

## RELEVANCE OF INTERNATIONAL LAW IN PREVENTING INTERNATIONAL CONFLICT: A CASE STUDY OF RUSSIA-UKRAINE



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### KEYWORDS

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### ABSTRACT

Russian invasion on Ukraine in 2022 raises the question on the relevance of international law which is supposed to preserve international peace. In the context of current Russia-Ukraine war the legitimacy and applicability of international law is being questioned, as it has not been able to protect human rights, which are grossly violated in such war. In this context, it becomes very pertinent to revisit the idea and practice of international law to find out where the fault lies, why it fails to provide the solution to international conflict, and what can be done to make the body of international law serves its purpose in the true sense. In light of these questions, this article attempts to examine the limitations of international law in relation to addressing the Russia-Ukraine conflict, and to reflect on how international law can become an instrument of protecting human rights by preventing international conflict and ensuring international peace.

### INTRODUCTION

In the 21st century, when in one hand we talk about a more peaceful, open and democratic international order, killing of people and destruction of resources are really disturbing to see. It is, in fact, antithetical to peace and democracy in international politics. That is why it is very timely to examine the role of international law which is required to promote justice, peace, and the common good. In the past, there was no established international law, and conflicts happened because of varied local laws in different parts of the world. However, today there are international organizations, international laws and conventions to regulate the relations between

nations. There are public international law and private international law as the two main categories of international law. Whereas public international law is to govern interactions between two or more governments on a global scale, private international law governs interactions between private citizens and governments. Human rights and humanitarian laws are the concerns of public international law, and the conflict between Russia and Ukraine has brought attention to these laws. One of the obligations of the United Nations Organization include upholding international law for a peaceful world order where human rights can be protected and preserved. Still, the world experiences the

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deadly war like that of the Russia-Ukraine one in the present time.

There are narrative and counter-narrative in favour or against both the countries. In one hand, it is argued that Ukraine as an independent and sovereign country has every right to decide whether to join any organization like NATO (North Atlantic Treaty Organization) or not, and so, on the pretext of Ukraine joining NATO, Russia is unjustified in invading Ukraine. On the other hand, it is argued that Russia cannot sit still when there is a threat due to NATO reaching its border. In this contradiction between one's sovereignty and the other's national security, international law is expected to come to the rescue by discouraging all the parties from going to war. But the war still continues, and this fact points to the necessity of revisiting international law vis-à-vis international conflict.

### **METHODOLOGY**

Researcher used both doctrinal and non-doctrinal method to collect the idea and data. Data have been collected from hundred respondents through a questionnaire consisting of twenty questions- both closed-ended (fifteen) and open-ended (five)-circulated through google form to students and faculties.

### **INTERNATIONAL LAW AND RELATIONS**

International law is a body of guidelines that governs interactions between nations, international institutions, and people. The primary goal of international law is to uphold justice and fairness between nations. Certain actions within the global community are constrained by international law. It

also makes an effort to address frequent problems. Both the combatants and the non-combatants are both protected under international humanitarian law, the public international law, sometimes known as the Law of Armed Conflict or the Law of War. During war, international human rights organisations are required to restrict the use of violence. But in reality, countless number of people are being killed in the current Russia-Ukraine war leading to the serious violation of international humanitarian law.

Success or failure of international law also depends to a greater extent, on international relations. In fact, the existing relations amongst different countries have their influence either directly or indirectly on the current war between Russia and Ukraine. The United States asked other nations, including the United Kingdom, China, India, and other significant nations, to work together to put pressure on Russia to end to the war. However, not all nations were willing to oppose Russia. For example, due to its time-tested relations with Russia, India cannot directly oppose Russian invasion, and China supports Russia as an enemy's enemy to counter the USA. North Korea and a few Muslim nations are also with Russia. Thus, international law is handicapped by the complex international politics to a larger extent.<sup>1</sup>

### **UNITED NATION CHARTER 1945**

The Second World War had created terror in the world and in order to prevent the future war, united Nation organization was established. The core goals of this institution are outlined in the preamble of the United Nations charter. The main objective

of the United Nations is to stop war from breaking out in the future on a global scale. The very first paragraph of preamble of United Nation charter has mentioned that “We the people of United Nations Determined to save the succeeding generations from scourge of war, which twice in our lifetime has brought untold sorrow to mankind” The fundamental goal of international law is to maintain international peace and security. Additionally, the United Nations Charter expressly emphasizes the notion of sovereign equality among states and forbids interfering in other countries' internal affairs. But again, the world has been shocked by the Russia-Ukraine conflict, and it has panicked the nations too all across the world about their sovereignty, security, and peace. The League of Nations was disbanded because it failed to accomplish its goals, and the primary goal of the United Nations is to avert future wars. However, there are numerous battles taking place between states, United Nations organization's role was questioned in the Russia and Ukraine War. The legitimacy of the United Nations Organization has been contested by the international community. If the United Nations was unable to halt wars like the current situation, it would either have to be disbanded like the League of Nations or immediately changed by eliminating things like the veto or permanent members.

### **GENEVA CONVENTION 1949**

Geneva Convention 1949 was result of Second World War. Geneva Convention 1949 provide rules related to combatants, armed forces, wounded persons, civilians and support workers of the

military. These laws of war codify ethical and legal international standards for humanitarian treatment of those impacted by any ongoing war. It provides exclusive protection to them. However, world has witnessed that Russia damaged health care facilities, shelled ambulances, killing people including the medical workers. This kind of acts was serious violation of Geneva Convention related to Protection of Civilian Persons in Time of War.<sup>2</sup>

### **PROBLEM IN CONCEPTUALIZING INTERNATIONAL LAW**

One of the major limitations of international law is that there is no common or central authority to implement the international law strongly. Due to this reason, the powerful states are always misusing the international law and no state or international institution is capable of prosecuting or punish that particular state. Additionally, the jurisdiction of the International Criminal Court and the International Court of Justice is based upon the consensus and there is no compulsory jurisdiction. Another problem is the contradiction between international law and domestic law, and in this contradiction, domestic law prevails over the international law. For the very fact that it cannot intervene the matters that was within the domestic jurisdiction of the states. International law is only complementary law of municipal law, which explicitly shows that international law is optional law for states.<sup>3</sup>

Moreover, the enforcement of international law depends upon the economic status of the nations. Specially the developed states are reluctant enough

to respect the international law. International laws also need to be revised and revisited as per change in need of international community. International regulations were established a few decades ago, and not much has changed. Numerous changes have taken place in society. Wars and other forms of international strife are particularly widespread in this era. And as per the research study, in order for international law to be effective, 62.8% of the respondents of this study strongly believe that it has to be reviewed, while 21.8% is neutral, and 11.5% disagree that concept of international law needs to be revisited.

#### **LIMITATION OF INTERNATIONAL INSTITUTIONS AND PROVISIONS**

The main drawback of international legal institutions, according to the respondents, is that while international law is efficient at establishing the rule of law for all states, its applicability is very constrained because local law or customary law predominates. Another significant restriction is that it is not applicable unless ratified by a country, and the veto power reduces the voice of the smaller countries. When other nations break international law, there is no strong enforcement body to question their actions. In addition, most of the times, larger nations keep breaking the international laws and smaller nations became victim. Moreover, jurisdiction of international criminal court and international court of justice limited, which makes it very difficult to enforce international law.<sup>4</sup>

International organisations have a significant impact on a variety of international issues,

including sanctions, peacekeeping, conflict resolution, mediation, and others. In addition, it is not the question of whether there is any international institution but question lies upon how effective they are in current scenario. As per the respondents of the research study, 40.5% of the respondents of the study strongly agree international institutions are powerless to avoid such wars. 21.9% of the respondents agreed international institutions are not powerful. However, around 51% strongly disagreed and stated that international institutions are not toothless. Another loophole of international criminal court is that nation needs to ratify the Rome statute to extend its jurisdictions. According to the research study, 89.5% strongly agreed that if any state commits any international crime at the international level, whether they recognize the Rome Statute or not, such nations need to get punishment under international law and 21% denied for the same. One of the flaws or reasons why the International Criminal Court could not expand its jurisdiction in the current crisis is that neither Russia nor Ukraine has ratified the Rome Statute.

The International Court of Justice acts as a world court and consist given two jurisdictions. First jurisdiction is to settle legal disputes between states presented to it by them in contentious cases, and requests for advisory opinions on legal problems referred to it by United Nations institutions and specialized agencies in advisory proceedings. The judgement is final and binding on the parties to the case, it can only be interpreted or revised if new

facts were discovered. However, the decisions of the International Court of Justice are only binding on member states. In addition, questioning upon the need and necessity of international court of justice in current period, as per research study 49.4% of the respondents agree that an international court of justice is necessary to make international law effective. Whereas to 23% respondents, disagreed need of international court of justice.<sup>5</sup>

### **FAILURE OF INTERNATIONAL LAW IN RUSSIA-UKRAINE WAR**

The effectiveness of international law is being questioned in the context of ongoing Russia-Ukraine war. Jaswal sees the future of international law as bleak when the mighty will dominate the world challenging global peace, security and justice, and there seems huge gap between principle and practice of international law.<sup>6</sup> Kerr argues that the international legal system and international law itself are no longer in existence as a result of the international community's fragmented responses to the Russian invasion's illegality under international law and their failure to stop the conflict from escalating further, and thus the problem lies in the application of international law by the international community.<sup>7</sup> Haider, states that the United Nations Organization and its subsequent organs, such as the International Court of Justice and the International Criminal Court, have also failed to fulfil their aims.

In present scenario, Russia's veto or abstention on United Nations Security Council resolutions and failed to appear before International Court of

Justice and composition. Additionally, in composition of international court of justice, it is found that those two dissenting judges are from Russia and China, which indeed affects the passing of fair and just decisions.<sup>8</sup> Thus, the reason why international law failed to prevent the Russia-Ukraine war is that international law is weak, and if international law were powerful, the conflict would not have occurred in the first place. Secondly, there has been little international cooperation among the international community, and most countries fear that raising their voices amid such an international crisis will precipitate World War III.<sup>9</sup>

Furthermore, it was said that there was no distinction in international law between wars, conflicts, and attacks. International disputes would decrease if there were clear distinctions and effective legislation. As per research study 62.9% of respondents strongly agreed that international law is silent on the Russia-Ukraine situation. 13.9% percentage is neutral and 13.9% disagreed the same. On top of that, there is no proper measures to halt the war, and the legal enforceability of international law is so weak. Russia has a special concern of initiating a new world war due to its status as the world's leading nation and the fact that no laws have been able to prohibit Russia from claiming land that isn't their own. Defining and enforcing national borders so that no one can claim territory that does not belong to them. According to 20.5% respondents, international law is effective whereas about 67% respondents think that the international law is ineffective in preventing international conflict.

## **INTERNATIONAL LAW VS. INTERNATIONAL RELATIONSHIP**

International law is a body of guidelines that governs interactions between nations, international institutions, and people. International law's primary goal is to uphold justice and fairness between nations. Certain actions within the global community are constrained by international law. It also makes an effort to address frequent problems. While an international connection is a friendship shared by two or more nations based on their respective economies, societies, politics, or cultures. International relations played a significant part in the current war.

The United States asked other nations, including the United Kingdom, China, India, and other significant nations, to work together to put an end to the conflict between Russia and Ukraine. However, not all nations were willing to oppose Russia, especially India, whose moderate position demonstrates the close diplomatic ties between the US and Russia. China, North Korea, and a few Muslim nations were completely with Russia, nevertheless. That served as a clear demonstration that international law is less powerful than international relations.

## **INTERNATIONAL LAW VIS-A-VIS INTERNATIONAL DISPUTE SETTLEMENT**

The basic goal of international law is to maintain international peace and security by resolving international conflicts peacefully. One of the challenges of international law is that every decision is based upon the consensus of the states. In such cases, mostly the powerful states are so

reluctant to give the consent to the disputes that was submitted to the international institutions. Furthermore, it was stated that international law may prevent a war between Russia and Ukraine if such disputes are resolved through peaceful ways. Article 33 of the United Nations Charter provides for international peaceful ways of settlement. According research study, 62% strongly agreed that international law has no relevance on the Russia-Ukraine crisis, while 44% of respondents think that international law has its relevance in Russia and Ukraine crisis.

## **SUGGESTIONS AND CONCLUSION**

Based on the doctrinal as well as well as the empirical findings, the following can be argued. Firstly, consensus is the basis of international law; therefore, in order for the International Court of Justice and the International Criminal Court to recognize international crime, the concept of consensus must be abandoned and mostly the powerful states are so reluctant to give the consent to the disputes that was submitted to the international institutions. Secondly, United States, Russia, China, the United Kingdom, and India, need to ratify the most crucial international agreements and international cooperation between the Nations. Thirdly, veto power needs to be removed from the permanent five members of United Nation organization because, no matter how effective United Nation's security be, if any of these States cast the negative vote, the resolution can't be made effective. Fourthly, international criminal court needs to be given universal jurisdiction to prosecute the criminals at

international level. Finally, an effective implementation mechanism needs to be devised for effective implementation of international law, as the major lacune lies in the implementation of international law.

To sum up, international law has drawn a lot of attention because of Russia's invasion. The Russian invasion has brought to the fore the question on effectiveness of international law. International Humanitarian Law, the 1949 Geneva Convention, and the United Nations Charter are only a few of the important laws that were broken during the battle. The United Nations organization is an intergovernmental body that was in charge of averting future wars; yet, during the current conflict, the United Nations organization was unable to do so. It has been observed that the five United Nations permanent members themselves have broken international law and abused their veto authority. Major nations like the United States, India, Russia, and the United Kingdom are not signatories to key treaties and do not cooperate with other nations in enforcing the laws. All these drawbacks must be addressed to make the international law more effective in setting dispute, preventing war and finally in establishing a democratic, prosperous and peaceful international order.

## STATEMENT OF DECLARATION

There is no conflict of interest for this research and no financial or non-financial interests that are directly or indirectly related to the manuscript submitted by author.

## Endnote

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