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## **INTERNATIONAL LAW VIOLATIONS WITH RESPECT TO RUSSIA - UKRAINE WAR**

Vrinda Tiwari<sup>1</sup>

### **ABSTRACT**

The war between Russia and Ukraine has triggered Europe's biggest refugee crisis and has invoked the attention of international institutions and states across the world. This research article attempts at answering pertinent research questions analyzing how Russia has violated principles of international law with respect to human rights, criminal law, humanitarian law, Geneva conventions and studying the Russian way of warfare in the light of the 2014 annexation of Crimea.

### **INTRODUCTION**

*“We cannot emphasize it enough: The targeting of civilians, of residential buildings, hospitals, schools, kindergartens, is inexcusable and intolerable.”*

Under-Secretary-General Rosemary DiCarlo in statement to the UN Security Council, 11 March '22.<sup>2</sup>

Right after the annexation and occupation of Crimea, the south eastern region of Ukraine by Russia in 2014, February 2022 witnessed the announcement of a 'special military operation' by the Russian President.<sup>3</sup> As per the UN, 12 million people in Ukraine will need relief and protection and 2.5 million people have already fled the violence. There has been an official record of 1546 civilian casualties as on 11<sup>th</sup> March, 2022 as per the UN High Commissioner for Human Rights

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<sup>2</sup> United Nations, 'Ukraine' *UN News* (United Nations, 11 March 2022).

<sup>3</sup> United Nations, 'Ukraine: World must unite in face of Russia's 'violation of international law' *News* (United Nations, 10 March 2022).

(OHCHR).<sup>4</sup> The World Health Organization (WHO) verified 26 attacks on health facilities, health workers and ambulances<sup>5</sup>. The object behind the same was to uphold the honour of the Minsk agreements and to liberate the regions of Donetsk and Luhansk-regions belonging to the south eastern part of Ukraine. The justification of the operation also includes the motive to impede the expansion of the North Atlantic Treaty Organization (NATO) towards Eastern Europe and “*stopping the war in Ukraine*”. President Vladimir Putin invoked Article 51 “*enshrining the inherent right of individual or collective self-defence*” of the UN Charter for the protection of Article 1 (right to self-determination) of the Donbas region<sup>6</sup>. A study of international reports highlights the unsustainable reasons given by Russia and the grave violation of international laws by Russia in achieving the same.

## **INTERNATIONAL LAW VIOLATIONS BY RUSSIA**

### **VIOLATION OF THE UN CHARTER**

Russia is responsible for the violation of the sovereignty of Ukraine and Article 2 of the UN Charter by recognizing the right to self-determination of Donetsk and Luhansk<sup>7</sup>.

Article 2(4) of the UN Charter prohibits the use of military force against the security, political integrity and territorial integrity of another state. In addition, helping a rebel group in a foreign country is prohibited as per the International Court of Justice. The 2014 annexation of Crimea and the military operation at Luhansk and Donetsk are an indication of the violation of the same. Acts like the revocation of Ukraine as an independent nation and calling out of the Ukrainian statehood as fiction

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<sup>4</sup> UNHCR ‘Terrified families seek shelter underground in Ukraine capital’ *UN News* (United Nations, 25 February 2022).

<sup>5</sup> WHO ‘Terrified families seek shelter underground in Ukraine capital’ *UN News* (United Nations, 25 February 2022).

<sup>6</sup> United Nations, *Charter of the United Nations*, Article 1.

<sup>7</sup> United Nations, *Charter of the United Nations*, Article 2.

violates Article 2(1) sovereign equality of all members, Article 1(1), Article 1(2), and Article 2(4) wherein the underlying principle of international relations is sovereignty forbids the use or threat of use of force against the territorial integrity or political independence of any state.<sup>8</sup>

### **VIOLATION OF HUMANITARIAN LAWS: ARTICLE 51 OF THE UN CHARTER AND GENEVA CONVENTIONS**

According to Amnesty International, the use of indiscriminate weapons like cluster munitions is banned since the launch of the same can kill and harm masses which is a war crime. News reports and suggest that there are widespread attacks across Ukraine and not just the two specific regions.

Russia invoked Article 51 of the UN Charter, however, there is no justification for the acts committed under the garb of “self-defence” since the tests of necessity and proportionality have not been fulfilled and the non-recognition of the principle of anticipatory self-defence under international law.

The attacks on masses violate the Geneva Conventions responsible for laying down the legal standards for humanitarian treatment in war, and international humanitarian standards. The four Geneva Conventions and additional protocols also establish the how are to be given protection since differentiating among combatants, civilians and non-combatants becomes imperative during any armed attacks and precautions should be taken to minimize harm to civilians. Article 51 (5) (b) of the Additional Protocol I prohibit such attacks that may cause incidental loss of civilian life, injury to civilians, and damage to civilian

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<sup>8</sup> ICRC, ‘Ukraine people’, *ICRC.org* (13 March 2022).

objects, especially in excess of the concrete and direct military advantage anticipated<sup>9</sup>.

### **VIOLATION OF INTERNATIONAL CRIMINAL LAW**

The horrific incidents in Ukraine, lining one after the other, are subject to the jurisdiction of the International Criminal Court of which Ukraine is a signatory. Articles 8(2)(b)(i), 8(2)(e)(i) and Article 8(2)(b)(iv) of the Statute recognize intentional attacks against civilians and civilian objects as a war crime. However, since Russia did not sign the same, bringing a case against it becomes difficult, although, the case of the Rohingyas' Genocide in Myanmar) is a classic precedent giving Ukraine the leverage to bring a claim under the International Criminal Court.

### **VIOLATION OF HUMAN RIGHTS LAW**

Ukraine's ombudswoman for human rights said she had recorded horrific acts of sexual violence by Russian troops in Bucha and elsewhere, including a case in which women and girls were kept in a basement for 25 days, the New York Times reported. Nine of those victims are now pregnant, according to the ombudswoman, Lyudmyla Denisova.

Since both the countries are signatories to significant covenants; like Universal Declaration of Human Rights, International Covenant to Civil and Political Rights, European Convention on Human Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment., which provide fundamental rights not limited to the right to life and dignity, the right to be secure from torture, ill-treatment and forceful detention, and the right to a fair trial even during a public emergency.

### **RUSSIAN WAY OF WARFARE**

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<sup>9</sup> United Nations, *Charter of the United Nations*, Article 51.

## **RUSSIA'S HYBRID WARFARE TACTICS**

This warfare essentially includes the use of unconventional methods of warfare in addition to traditional means of actions of the military forces. This includes propagandas, misinformation, economic coercion, cyber warfare, etc.

Understanding hybrid warfare with respect to the annexation of Crimea

- 1. Russian intelligence:** Annexation of Crimea witnessed the play of Russian intelligence, infusion of Russian soldiers in Ukrainian uniforms in Crimea, undercover civilian volunteers who helped in securing Ukrainian bases which ensured that the invasion happened smoothly and before the world could understand what happened. In this case, the, military build-up has happened openly and every move of Russia is being monitored.<sup>10</sup>
- 2. Cyber warfare:** While the first attacks on information systems of private enterprises and state institutions of Ukraine were recorded during mass protests in 2013, Russian cyber weapon “Uroboros” had been around since 2005. Russian cyber warfare continued with the Ukraine power grid hack at Christmas 2015 and again 2016, paralysis of the State Treasury of Ukraine in December 2016, a Mass hacker supply-chain attack in June 2017 and attacks on Ukrainian government websites in January 2022. Cyberattacks have helped Russia keep the Ukrainian security systems occupied with dealing with breaches and disruptions while in 2014,<sup>11</sup> they led to collapse of communication lines and hacking of government websites which remained dysfunctional for 72 hours. 2022 witnessed a major

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<sup>10</sup> Kishika Mahajan, 'Russia's hybrid warfare strategy: From Crimea to Ukraine' ORF (1 March, 2022).

<sup>11</sup> TarasKuzio, 'Euromaidan revolution, Crimea and Russia-Ukraine war: why it is time for a review of Ukrainian-Russian Studies', Eurasian Geography and Economics, DOI: 10.1080/15387216.2019.1571428.

cyber-attack on govt websites warning them to be afraid and expect the worst,. Russia's intelligence and military agencies have also been accused by Ukraine's military intelligence for providing tanks, mobile artillery, fuel, etc. in areas in eastern Ukraine.

### **USE OF THERMO BARIC WEAPONS**

Thermo baric weapons or vacuum bombs can suck oxygen from the atmosphere and cause violent explosions resulting in mass deaths and grave injuries, whose blast waves are longer when compared the conventional explosives and can vaporise human bodies<sup>12</sup>. As per the human rights groups active in the country and other relevant sources, it has been suggested that Russia has been attacking Ukraine with cluster munitions and vacuum bombs. The use of banned cluster munitions has been reiterated by Amnesty International and Human Rights Watch. As per the reports of CNN, a Russian thermo baric rocket launcher has been spotted near the Ukraine border.

### **RUSSIA'S MILITARY FORCE AND USE OF ARMS**

Russian military reforms have been significant and can be used in achieving national interests since the advanced military has a series of defensive bulwarks and their operations indicate a high level of coordination as is evident from the 2014 annexation of Crimea since the military units can achieve objectives within no time and Russian tactics, improved ISR capabilities, their fire platforms and integrated combined arms can disrupt and cause havoc easily.<sup>13</sup>

Russian strategy of war has been that of engaging decisively with the adversary by means of defensive systems and weapons and attempting

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<sup>12</sup> BT, 'What is a 'vacuum bomb' that Ukraine says Russia is using' *Business Today* (1 March 2022).

<sup>13</sup> Boston, Scott and Dara Massicot, *The Russian Way of Warfare: A Primer*. Santa Monica, CA: RAND Corporation, 2017.  
<https://www.rand.org/pubs/perspectives/PE231.html>.

at using indirect action strategies and asymmetric responses as can be seen in the two regions it “aims to protect”. Russia has threatened to use its nuclear weapons if the regime’s control of the state is undermined. Russian Armed forces have increased on the land and are readily available for short notice contingencies and Russian tactics indicate a heavy reliance on massed indirect fires, the effects of which are exploited by mobile vehicles with significant direct fire ability.<sup>14</sup>

## **CONCLUSION**

The inherent right of a nation to its sovereignty, the inherent right to life of its citizens and unprovoked armed aggression inside another nation cannot be justified, especially under international law.<sup>15</sup> The UN Chief quotes, “*We need a serious effort to improve global governance, manage risks and safeguard the global commons and global public goods.*”<sup>16</sup> Moreover, if this invasion continues and unfortunately becomes successful, as per the U.N., it will stretch humanitarian funding even thinner, increase global hunger and the non-traditional threats, along with cyber warfare, disinformation campaigns and threats from weapons can lead to mass destruction. There is a need for multilateral cooperation based on the values of the UN Charter.

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<sup>14</sup> Palu Murphy, ‘Troops and military vehicles have entered Ukraine from Belarus’, *CNN* (24 February 2022).

<sup>15</sup> United Nations, ‘Ukraine Crisis Response’ *UN News* (United Nations, 10 March 2022).

<sup>16</sup> United Nations, ‘Ukraine: World must unite in face of Russia’s ‘violation of international law’ *UN News* (United Nations, 10 March 2022).