

Source: compiled by the author based on European Commission (2022), P. Labuda (2023), Immigration Attorneys (2026)

Practice in the early 21st century suggests a three-tier system. Leaders of geopolitical hegemons are protected by a combination of legal and political instruments. Leaders of non-party states enjoy classical immunity. However, individuals within the International Criminal Court's territorial jurisdiction lose immunity regardless of their status as a head of state. The table data reveal a structural asymmetry in international justice, illustrated by the entrenchment of a "hegemonic exception" through the priority of domestic law in the US case, and by the fact that the decisive factor in the loss of immunity is not treaty participation but the territorial jurisdiction of the place where the crime was committed, as demonstrated by the comparison between the Russian Federation and Turkey. This suggests a shift from legal universality to selective justice, dependent on a state's geopolitical influence.

The limits of the ICC's jurisdiction, particularly regarding the crime of aggression, have intensified debate over the need for additional judicial mechanisms. The ICC is an important part of the international criminal justice system, but its remit is not all-encompassing. This means there are some gaps in the law that international institutions are trying to fill. The special jurisdictional regime governing the crime of aggression is a key driver of these debates. Unlike genocide, crimes against humanity and war crimes, with respect to which the ICC may exercise territorial or personal jurisdiction, the crime of aggression is subject to considerably stricter conditions. The Court's ability to adjudicate aggression is restricted under the 2010 Kampala Amendments to the Rome Statute. Specifically, the Court cannot hear cases of aggression committed by nationals of, or within the territory of, a state that is not a party to the Statute, unless the situation is referred by the UN Security Council. This mechanism is an effective means of preventing the senior leadership of aggressor states that have not ratified the Rome Statute from being held accountable, while simultaneously giving them a veto in the Security Council. The Russian Federation is an example of a situation where this creates a structural "impunity gap": the ICC can pursue certain crimes committed during the war, but it cannot prosecute the war itself.

To overcome this jurisdictional inconsistency, the establishment of a special tribunal for the crime of aggression has been proposed (Dannenbaum, 2022). However, possible models for such a body face the challenge of ensuring the accountability of senior officials. A tribunal integrated into a domestic legal system – even with international judges – risks being constrained by the International Court of Justice's Arrest Warrant 2002 precedent (Goldmann, 2009), which confirmed the absolute nature of the personal immunity of incumbent heads of state before national courts. The call from states and experts for the establishment of a purely international tribunal is growing. This would be set up by an international treaty or an agreement with the United Nations, recommended by the General Assembly. Only such a status would permit the application of the logic reflected in the practice of the ICC and the Special Court for Sierra Leone: that official capacity does not preclude international criminal responsibility (McDougall, 2023).

The issue of holding those responsible for aggression accountable is inextricably linked to the institutional issues facing the UN Security Council. The veto power enshrined in Article 27(3) of the UN Charter was intended as a compromise to secure the participation of major powers in the collective security system. However, it has also created a situation in which the permanent members are essentially beyond the reach of coercive mechanisms. The Russian Federation's use of the veto to protect its allies, as well as that of the United States and China, demonstrates that this instrument is used not only to preserve stability but also to block accountability (Trahan, 2020). Consequently, a systemic asymmetry emerges: while international law proclaims the prohibition of aggression as an absolute norm, the institutional mechanisms for its enforcement remain dependent on the political will of states that exert decisive influence over the system.

Impact on inter-state relations and sovereignty. The configuration of international relations is undergoing a fundamental transformation. At the heart of this change is the erosion of traditional Westphalian sovereignty, which is under pressure from new forms of hybrid confrontation. A notable trend is the use of domestic criminal law to pursue foreign-policy objectives. Described in academic discourse as "lawfare", this process involves the systematic criminalisation of political opposition within a state, thereby transforming its international legal personality (Mälksoo, 2024). Globalisation and the development of human rights in the second half of the 20th century have contributed to the deterritorialisation of criminal law, reinforcing the principle that sovereignty cannot be used to shield individuals responsible for the most serious crimes. In response to this trend, regimes that deploy sovereignty for the opposite purpose have emerged. In parallel, the concept of "sovereignty as impunity" has emerged, characterised by using state status as a barrier to accountability while actively interfering in the affairs of other actors. In this context, the term "lawfare" describes the targeting of opponents through the use of criminal, terrorist, or foreign-agent labels, with the aim of removing them from the political arena. This makes diplomacy impossible, undermines trust in international legal institutions and leads to the radicalisation of conflicts. An adversary loses their status as an equal enemy (*justus hostis*) and becomes the target of a policing operation to be neutralised outside the conventional rules of warfare (Sari, 2020).

The main result of internal criminalisation is its effect on international legal personality: the criminalisation of political movements is a way for the state to reduce the power of the people by placing opponents in a "grey zone" without legal protection. However, excessive repression can have the opposite effect, leading international institutions to recognise the de facto subjectivity of persecuted groups against the sovereign's will (Olsson, 2022). To illustrate this, it is necessary to consider how these theoretical constructs are implemented in practice, as this enables identification of the concrete mechanisms by which legal institutions become instruments of political struggle under different regimes.

The Russian Federation is an example of the profound transformation of sovereignty brought about by the criminalisation of politics. The concept of "state-organised transnational organised crime" is central to this model, with the state strategy and rule techniques of criminal governance. The Russian order's internal security mechanism is based on the constitutional primacy of domestic over international law, which enshrines the impunity doctrine. The tool that implements the doctrine is 'foreign agent' legislation, which criminalises all that is foreign-related. There are two systemic repercussions for the outside world – Russian Federation is pursuing an isolationist policy of systematically severing ties with international organisations, including the European Convention on Human Rights and the Council of Europe. By positioning human rights claims as a sovereignty violation, Moscow limits the legal space in which international standards apply. Also, positive export of repressive norms regularly, with the Russian "foreign agent" model being exported to the post-Soviet area (Kyrgyzstan, Georgia), creating an "international of repression" – a club of states that validate each other's abandonment of the rule of law (Wallace & Rodriguez, 2024; Tabatadze *et al.*, 2025).

The Russian use of lawfare in its foreign policy is aimed at criminalising and de-subjectivising adversaries, as demonstrated by Ukraine. Declaring a foreign government criminal conceals aggression under the guise of a "police operation" and renders international humanitarian law irrelevant. The weaponisation of sovereignty manifests itself in environmental blackmail and nuclear status to be above international law, making the regimes' survival depend on creating global threats and rendering diplomacy impotent by placing criminal practice at the centre of the state (Arndt *et al.*, 2023). Turkey is the child for 'transactional sovereignty" as the judiciary and anti-terrorism legislation are used to barter with Western partners for concessions on another front, and legal issues are the playing pieces in geopolitical negotiations. The judiciary was centralised after the failed 2016 coup, giving rise to "selective justice". Anti-terrorism legislation is expansively interpreted to classify non-violent political activities as support for terrorism. The case of Osman Kavala is illuminating: refusing to comply with the European Court of Human Rights to release him illustrates that domestic political symbols take precedence (Çalı, 2022). For the regime, keeping political prisoners behind bars illustrates the sovereign right to punish "enemies of the nation" even at the price of a crisis in its relations with the Council of Europe. This approach treats international law as a menu of options, allowing the state to select only the convenient norms while rejecting the burdensome obligations.

The impact of internal criminalisation on global security became apparent during the accession process of Sweden and Finland to NATO. Ankara turned the issue of Alliance expansion into a series of demands concerning the internal legal systems of the candidate countries (Wilson & Dost, 2023). Notably, Turkey demanded the extradition of political opponents and provided lists of individuals, including journalists and activists, who had been granted political asylum in Europe. The demands also included changes to Scandinavian legislation to introduce stricter anti-terror rules. In practice, this meant transferring a Turkish understanding of "security" into the EU legal framework. This strategy effectively held collective security hostage to domestic political struggles and set a precedent for direct interference by one state in another's legal system.

The US legal system is different from authoritarian models. It retains a capacity for self-regulation. However, it is under pressure from polarisation. The response to the events of 6 January 2021 demonstrated that the judiciary can act as a safeguard against political violence without completely dehumanising opponents. Participants in the storming of the Capitol were prosecuted within an adversarial process and under the oversight of independent courts, thus preventing the law from becoming merely an instrument of the executive. Nevertheless, Truth Decay continues to pose risks to the coherence of Washington's foreign policy (Williams & McCulloch, 2023). The United States actively employs extraterritorial jurisdiction (secondary sanctions and the Foreign Corrupt Practices Act) as a tool of global influence. This is an effective mechanism for combating transnational crime. However, such practices create tensions even with the closest allies. It fuels debate over "strategic autonomy" in Europe and attempts at de-dollarisation in other regions, which, in the long term, contribute to the fragmentation of the international legal space.

A comparative analysis reveals structural regularities in the effect of internal criminalisation on international relations. There is a tendency towards universal instrumentalisation of law. There is desubjectivisation of political adversaries. In all these instances, state actors use law to deprive their adversaries of their political legitimacy, although via different mechanisms. The Russian Federation completely repudiates the legitimacy of Ukraine and its own civil society, equating them to criminals. The same applies to Turkey with respect to the Kurdish movement and political opposition, whom it labels "terrorists", thereby excluding them from politics. The United States, for its part, effectively excludes certain actors from the global economic order through sanctions regimes and listing practices. This reduces their functional legal personality. There is fracturing of sovereignty and a trend towards a bloc-oriented legal reality. The global order is moving away from universal principles towards competing systems, which are rife with divergent views on the very concept of sovereignty. The spread of the concepts of "criminalised statehood" and "transactional authoritarianism" undermines the cohesion of North Atlantic Treaty Organisation institutions and makes them amenable to be instrumentalisable for intra-state political purposes. This makes it easier to reconfigure the international legal space. States try to extrapolate the workings of domestic criminal law to the international legal space through Interpol, extradition and sanctions. Turkey's insistence that Sweden must bend to its domestic legal obligations or the application of the Foreign Agent Registration Act shows how domestic concerns now dictate the parameters of the international security agenda. The politicisation of justice is detrimental to the democratic camp in that it enables autocracies to spread the idea of "sovereign democracy" and deny universality in relation to human rights. The revitalisation of international law cannot happen without decriminalisation of political life domestically.

To sum up, strategies of lawfare and the internal criminalisation of political opposition have ceased to be local phenomena and have become a key factor in the breakdown of the international legal order. Authoritarian regimes are able to export repressive norms and instrumentalise international institutions to delegitimise their opponents if they use state sovereignty as an "instrument of impunity". This has weakened a unified legal space and shifted towards a bloc-based reality, where domestic criminal law begins to dictate the conditions of global security. This has undermined the cohesion of even alliances such as NATO.

Discussion

The results obtained suggest that the category of "political crime" has evolved beyond doctrinal debates in the 21st century, becoming a key indicator of the degradation of the global security system. The study shows that the change within authoritarian legal systems – moving from "authoritarian legalism" to the "prerogative state" model – is not just a local phenomenon, but a way to break down the international legal order. In this system, the concept of sovereignty is used to ensure that top officials cannot be punished. The identified patterns confirm that the preservation of classical absolute immunities *ratione personae* in conditions of hybrid confrontation becomes a legal anachronism that legitimises the use of state institutions as instruments of international crimes.

The findings regarding the transformation of political regimes and the instrumentalisation of law take on greater significance when considered alongside contemporary scholarly work by foreign researchers. The study's comparative analysis revealed both common understandings of the crisis of international law and significant differences in analysis, driven by differing perspectives. While foreign scholars have typically focused on specific sectors or regions, this study offers a comprehensive approach, examining the issue through the lens of the "Dual State" concept and global geopolitical shifts. R. Scott's (2025) question about using administrative procedures as a form of punishment relates to the mechanisms identified in this study. However, there are significant differences in the contexts in which the two issues arise. The American scholar's focus on immigration law as a tool for using the law against non-citizen political dissidents, along with their argument that democratic states can create zones where legal protection for outsiders is reduced, is what is meant by "weaponising" law. In contrast, this study revealed a contrasting tendency: authoritarian regimes (such as the Russian Federation and Turkey) employ comparable mechanisms of exclusion not against migrants but against their own citizens, effectively transforming them into "alien elements" through the labelling of "foreign agent". While R. Scott's analysis focused on selective enforcement within a functional judiciary that still allows for appeal, this study's findings demonstrate the absence of legal protection when the judiciary is integrated into the repressive apparatus. Consequently, R. Scott's conclusions about administrative pressure are applied here to the domain of criminal law. In this context, the outcome is not deportation but perpetual imprisonment.

In the field of international criminal law, a significant dialogue has emerged in light of the theoretical work of A. Khan *et al*. (2021), who examined the normative system of responsibility for the crime of aggression. The study focused on how the Rome Statute should be interpreted and on identifying more effective legal phrases to expand the International Criminal Court's jurisdiction. The focus of this research has shifted from normative idealism to hard political realism, demonstrating that the primary obstacle to justice lies not in legal contradictions but in the institutionalised inequality of subjects of international law. The authors argue that possession of a nuclear arsenal and a veto in the UN Security Council creates a de facto immunity that cannot be overcome through legal instruments alone, a point not addressed by previous authors. The picture is complemented by the present analysis, which shows that the mechanism of Article 27 of the Rome Statute (the absence of immunity) is characterised by selective enforcement, because its implementation is blocked by the strategic immunity of geopolitical leaders. This means that the institution of international responsibility changes from being a legal procedure to becoming an instrument of power confrontation.

When comparing approaches to the nature of political violence, as outlined in D.K. Gupta's (2020), fundamental divergences were identified. The author treated terrorism as a bottom-up process of radicalisation among marginalised groups, providing a detailed description of the life cycle of violent organisations and their ideological evolution. The present study takes a different sociological approach, looking at terrorism from the perspective of the "state-as-constructor". This term describes a state that uses anti-terrorism rhetoric as a technology of political management. Based on Turkish and Russian legislation, it is demonstrated that the concept of "terrorism" has lost its original meaning (the perpetration of violent acts) and has evolved into a universal legal label for criminalising any form of opposition. While D.K. Gupta's research focused on real security threats, this study reveals how the state can create false threats by designating peaceful citizens as "terrorists". This is used to justify the use of emergency powers and repression.

The issue of authoritarian-regime accountability, central to J.R. Suesser (2022), is further specified institutionally in this study. J.R. Suesser observed the ineffectiveness of international tribunals in addressing violations in Syria, China, and Russia, attributing it mainly to external factors – the weakness of international institutions and the absence of political will. The present research examines the question from within the regimes and through the lens of Fraenkel's "normative" and "prerogative" state. That shows that the protection from international justice is achieved not just through limiting the external coercive powers, but also through the active construction of a closed domestic legal sphere in which domestic legislation (including military censorship provisions and "discreditation") is actively customised to take precedence over international legal obligations. The results therefore reframe J.R. Suesser's conclusions: impunity is not merely the outcome of systemic malfunction, but the product of a deliberate state strategy of legal sovereigntism.

The empirical evidence on the judicial power's presented in B. Esen (2025) was applied to Turkey but elaborated on here. B. Esen documented in detail the processes by which courts are rendered submissive to the executive in competitive authoritarian regimes, focusing on purges and design. This body of work is elaborated on by linking these processes to the expansion of foreign policy. A process that B. Esen did not explore is identified: the internationalisation of domestic repression in Turkey through its demands to Sweden and Finland to extradite its political opponents. A subordinated judiciary is shown not to be a purely domestic problem but one involving geopolitical blackmail that can disrupt security coalitions, such as NATO.

A comparative reading of the "foreign agents" institution T.T. Holyoke (2020) thus enables us to clear distinction between democratic and authoritarian models T.T. Holyoke regarded the US Foreign Agents Registration Act as a legititimate institution in the service of the end of the transparency of political lobbying essential to the pluralism that democracy demands. In contrast, the present study shows that the formal adaptation of this legal institution by authoritarian regimes (the Russian Federation, Georgia, Kyrgyzstan) has brought about an entire inversion of its functional purpose. It is argued that in the absence of an independent judiciary and without a and political competition, the registration mechanism becomes an instrument for the elimination of political and civil rights. This juxtaposition enables us to reach a conclusion not made by T.T. Holyoke: the same legal practice in different regimes can have functions that are opposite to each other, even destructive of the democratic order.

In summary, the term "political crime" has changed from a topic of specialised doctrinal disagreements to a major sign of a problem in the global security system in the 21st century. The comparative analysis illustrates that the internal evolution of authoritarian regimes into a "prerogative state" model is not merely a localised occurrence but a systemic strategy for subverting the international legal order through the exportation of repressive practices. This substantiates the assertion that preserving classical absolute immunities *ratione personae* amidst hybrid confrontation constitutes a legal anachronism. It makes it okay for state institutions to be used to commit international crimes.

Conclusions

Synthesising the empirical and theoretical material reveals a fundamental inversion of the category of "political crime" in 21st-century legal doctrine. While, within the classical liberal paradigm, the concept served to protect individual rights and provide a basis for granting asylum, it has now become a mechanism for legitimising repressive practices and the total "de-subjectivisation" of opponents. Through Fraenkel's "Dual State" theory, it is demonstrated that in authoritarian regimes, the "normative" dimension of law has been definitively absorbed by the "prerogative" dimension, in which legal procedures serve solely to formalise political expediency.

A comparative analysis of the legal orders reveals various patterns of this legal evolution. The Russian Federation has forged a legal order for military dictatorships by imposing military censorship and foreign agent law to shut its legal order down to the fulfilment of its international obligations and render alternative information illegal. Turkey exemplifies "autocratic legalism", where being "legitimate" is part of the process and can hide a political agenda as the anti-terror laws are applied to make trials against the government opposition. By contrast, the US legal order maintains the independence of judicial review, distinguishing it from the autocratic legal structures of Turkey and the Russian Federation, despite crises surrounding the Foreign Agents Registration Act and its weaponisation amid political polarisation.

The study shows a big problem with the international responsibility system. This is because there is a clash between the need to stop people getting away with crimes and the idea that some people are above the law. The mechanism of Article 27 of the Rome Statute, as applied in the arrest warrant precedent for the head of the Russian Federation, encounters geopolitical constraints and the International Court of Justice's conservative position in practice. This produces a three-tier, asymmetrical system of justice that depends on a state's nuclear capacity. It is concluded that lawfare has transcended national jurisdictions, evolving into a means of exporting repression and a tool of geopolitical blackmail. This is evidenced by certain states attempting to leverage their membership of security alliances (as demonstrated by efforts to block NATO enlargement) to enforce their own extradition standards, thereby undermining the institutional unity of collective security. The findings demonstrate that the weaponisation of state sovereignty results in the dismantling of a unified legal order and the replacement of universal norms by a fragmented geopolitical one in which accountability for the most serious crimes, including the crime of aggression, is contingent on the exercise of military and political power rather than on law. The work's practical significance lies in its argument for setting up a Special International Tribunal for the crime of aggression. This tribunal would have jurisdiction that can overcome personal immunities, no matter what the Rome Statute ratification situation is like. Prospective areas for further research include studying the impact of digital technologies on the automation of political repression (digital authoritarianism), and analysing trends towards harmonising "foreign agents" legislation in Global South countries.

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