**CHAPTER 14** 

Russia-Ukraine War: A Study into Relationship between Nations, International Law

and Violations

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#### Abstract

The countries around the world strive for peaceful relationships with each other. Many International Conventions and national statutes prescribe for international peace and friendly relations. International Law is an important source governing the relationships of one state with the other. If one state does not abide by the International Law, then there are various sanctions encapsulated; and through this, the state which is at fault has to suffer, thereafter. The aspect of international peace around the globe is important to be highlighted as every now and then, there have been disputes among countries over various issues and they have been indulged in some or the other kind of attacks towards each other. Whether it is India Pakistan dispute, Taliban-Afghanistan disputes, Israel-Palestine, Indo-China or the most latest one i.e. Russia-Ukraine, all have been fighting with each other over the boundary disputes. The present article focusing on Russia-Ukraine war, shall discuss in detail the violations of International Law that occur during the wars and the sanctions which are imposed upon the country violating the International norms. The article shall try to analyze if the actions by Russia against Ukraine have been justified; the kind of sanctions which have been imposed upon Russia by various countries shall be discussed at length. The article shall also try to identify the role of India in Russian-Ukraine conflict. The paper shall be based upon secondary data. Various International Conventions and articles shall be looked into and analyzed to study the international relations and the wars.

Keywords: International Law, War, Russia, Ukraine, Sanctions, UN

#### I. INTRODUCTION

Peace is something every nation seeks for. But at the same time, for some nation states, it is not just the peace which it looks for but rather countries today want to be the most powerful nation states in the world. Having this aim of being powerful is not wrong but in the garb of being powerful, the measures that it takes to become powerful, that is of paramount importance. Article 51 of Indian Constitution promotes international peace and security by maintaining friendly relations with the other countries. It also provides that nation should abide by the principles of international law. United Nations was also established after the World War II to maintain peace all over the world. But unfortunately, despite of the efforts to attain peace, there are countries that try to violate the international norms and indulge in war-like situations. There are many countries across the globe that is facing boundary disputes with other nation states. But the Russian-Ukraine dispute which this paper is highlighting upon has taken a drastic turn, thereby resulting into war and in turn raising the suspicions are we heading towards World War III?

The research article is based upon Secondary data and descriptive study has been done to reach to the findings. The news articles and scholarly articles have been looked into to study the Russian invasion into Ukraine. The study analyses the following points-

- 1. Reasons of wars and what steps are being taken by international institutions and organizations to stop this war.
- 2. The study tends to analyze the stand of India in this war.
- 3. Also, the role played by United Nations is dealt with in the article.
- 4. Finally, the article tends to analyze the loopholes existing at international level that makes countries to violate the International norms and law.

### II. INTERNATIONAL RELATIONS: MEANING

According to Aristotle, man is a social animal by nature; and due to this he can't live in isolation. He has to depend upon other beings for existence. In the same manner, states are also not self sufficient and therefore, depend upon other states for various resources. This dependency of one State upon other involves a kind of relationship that exists between the two states and that is referred to as 'international relations'. International relations can be considered as a branch of Political Science which deals with the relations among the foreign states, the foreign policies of nations and the institutions through which they interact. International Relations cover a wide array of subject matters like peace and security around the globe, international trade relations, various organizations at international level, etc. Many different writers and scholars have defined the tern international relations but a good working definition of IR has been provided by Harold and Margaret Spouse, which states that, "those aspects of interactions and relations of independent political communities in which some element of opposition, resistance or conflict of purpose or interest is present."

There have been two views, i.e. one traditional view which discusses the concept of international politics and the current view dealing with international relations. The traditional view basically involves and considers that the nation states are the main actors in the politics whose politics and official relations are focused upon. The definition of Morgenthau deals with the problems related to power and peace. According to him, "international relations is a struggle for, and use of power among nations." Burton, on the other hand, explains and defines International relations as a kind of communication among the states which are peaceful and wherein, the states try to avoid any kind of conflict that may arise. The traditional view of international politics is now replaced by the current view of international relations, as it covers so many other aspects which were not covered under the old concept. The current concept of International relations covers the role of International institutions, peace and power relationships etc. (Gahatraj) Also, a huge political shift was observed after the Second World War; wherein the world politics was divided into two parts i.e. NATO that was led by USA and another was Warsaw Pact which was led by USSR. When the Soviet Union collapsed in 1990, there was single polarity in the world. But now there are many countries which are slowly and gradually emerging and growing economically, thereby taking the shift towards multi polar nature. (Biswas) International relations can be considered to be a kind of interdependency of one state over the other for various reasons. It was after World War –I that the International relations emerged as a separate academic discipline. The decree on the peace of the Soviet Union is an important document regarding the concept of International Relations. (Decree on Peace). Similar another important document dealing with international peace and relations is the "Fourteen Points Speech" given by President Woodrow Wilson in 1918. (Wilson, 1918)

The present article shall discuss the tensions which are prevailing between Russia and Ukraine and the legal violations that have been made in this war and the various sanctions that have been imposed. The importance of international peace shall be discussed in the further sections.

### III. INTERNATIONAL RELATIONS THEORY

There are various theories that are linked with International Relations concept. The traditional theories associated with the concept include liberalism and realism. Liberalism is also known as 'utopian' theory in IR. The proponents of this theory believe that peace and harmony between the nation-states is not something which is achievable; rather it is desirable among the states. According to Immanuel Kant, the states that share common liberal values don't generally go for war. The liberal states only desire for peace. In parlance to same, League of Nations was formed when President Woodrow Willow delivered his famous "Fourteen Points Speech". The main objective behind the establishment of League of Nations was to attain peace at global level. It was only after the League of Nations collapsed and Second World War took place that the ideas of liberals were replaced by the Realists. Realists tend to see the reasons and historical background of the conflict. They used to see that if two nations are at peace then what is that in the history that led them to

have conflict again. According to Thomas Hobbes, who propounded the 'social contract' theory, stated that a contract exists between the sovereign and the subjects and the subjects are bound by the rules of sovereign but not such concept exists when it comes to international level. Thus, in this scenario, the nations tend to involve in conflict like situation, thus, leading to wars. Unlike liberals who considered peace to be desirable, realists believe war as inevitable.

Another theory which is considered to be taking a middle path of both liberals and realists is Constructivism theory, which is the thinking of English schools. According to this theory, though the system at international level may be anarchic, but the fact cannot be denied that the system is guided by rules and norms. After this, is the critical approach which includes the thoughts of Marxism, Post colonialism etc? According to Marxist theory, there are certain strata of people who have been divided and segregated in the international scenario and are often ignored. Post colonialism highlights the inequality that exists between various nations. Feminism is also one such theory which is a part of inequality in international relations. (Glinchey, 2017) Post Second World War and after the collapse of League of Nations, United Nations came into picture. It functions as a mediator between the member states when issues and conflicts arise between them. It not only maintains peace but also help in upholding the human rights and in the development of nations. United Nations plays a major role in influencing the head of the State and also, helps in preventing violence.

## IV. INTERNATIONAL RELATIONS AND WAR

While each state is maintaining different relations with the other State. Some are at peace and have maintained friendly relations with one another while there are many who are ready to wage war against the other and then there are some who have already initiated the war against the other. A Prussian General and Military theorist Carl von Clausewitz in his philosophical work 'On War' (1832) stated that war is not any act of policy by any State rather it is a political instrument which is used by a State. (Clausewitz and 'New War' Theories). According to Clausewitz, the wars have a political purpose to them. This theory of Clausewitz is very much relevant to the wars that happen between the countries like Afghanistan, Syria, Russia and Ukraine. The present paper shall focus on the Russia-Ukraine War and the laws incidental to it. Article 1 of the U.N. Charter states that there should a mechanism for settlement of disputes which exist at the international level. (Article 1, United Nations Charter). The purpose behind the same is to maintain peace around the world. The Charter provides basis for the States to maintain amicable relations with each other. Article 33 of the Charter provides that the conflicts should be prevented and a peaceful settlement ought to be brought among nations. In cases of armed conflict among nations, it is the primary responsibility of the United Nations to protect the civilians. (Rule of Law and Peace and Security).

### V. THE 'WHY' OF RUSSIA-UKRAINE WAR-

Over the years, many nations, including Russia, Austro-Hungarian Empires, Poland, Lithuania, etc. have exerted jurisdiction over Ukrainian territories. It was in 1917 that Ukraine, through the formation of Ukrainian People's Republic got independence. After some time, Russia asserting control over Ukraine made it a part of Soviet Union which continued till World War II till the time Germany launched attack. (Sengal, 2022). Ukraine was considered to be a breadbasket for Europe as it was one of the most powerful nations of USSR. (Goshwami, 2022)

After the disintegration of Soviet Union, Ukraine and Russia maintained good ties. In 1994, a treaty was signed by Ukraine to become a non-nuclear weapon state and consequently, the nuclear weapons were destroyed by the Russians and removed from Ukraine. (Non-Proliferation Treaty). In return to this action of Ukraine, countries like Russia, U.K. and U.S. agreed to consider the political independence and territorial integrity of Ukraine and this was done by signing a memorandum known as Budapest Memorandum on Security Assurances. (22ht). Russia was also a member to Charter for European Security wherein it agreed that the participating states are free to choose their security arrangements. Though after some time, revolts started which is said to be the result of 2004 elections of President, wherein the opposition member was poisoned. It was suspected that there was involvement of Russia. Slowly and gradually many protests began and Russians military forces began to view these protests as undermining the security of Russia.

In 2010, Yankovych became the President of Ukraine and there were huge protests against him in 2013, because the President chose to have closer ties with Russia and decided not to sign the EU-Ukarine Association Agreement. Then, Yankovych in 2014, fled from the country as impeachment vote was passed against him. Then, later he was found in Russia where in a press conference he declared himself to still be the acting President of Ukraine and at the same time, Russia was beginning an overt military campaign in Crimea. It was in February 2014 that Russia started annexing Crimea. It first targeted the Parliament of Crimea, captured it and raised the Russian Flag. After this, Russia launched cyber attacks against Ukraine wherein the mobile phones of the Ukrainian officials were accessed to. On 15th April, Ukraine had to declare and state that Crimea has become a territory being temporarily occupied by Russia. In the same manner, the Russian invasion into Crimea got gradually expanded. There has also been a dispute between Russia and Ukraine over Kerch Strait in 2014. This Strait provided a kind of link between in the eastern ports of Ukraine, i.e. Azov Sea to Black Sea and Russia occupied a *de facto* control over this part as well, restricting the movement of Ukrainian vessels. The dispute in this matter became serious. There has been continuous conflict going between the two countries. In 2019, when Volodymyr Zelensky took over as the President of Ukraine, he promised to end the tensions and the war that has been taking in Ukraine region, Donbas. Again in 2021, it was being anticipated that Russia is going to wage war against Ukraine but it continuously denied the same. Before the period when Russia actually invaded Ukraine, there were accusations by the officials of Russia that there was repression and suppression of Russian speaking people in Ukraine. Even in February 2022, Russian President Vladimir Putin questioned upon the legitimate statehood of Ukraine and stated the

denial of any statehood status to Ukraine. He did not stop here and falsely accused Ukraine of being dominated by Neo-Nazis, thereby trying to raise anti-Semitic conspiracy theory. Anti-Semitism is a kind of racism wherein the Jews are discriminated. Russia also does not want Ukraine to become a part of NATO. On February 2022, Putin declared Donetsk and Luhansk to be recognized a people's republic. It was finally on February 24, 2022 that Russia invaded into Ukraine and Ukraine ordered Martial Law in the country.

Russia's annexation of Crimea is also considered to be breach of Budapest Memorandum and the security assurance that was promised to Ukraine over the Non-Proliferation Treaty. (Budjeryn).

The statements of Putin regarding the invasion into Ukraine do not find any strong base as according to Putin, he wants to demilitarize and de-Nazify Ukraine but President Zelensky states that he is a Jew. There are so many grounds which Russia states for invading Ukraine but all seems to be vague. (Kirby, 2022).

### VI. VIOLATION OF LAWS AND RUSSIA-UKRAINE WAR

Article 2 (4) of UN Charter has been violated in the Russia-Ukraine War. The provision requires that the member states of UN shall not use force against the territorial integrity and political independence of any state. (Article 2 (4) United Nations Charter). Though Russia claims, that its actions are justified under Article 51 of the Charter, which states that any member state of UN if has any armed attack on it, it will have the right of self defense. But, Ukraine had no intention or has not threatened to attack Russia and if Russia proves that Ukraine has intended to attack Donetsk and Luhansk, still its act under Article 51 of the Charter would not be justified as both Donetsk and Luhansk are not members of UN. (BellingerIII, 2022). Putin accused Ukraine of committing genocide upon Russians in Donetsk and Luhansk regions. But even the Genocide Convention, defines Genocide as a specific activity which tends to destroy a whole ethnic or religious group, (The Geneva Convention Office on genocide Prevention and the Responsibility to Protect) and there are no evidences and proofs regarding the same that Ukraine was trying to do any of the prescribed act. In addition to this, the act of Russia declaring the above two as independent regions was against the norms of international law which govern sovereignty and territorial integrity. Also, the intervention by Russia in case of Genocide must be first approved by UN Security Council; only then such act of intervention by it can be considered lawful and in consonance with the International Law. (Ulfstein, 2022). Russia has in 2008 rejected the view of Kosovo being independent from Siberia, on the other hand 97 other UN members accepted Kosovo as independent state. It also declared two regions of Georgia as independent states in 2008, i.e. South Ossetia and Abkhazia. (BellingerIII, 2022). Putin while stating the Ukraine's statehood as false and not genuine; rather fiction; has violated Article 2(1) of the UN Charter. Russia can also not justify its actions on the test of 'necessity' and proportionality. The concept that Russia tried to invoke of 'anticipatory self defense' is not recognizable in International Law. (Jaswal, 2022). Russia has not itself restricted to the armed bases but has also made civilians as its target, thereby causing humanitarian law violations. Geneva Convention IV specifically deals with the protection of civilians (Geneva Convention Relative to the Protection of the Civilian Persons in the time of War) and Article 51 (5) (b) of the Additional Protocol I prohibit all such attacks that have a direct and indirect impact on the civilians. (Protocol Additionalto the Geneva Convention of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I) of 8 June 1977). Both the parties are also signatories to Universal declaration of Human Rights, International Covenant to Civil and Political Rights, European Convention on Human Rights, etc. and therefore, violation of the fundamental rights of human beings have taken place in the Russian invasion into Ukraine. (Jaswal, 2022).

The question may also turn up if International Criminal Court (ICC) can hear the matter for the aggression of Russia in Ukraine. Prima facie, the answer is no. Because of the statutory limitations, the matter cannot be heard by the Court as only the countries signing the Rome Statute shall have the jurisdiction of the Court and Russia is not a member to this Statue but Ukraine agreed to the Court's jurisdiction and even asked that the crimes which are mentioned in Rome Statue, if committed from 2014 onwards in Ukraine, the Court will have the jurisdiction to look into the same. (Franzen, 2022). But still the matter is controversial if ICC will have the jurisdiction for the aggression used by Russia over Ukraine.

### VII. SANCTIONS UPON RUSSIA

Sanctions are kind of penalties which are imposed by one nation state over the other in case of violation of international norms. Russia has also been imposed with sanctions by many states. Many countries have condemned this invasion of Russia into Ukraine. During the annexation of Crimea also, various sanctions were imposed upon Russia. This time, more countries have participated in imposing sanctions. Singapore on February 28, 2022 became the first South east nation countries to impose sanction upon Russia. It imposed banking sanction. EU also imposed sanctions over the Russian politicians. The access to the EU capital market was also cut off by the sanctions upon Russia. The foreign exchange reserves of Russia held in EU have also been blocked. (EU Sanctions against Russia following the invasion of Ukraine, European Commission). Council of Europe has also recently suspended the participation of Russia in its Committee of Ministers. (BellingerIII, 2022). US has also imposed sanctions over Russia and stated that no investment shall be made it in Russia. Sanctions have also been imposed upon the government officials of Russia and their families which include the family of President Putin and Foreign Minister Sergei Lavrov's relatives. In addition to this, UK has also committed to stop all its imports by the end of 2022 from Russia, whether it is the coal or oil import. Sanctions have been imposed upon the largest bank of Russia, i.e. Sberbank. (What sanctions are being imposed on Russia over Ukraine invasion?)

The sanctions do not end here; Russian flights have been banned from the airspace of some countries, including US, UK, EU and Canada. Private jets from Russia have also been banned by UK. The export of luxury goods from EU and UK to Russia has also been banned. Sanctions have also been imposed upon the oligarchs.

Imposing the sanctions is not an easy task. The economies of countries around the globe are being hit hard by the sanctions imposed. The world has yet not emerged from the economic crisis suffered during COVID and the Russian invasion and sanctions have only worsened the situation. World Bank has turned up in the support of Ukraine, thereby financing the people of Ukraine in myriad ways. (Russian Invasion to Shrink Ukraine Economy by 45 percent this Year, The World Bank, Press Release No. 2022/ECA/79).

# VIII. ROLE OF INDIA IN RUSSIA-UKRAINE WAR

Ukraine has been seeking for help from various nations to stop Russia from continuing the war. President Zelensky requested Indian Prime minister as well to have interactions with Russian President Putin and try to solve the issue and bring peace to Ukraine. India has been avoiding in taking sides in this matter. India also abstained from the resolution that took place by the UN Security Council. Russia has been providing India with the defense purchases and India has also been consuming Russian oil. (Mazumdaru). India saw its priority in first evacuating the large number of Indian students trapped in Ukraine. Former Indian Diplomat Mr. Triguniyat as stated that India has adopted a balanced approach. According to Mr. Triguniyat, India has not turned blind eye to the plight of Ukraine people and has rather talked about the territorial integrity in the UN Security Council. (Pandey, 2022). India has ties and good relations with both the nations as India also gets gas turbine engines from Ukraine. India's response can also be justified as its primary responsibility is also the security and protection of its citizens, as Putin is also a friend to China. Russia is China's neighbor and any statement by India against Russia can prove fatal for the Indians, as there are already tensions prevalent between India and China over border issues. (Kamal, 2022).

### IX. ROLE OF UN IN THE WAR

United Nations is an international body with various member countries. UN Security Council is one of the powerful organs of the United Nations. The Council is made up of 15 representative states and out of 15, five are permanent members having the power of veto. In February 2022, President Putin announced a special military operation in Ukraine. The Security Council asked Russia to withdraw its troops from Ukraine but it defied the decision of the Council and vetoed the resolution. Due to this very reason, United Nations had to face a lot of criticism from the states around the world. The question then is what should be done in such circumstances. When Security Council is not able to reach to a conclusion, the matter can be referred to General Assembly. But the problem with General Assembly is that it does not have a legal sanction as that of the Security Council. When the matter is referred by the Security Council to the General Assembly, the veto does not apply. The Human Rights Council is the other body of the United Nations which has played a role in Ukraine war. It has investigated the human rights violations that have been taking

place in Ukraine. Ukraine is also trying to seek the help of International Court of Justice, another organ of UN. There have been instances when UN Security Council has succeeded in maintaining peace during such tension-like situations. (Inglis, 2022).

## X. CONCLUSION

Russian invasion of Ukraine has destabilized the peace across the globe. The invasions have also impacted the civilians of Ukraine and the economy of the world. Every country is condemning the actions of Russia. The invasion seems to be unlawful and in violation of International Law. It was correctly remarked by Holland that International law is the vanishing point of jurisprudence, since it is easily violated by the nation states and there is no authority to enforce it. There exists UN Security Council but that also seems to be helpless in this Russian invasion to Ukraine as Russia is the permanent member of UN. The saddening point is that even after so many years the situation has not improved with respect to International Law. Though amendments are done in the national laws from time to time but nothing is done with respect to International norms. Learning from the experiences of Russia-Ukraine war, it is high time, that some changes are required at the international level so that in a situation like today, where Russia has veto power and no action can be taken against it by the Security Council, should not arise in near future. If this continues, then the time is not far that all powerful countries shall be attacking the weaker ones and start annexing the territories. General Assembly should come up with some alternative where this veto power should be done away with; only then the wars by nations which are in violation of International law can be stopped. Henceforth, what is required is modifications at the international scenario so as to able to achieve the objective of United Nations i.e. peace and security. United Nations was established for this very purpose only after the Second World War ended. Therefore, in parlance to this important objective, steps are required to be taken and International Law should emerge as a strong law and not remain as a vanishing point of jurisprudence.

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