

The Use of Force by the Russian Federation in Ukraine

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Abstract: The Russian-Ukrainian War has significantly impacted the international community, making it crucial to examine the war responsibility of all parties involved under international law. Through this paper, we aim to prove the illegality of Russia's argument and exercise the right of pre-emptive self-defense. To achieve this, we propose a new set of elements that can be used to judge pre-emptive self-defense more clearly. In light of the illegality of Russia's actions and the ICC's background, we further seek to determine both Russia's national responsibility and the individual responsibility of the war initiators. Our paper also offers a potentially effective arrest plan that involves coordination with specific international organizations and subjects. However, given the ongoing dispute around humanitarian intervention by the United States, humanitarian intervention must play a crucial role in the Russo-Ukraine war. The paper demonstrates the legal basis and necessity of humanitarian intervention in the current situation.

Keywords: The Russian-Ukrainian conflict, preemptive right to self-defense, war crime, humanitarian intervention

1. Introduction

The Russo-Ukrainian War is an ongoing international conflict between Russia and Ukraine, which began in February 2014 and escalated into a local war between the two countries due to the Crimean crisis. Although the warring parties signed the Minsk Protocol in September 2014, which aimed to achieve a temporary ceasefire, withdraw foreign armed personnel, and recognize partial autonomy in the divided region, both sides have violated the protocol requirements since then. The Minsk II agreement signed on February 12, 2015, which allowed the two breakaway areas of Donbas to hold independent local elections and required the withdrawal of heavy weapons deployed within 15 kilometers of the actual control line between the two sides, has also been repeatedly violated. The

situation demands a resolute and unwavering commitment from both sides to adhere to the protocol requirements and end this conflict.

In February 2022, Russia recognized the Donetsk People's Republic and Lugansk People's Republic as independent states, and Putin announced a "special military operation" to "demilitarize and denazify" Ukraine. This has reignited the Russia-Ukraine conflict and brought it to the forefront of world attention. The conflict raises several international law issues that demand exploration.

2. Legal Framework of the Use of Force under Current International Law

2.1. Article 2 (4) in the norms of international law

This chapter will provide a brief introduction to the use of force as defined by the current framework of international law. It will also aim to analyze the potential causes of using force in the Russo-Ukrainian war. The UN Charter's Article 2 (4), which prohibits the use of force, is the core clause of the current framework of international law: *All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.*

The principle of prohibition of the use of force, as stipulated by Article 2(4) of the UN Charter, holds the legal effect of both *jus cogens* and international customary law. The UN Charter incorporates this principle into its text, making it a binding positive international law. Universality and non-durability are the distinguishing features of *jus cogens*. This means that not only is the principle of prohibition of the use of force recognized by the international community as a whole, but also that no member of the international community can exclude its application in any form, whether they are a member of the United Nations. The 1969 Vienna Convention on the Law of Treaties further clarified the concept of *jus cogens*, making the *jus cogens* effect of this principle more explicit. In the 1986 Nicaragua case, the International Court of Justice pointed out in its judgment that the prohibition of the use of force is inherently compulsory and is attributed to the content of customary international law. The above discussion highlights that the core purpose of this principle is to emphasize the absolute prohibition nature of the principle, even if there are statutory exceptions, and to reflect the core values of the UN Charter.

2.2. The invocable situation of exceptions of Article 2 (4)

In the UN Charter and customary international law, there are exceptions to the principle of prohibition of the use of force, namely aggression and armed attack. The act of aggression is stipulated in Article 39 of the UN Charter: *The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations or decide what measures shall be taken by Articles 41 and 42, to maintain or restore international peace and security.* In addition, acts of aggression have also contributed to triggering the collective security mechanism in Chapter 7 of the UN Charter. The United Nations General Assembly created a 'Special Committee' in 1967 to define aggression, and the committee studied the 'act of aggression' for up to seven years. In 1974, the Commission submitted a report on defining aggression to the General Assembly, adopted as United Nations Resolution 3314. However, the resolution only expressed the U.N.'s general understanding of acts of aggression and was not legally binding on states.

Furthermore, another exception is armed attack. Article 51 of the UN Charter states that "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security." In the 1986 Nicaragua case, the International Court of Justice ruled that the crossing of a regular army across a border constituted an armed conflict, and the deployment of troops, irregular forces, mercenaries, etc., should be evaluated

based on their size and consequences. This opinion has been widely accepted by countries that stipulate that the use of force must reach a certain level to constitute aggression before the right to self-defense can be exercised. Considering the previously mentioned exceptions, Chapter VII of the UN Charter outlines the legitimate use of force, including the right of national self-defense and military action authorized or taken by the United Nations Security Council through the collective security mechanism. However, there is still a need for further exploration of these methods.

3. Russia's Improper Exercise of Preemptive Self-defense Right

Despite Article 51 of the UN Charter including elements of the right to general self-defense, previous studies have shown that the legality of pre-emptive self-defense still needs to be clarified and a unified standard. Therefore, it is necessary to re-examine the legality of pre-emptive self-defense and establish clear criteria for its judgment in the context of the Russo-Ukraine war. According to research, although there is a right to pre-emptive self-defense in international law, the elements necessary to exercise that right were not present in Russia's invasion of Ukraine.

3.1. The Legality of Preemptive Self-defense

3.1.1. Customary International Law

To discuss the legality of pre-emptive self-defense, it is essential first to understand its theoretical origins. According to the customary international law system before the United Nations Charter, it was widely accepted that using force in pre-emptive self-defense was permissible. This was known as the "accepted doctrine of anticipatory self-defense. [1]".

Since the promulgation of the United Nations Charter, numerous international cases related to the right of pre-emptive self-defense have arisen, such as the Cuban Missile Crisis. These cases demonstrate that the right of pre-emptive self-defense has long existed in customary international law. Unlike the right to general self-defense, the right to pre-emptive self-defense is more like a natural right that does not require legal provisions, as it exists inherently. The right to general self-defense, on the other hand, belongs to a statutory right that depends on explicit legal provisions.

3.1.2. Literal Interpretation of the Article 51

The UN Charter regards the right of self-defense as an "inherent right," which provides a basis for the legality of preemptive self-defense because "inherent" means the right, which already exists in customary international law, is a primary or permanent part and cannot be removed[2]. However, some scholars argued that even though early customary practices allowed for preemptive self-defense, the word "inherent" needs to be given priority if we are to believe that the United Nations still adhered to preemptive self-defense after 1945 [3].

According to the research, there are two reasons why the viewpoint mentioned above is incorrect. Firstly, scholars who hold this view agree on the legality of pre-emptive self-defense in customary international law but only negate the "inherent theory." Any legal provision is supposed to be concise, meaning that the number of words should be minimized while maintaining the intended meaning. Therefore, the words and sentences retained through continuous reductions hold priority.

The second reason why the viewpoint mentioned above is incorrect is based on legal hermeneutics. The right of self-defense is considered essential and permanent, so the "self-defense" referred to in Article 51 of the UN Charter includes pre-emptive and general self-defense. Therefore, the right to pre-emptive self-defense is considered to be included in the right to self-defense mentioned in the UN Charter.

3.1.3. Response to the Argument against Preemptive Self-defense

Despite the existence of the right to pre-emptive self-defense in customary international law, criticisms regarding its legality and feasibility lack a strong foundation. Some scholars argue that pre-emptive self-defense undermines the restrictions on when a state can use force and how it can be used, which is a misattribution and an embodiment of the logic of power. The right to pre-emptive self-defense is not inherently wrong or designed to promote war; instead, it is a legitimate option for states to protect their interests. Refrain from simply rejecting international law rights that may be misused, rather than interpreting and improving them, will only result in international law becoming disconnected from the world and even stagnating.

For instance, Michael Reisman's focus on pre-emptive self-defense against terrorism and states with weapons of mass destruction, rather than all states, responds to previous objections regarding the legality of pre-emptive self-defense. In doing so, Reisman rightly aligned international law with the international situation, highlighting the practical significance of international law. This approach recognizes that the right to pre-emptive self-defense can be used in specific circumstances to protect against imminent threats, thereby maintaining international peace and security.

In conclusion, the misuse of a tool does not necessarily represent an inherent flaw of the tool itself. The tool is neutral, just like pre-emptive self-defense. From the perspective of customary international law, pre-emptive self-defense is legal. However, it is essential to note that pre-emptive self-defense is legitimate in and of itself. Its potential for abuse stems from the lack of a unified legal standard. Therefore, efforts should be made to establish clear criteria for when pre-emptive self-defense is justified to prevent it from being used as an excuse for aggression.

3.2. Proposed Elements of Preemptive Self-defense

Given the lack of a unified legal standard for pre-emptive self-defense in international law, it is practically significant to establish clear criteria for when it is justified. This paper proposes that five elements must be met when using pre-emptive self-defense.

3.2.1. Objective Element: Terrorists and States Possessing WMD

Even if UN Charter provisions are understood in light of customary international law allowing preemptive self-defense, the Charter's focus is still on states conventionally using force [1]. With the development of the international situation, threats such as weapons of mass destruction (WMD) and terrorism have gradually emerged. Therefore, while preemptive self-defense is recognized in customary international law, its scope does not encompass terrorism (or chemical, biological, and nuclear weapons), thus creating legal loopholes in contemporary international law. Weapons of mass destruction and terrorism can pose an attack on states in ways that customary international law cannot address. Therefore, preemptive self-defense in the new era should only target terrorists and states possessing weapons of mass destruction.

3.2.2. Subjective Element: Intention to Attack

The most essential and core condition for pre-emptive self-defense is a subjective judgment, which also makes it difficult to determine whether the exercise of the right of pre-emptive self-defense is lawful. To address this challenge, this paper proposes the "General Country Standard." This standard envisions a rational country under the same conditions. If such a country feels a subjective threat, we can deem the other party intends to attack. By using this standard, we can establish a uniform and objective criterion for determining when pre-emptive self-defense is justified.

In summary, to determine whether the other party intends to launch an armed attack, it is necessary to adhere to the General Country Standard based on all objective facts at the time of the behavior. This standard involves envisioning a rational country without any conflicting interests and placing it in the context of the behavior to determine if it would conclude that there is a possibility of an attack. By using this standard, we can establish an objective and consistent criterion for determining when pre-emptive self-defense is justified.

3.2.3. Timing Element: Before the Occurrence of Armed Attacks

Preemptive self-defense must happen before armed attacks, which only refer to attacks involving terrorism and weapons of mass destruction.

3.2.4. Purpose Element: Suppress Potential Armed Attacks

It is important to note that states exercising the right to pre-emptive self-defense require a subjective intention to suppress. In other words, the purpose of pre-emptive self-defense should be to suppress the opponent and prevent the other party from initiating subsequent armed attacks. This differs from the purpose of general self-defense, which is primarily to protect national interests. By understanding the different purposes of these two forms of self-defense, we can more accurately determine when the use of pre-emptive self-defense is justified.

3.2.5. Formal Element: Approval of the Security Council

To prevent abuse of pre-emptive self-defense, Security Council approval should be required. A notice must be given prior to or coinciding with the exercise of force, and the Security Council can then determine if conditions for pre-emptive self-defense have been met based on specific criteria.

3.3. Application of the Five Elements in the Russo-Ukraine War

In the context of the Russo-Ukraine war, Putin believed that Ukraine posed an imminent danger to Russia, justifying pre-emptive self-defense. However, Ukraine did not possess weapons of mass destruction, an essential element for this type of defense.

Additionally, determining a country's intention to attack based on the proximity of military facilities is unreliable, according to the General Country Standard.

Thirdly, it is impossible to infer Ukraine's intention to attack, so Russia's subjective military actions lack a suppressive intention. A suppressive intention is established based on a protective intention, which aims to suppress illegal behavior to protect national interests. Since the protective intention does not exist, a suppressive intention cannot exist either.

Fourthly, while Putin believes that his speech to the Security Council served as notification, it could be more effective and suitable regarding its legal force and form. The Security Council did not approve Russia's particular military actions.

In summary, the right to preemptive self-defense has a particular legal status in international law. In the Russo-Ukrainian war, Russia's military actions against Ukraine did not meet the conditions for exercising the right to preemptive self-defense. Russia's military action against Ukraine does not satisfy the elements for preemptive self-defense and should be regarded as an act of aggression and illegal use of force.

4. Limitations of Russian-Ukrainian war responsibility

4.1. Background: The Flaws of the Current ICC

4.1.1. Limitation of Jurisdiction

One of the most glaring flaws in the ICC's current structure is its limitation of jurisdiction, particularly in states that are not members of the Rome Statute. This limitation has been prominently highlighted in the case of Vladimir Vladimirovich Putin, President of the Russian Federation, and Maria Alekseyevna Lvova-Belova, Commissioner for Children's Rights in the Office of the President of the Russian Federation. The ICC issued both arrest warrants for the war crime of unlawful deportation and transfer of population (children) from occupied areas of Ukraine to the Russian Federation under articles 8(2)(a)(vii) and 8(2)(b)(viii) of the Rome Statute. The crimes were allegedly committed in Ukrainian-occupied territory from at least February 24, 2022 [4]. However, since Russia is not a member of the Rome Statute, the ICC's arrest warrants remain invalid within Russian territory, rendering the Court's efforts futile in this context. This case illustrates the inherent challenge the ICC faces in enforcing its mandates in non-member states, thereby restricting its ability to pursue justice on a global scale.

4.1.2. Lack of International Cooperation and Enforcement Measures

The ICC's effectiveness is hindered by a lack of international cooperation and enforcement measures, which is exemplified in the case of Augusto Pinochet, the former dictator of Chile. In 1998, Pinochet was arrested in London under an international arrest warrant issued by Spanish judge Baltasar Garzón for numerous human rights violations committed during his rule in Chile from 1973 to 1990. However, the U.K. government ultimately released Pinochet on medical grounds, citing his poor health and age as reasons for his release. This case highlights the challenging task that the ICC faces in securing international cooperation and enforcing its decisions, which limits its ability to hold perpetrators of international crimes accountable.

Although the ICC was not directly involved in Pinochet's case, the principles that arose from his arrest have had a profound impact on the development of international criminal law and the jurisdiction of the ICC. Pinochet's arrest was a significant turning point, as it established a precedent for universal jurisdiction and enabled the prosecution of serious international crimes, regardless of where they were committed. This shift in legal thinking contributed to the development of the ICC and its jurisdiction, allowing for the prosecution of individuals who commit international crimes, regardless of their status or nationality.

However, despite the legal precedent set by Pinochet's arrest, he was ultimately released on health grounds after a lengthy legal battle and returned to Chile, where he faced further legal proceedings but escaped international prosecution. This case highlights the complex challenges of prosecuting high-profile individuals and the delicate balance between political considerations and the pursuit of justice. It also underscores the ICC's difficulties in securing cooperation from individual states and the international community, which can impede its ability to hold individuals accountable for international crimes.

4.2. Disregard for Political Dynamics

In addition to the challenges of securing cooperation from individual states and the international community, the ICC also faces difficulties in apprehending suspects due to its disregard for the role of politics in enforcement. According to Nadia Banteka, a lecturer in International Law at The Hague University, the ICC should recognize and take advantage of the political dynamics at play to increase

its rates of apprehension and achieve higher levels of judicial enforcement [5]. This may involve engaging in diplomatic actions, judicial diplomacy, and establishing a diplomatic arm within the Office of the Prosecutor. The failure to leverage political dynamics hampers the ICC's ability to navigate the complex international landscape, further limiting its effectiveness in securing arrests and holding individuals accountable for international crimes.

In conclusion, the current flaws of the ICC, including jurisdictional limitations, lack of international cooperation, and disregard for political dynamics, present significant challenges in securing the arrests of individuals accused of war crimes and genocide. To overcome these challenges, the ICC should carry out reforms, including diplomatically cooperating with governments of various countries to expand the jurisdiction of the ICC, cooperating with decision-making bodies such as the U.N. Security Council to ensure the enforcement of arrest warrants, cooperating with non-governmental organizations, and making extensive use of civilian power. These reforms could enhance the effectiveness of the ICC in securing arrests and holding individuals accountable for international crimes while navigating the complex international landscape.

4.3. How Can the ICC Enforce Arrests?

The enforcement of arrests by the International Criminal Court (ICC) is a complex and multifaceted challenge that requires a comprehensive and strategic approach. The following strategies emerge as potential pathways for the ICC to enhance its ability to secure arrests:

4.3.1. Political cooperation and Diplomatic action

Scholars have pointed out that the ICC's effectiveness in apprehending suspects has been hindered by its disregard for politics in enforcement [6]. To address this issue, a reformative approach that recognizes and capitalizes on political dynamics could be instrumental. This may involve engaging in diplomatic actions and judicial diplomacy, reflecting an understanding that international law does not operate in a vacuum. By leveraging political dynamics, the ICC could increase its apprehension rates and achieve higher levels of enforcement, ultimately enhancing its effectiveness in holding individuals accountable for international crimes.

Some scholars and experts suggest that the International Criminal Court's (ICC) effectiveness in securing arrests and enforcing its mandates can be significantly improved through diplomatic cooperation with governments of various countries. According to Richard Dicker, the Director of the International Justice Program, justice-supporting states should prioritize and use diplomatic, political, and economic leverage to pressure non-cooperating states. This approach aligns with the idea that the ICC should expand its jurisdiction by developing diplomatic relationships with various governments and establishing incentive mechanisms, such as providing investment for countries that actively cooperate with the ICC. By building diplomatic bridges and offering incentives, the ICC can create a more conducive environment for enforcing its mandates and holding individuals accountable for international crimes.

4.3.2. Cooperation with Decision-making Bodies

In addition to diplomatic cooperation with governments, the International Criminal Court (ICC) can enhance its effectiveness in securing arrests by collaborating with decision-making bodies such as the U.N. Security Council. This involves not only ensuring the enforcement of arrest warrants but also implementing more stringent measures, including sanctions or force, to compel compliance. Some literature suggests that the international community and institutions can play a vital role in supporting the Court's work and ending impunity. By strategically exploiting cracks in the cooperation framework and fostering collaboration with influential international bodies, the ICC can

enhance its ability to secure arrests, even when dealing with high-profile political figures. However, this strategy must be pursued cautiously, ensuring it does not compromise the ICC's independence or integrity. Measures such as sanctions or force must be considered within international law and the broader goals of peace and security.

4.3.3. Engagement with NGOs and Civilian Power

The International Criminal Court (ICC) can also enhance its effectiveness in enforcing arrests by engaging with non-governmental organizations (NGOs) and extensively using civilian power. According to Tom Parker, the CTITF Adviser for Human Rights and Counter, the ICC can engage more with NGOs and victim groups, as they have effectively used new media tools and can serve as essential sources of information on the movements of wanted fugitives. By embracing civilian power and fostering collaboration with NGOs, the ICC can tap into grassroots efforts and community-driven initiatives to bolster its enforcement capabilities. However, this requires careful coordination and respect for the autonomy and diversity of civil society. By fostering genuine partnerships with NGOs and empowering communities, the ICC can tap into local knowledge and support without co-opting or undermining independent voices.

Moreover, NGOs can act as vital liaisons for the Court, contributing to global awareness about the ICC and promoting widespread adoption of the Rome Statute.

4.3.4. Enhancing Transparency and Accountability

It was analyzed and suggests that the International Criminal Court (ICC) should enhance its transparency and accountability in the enforcement process to improve its effectiveness in arrest enforcement and build trust and credibility with the international community and individual states. Standardized measures should be taken, including being transparent about the criteria for enforcement actions, the processes followed, and the outcomes achieved. Clear communication, robust oversight, and adherence to the rule of law can build trust and credibility, both with governments and with the global public. By being transparent about the criteria for enforcement actions, the processes followed, and the outcomes achieved, the ICC can promote accountability and demonstrate its commitment to justice and the fight against impunity.

4.4. Brief Conclusion

The International Criminal Court (ICC) faces significant challenges in securing the arrests of individuals accused of war crimes and genocide due to jurisdictional limitations, a lack of international cooperation, and a disregard for political dynamics. To enhance its effectiveness, the ICC must pursue a multifaceted approach that includes recognizing political landscapes, fostering diplomatic relationships, collaborating with decision-making bodies, engaging with NGOs, and enhancing transparency. By embracing these strategies and grounding them in the principles of justice, human rights, and the rule of law, the ICC can evolve into a more robust institution capable of holding accountable those responsible for the gravest of crimes. These efforts can help build trust and credibility with governments and the global public and demonstrate the ICC's commitment to promoting accountability and ending impunity.

5. Should the Russian-Ukrainian War be a Humanitarian Intervention by the United Nations?

5.1. Background

The ongoing Russ-Ukraine war has had a significant impact on the humanitarian situation in Ukraine and internationally. According to the UNHCR, nearly 6.3 million refugees fleeing Ukraine are recorded across Europe, highlighting the scale of displacement caused by the conflict. Additionally, Ukraine, known as the "breadbasket of Europe," has suffered significant obstacles to grain exports, triggering a series of food crises. The conflict is set to increase humanitarian needs in Ukraine while deepening those of millions of people who were already displaced or requiring assistance due to the more than eight-year conflict in the eastern part of the country. The widening war and the growing toll on civilians have raised new debates about the international community's responsibility to mount a humanitarian intervention by outside forces. The situation underscores the urgent need for a coordinated and sustained effort to address the humanitarian needs of those affected by the conflict and to ensure that their fundamental rights and needs are met.

5.2. Legal basis for humanitarian intervention

In the current theory of international law, the existence of humanitarian intervention has gradually shifted from antagonism and passivity to rationality and initiative. Thomas Weiss and Ramesh Thakur, among others, make this case by invoking recent innovations in state practice [7].

Before 1993, humanitarian intervention was widely regarded as a means of promoting democratization and peace in the world. Peacekeeping forces were seen as a solution to the humanitarian crisis in war, and they were widely supported and praised by international agencies such as the United Nations and governments. However, after the 1993 Rwanda massacre and the Somali crisis, criticism and questioning of humanitarian intervention have been rampant. These situations have led to a re-recognition and re-interpretation of Article 2(4) of the U.N. charter by states. Based on the approval of the Security Council, countries with humanitarian crises use different measures to implement humanitarian interventions and impose restrictions on them, which has gradually formed legal practices in various actions. The failures of early humanitarian interventions have highlighted the complexities and challenges of implementing such interventions and the need to consider the legal and ethical implications of such actions carefully.

Under the current legal framework, the legality of humanitarian intervention is often open to question. The occurrence of the above events has forced the tension between humanitarian and sovereignty into a divergence of interests between the two sides.

At present, the most basic rules on the legitimate use of war by countries still come from the UN Charter, in addition to other regional agreements. The United Nations mandates the Security Council to take all decisions on collective measures involving military force. Under the provisions of the principle of prohibition of the use of force mentioned above, according to Article 39 of the U.N. charter, the preconditions for the collective use of force are approved by the United Nations Security Council. Under Article 51 of the U.N. charter, a state must be attacked by force when exercising its right of self-defense. It must report to the United Nations after exercising its right of self-defense, which is legally different from the situation regulated by the prohibition of using force. This is the framework of international law that makes humanitarian intervention a justification for the use of force against states. The UN Charter provides for the conditions under which the use of force is authorized, and any humanitarian intervention that involves the use of force must adhere to these conditions.

The humanitarian crisis in the Russian-Ukrainian war is imminent, with over 6 million refugees fleeing to other countries and shortages of food and medical supplies. The lack of an education system has also added to the crisis. These reasons have led to discussions of humanitarian intervention at the international law practice level.

Humanitarian intervention by the United Nations is a crucial matter that requires a solid legal framework. After studying the views of various scholars and the U.N. charter, this paper argues that the following framework can serve as the legal basis for such interventions:

- a. Gross and systematic human rights abuses, including genocide.
- b. The suppression of the demonstrated will of the majority, such as the overthrow of a democratically elected government.
- c. Clear cases of failed states where central authority is non-functioning, leaving the civilian population at the mercy of militias, warlords, criminal gangs, and the like.
- d. The illegal and inhumane use of power by one side or the other during a civil war, encompassing an attempt at secession and ethnic/religious self-determination.

It is essential to recognize that humanitarian intervention is necessary when innocent people are suffering from atrocities. The proposed legal framework provides a comprehensive guideline for the U.N. to take action against gross human rights abuses, undemocratic suppression, failed states, and civil wars. By implementing this framework, the U.N. can ensure that justice prevails and prevent further harm to innocent people.

5.3. The Necessity of U.N. Humanitarian Intervention in the Russo-Ukrainian War

The UN Charter's Article 2(4) establishes the first element of humanitarian intervention, which prohibits states from using or threatening force against other states. The Charter states that "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

The need for humanitarian intervention arises from legal changes caused by state behavior. The frequency of rule violations is closely related to the effectiveness of rules, and international law and politics commonly agree that rules lose their effectiveness when frequently violated.

Therefore, it is crucial to uphold the UN Charter's provisions and prevent states from violating them. By doing so, the effectiveness of international rules can be maintained, and the need for humanitarian interventions can be minimized [8].

Russia has increased the frequency of violation of Article 2 (4) in the process of multiple foreign annexations. In February and March 2014, Ukraine was overrun by a chain of events that eventually led to the incorporation of Crimea into Russian territory. In 2022, Russia announced a "special military operation" in Ukraine, and the war has resulted in a refugee crisis and tens of thousands of deaths [9]. These two conflicts have led to the occurrence of a humanitarian crisis.

As a condition for establishing existing humanitarian intervention, Russia's multiple violations of Article 2 (4) of the U.N. charter make humanitarian intervention legitimate within the framework.

5.4. Regulation of the United Nations Humanitarian Intervention

5.4.1. Expend agencies that can authorize humanitarian interventions

Humanitarian crises around the world require swift and effective action to prevent further suffering of innocent civilians. However, the authorization of such interventions is limited to the Security Council, which has faced challenges in responding to crises due to the national interests of permanent members and the representation of veto power. For example, Russia recently vetoed a draft U.N. Security Council resolution regarding its invasion of Ukraine. It is crucial to acknowledge and address

these challenges to establish a shared ethical approach and ensure the effective implementation of the Responsibility to Protect. By doing so, we can uphold the principles of human rights and prevent further atrocities against innocent civilians [10].

It is time for the U.N. to act swiftly and decisively to prevent humanitarian crises. The inclusion of the General Assembly in the authorized body of humanitarian intervention, along with the adoption of a standard resolution procedure, ensures that the U.N. can fulfill its mandate effectively and efficiently.

5.4.2. Establish a reporting mechanism for humanitarian intervention

In the early 1990s, the United Nations began promoting "human security" to emphasize the importance of protecting civilians during humanitarian interventions authorized by the Security Council. As a result, humanitarian preparedness, the "responsibility to protect principle," and United Nations peacekeeping operations should all be based on whether the action maintains human security.

This paper proposes regulating humanitarian interventions under the framework of the United Nations. Currently, the existing reporting mechanisms are only temporary, and the African Union (A.U.) and NATO have implemented different reporting mechanisms. By establishing a permanent reporting mechanism, the U.N. can ensure that all interventions are based on maintaining human security and that the appropriate actions are taken to protect civilians.

It is crucial to have a unified framework for humanitarian interventions to ensure that the U.N. can fulfill its mandate effectively and efficiently. The proposed reporting mechanism will enable the U.N. to monitor interventions, identify areas for improvement, and make better-informed decisions in the future. By doing so, the U.N. can uphold its responsibility to protect civilians and maintain human security during humanitarian interventions.

Given this, this paper suggests adding precise reporting requirements to Security Council resolutions to ensure that the U.N. Security Council is responsible for reporting to the U.N. General Assembly when authorizing humanitarian interventions. The reporting mechanism serves a dual purpose: strengthening communication between intervening countries or regional organizations and the United Nations on the situation and supervising the implementation of humanitarian interventions.

The proposed reporting mechanism ensures that all actions taken during humanitarian interventions align with humanitarian principles and that thousands of pre-actions for humanitarian purposes are taken. By doing so, the mechanism ensures that there is no disproportionate situation between means and purposes during humanitarian interventions.

Regulating humanitarian interventions under the framework of the United Nations is crucial to ensure that the U.N. can fulfill its mandate effectively, efficiently, and in line with humanitarian principles. The proposed reporting mechanism plays an essential role in this process by enabling the U.N. to monitor interventions and make better-informed decisions in the future. By implementing this mechanism, the U.N. can uphold its responsibility to protect civilians and maintain human security during humanitarian interventions.

For instance, if the U.N. Security Council were to authorize a humanitarian intervention in the Russo-Ukraine conflict, it should report to the U.N. General Assembly before taking any action. By doing so, the U.N. can ensure that all actions taken during the intervention align with humanitarian principles and that the means and purposes of the intervention are not disproportionate. The proposed reporting mechanism is crucial in establishing a permanent framework for regulating humanitarian interventions under the United Nations. It ensures that the U.N. can fulfill its mandate effectively, efficiently, and in line with humanitarian principles. The mechanism enables the U.N. to monitor interventions, identify areas for improvement, and make better-informed decisions in the future. By implementing this mechanism, the U.N. can uphold its responsibility to protect civilians and maintain human security during humanitarian interventions.

5.4.3. Establish a U.N. humanitarian intervention investigation mechanism.

The investigation mechanism and the reporting mechanism complement each other to ensure that humanitarian interventions use appropriate means to achieve humanitarian results. By repeating the survey content with the content reported by the intervention authority, the United Nations can ensure that all actions taken align with humanitarian principles.

However, the investigation mechanism should not be limited to the content reported by the intervention party. The U.N. should establish an investigation mechanism that invites competent international experts to participate in field investigations and report writing. Relevant countries and organizations have supported this initiative, and their investigations serve as a valuable supplement to the United Nations investigation mechanism.

For example, the investigation of NATO's intervention in Kosovo by relevant countries and non-governmental organizations is the most representative. The investigative mechanism must ensure its impartiality while reflecting the views of target populations affected by humanitarian interventions. By doing so, the mechanism can ensure that all actions taken during humanitarian interventions align with humanitarian principles and are in the best interest of the affected populations.

Regulating humanitarian interventions under the framework of the United Nations is crucial to ensure that the U.N. can fulfill its mandate effectively, efficiently, and in line with humanitarian principles. The proposed investigation mechanism plays an essential role in this process by enabling the U.N. to monitor interventions and make better-informed decisions in the future. By implementing this mechanism, the U.N. can uphold its responsibility to protect civilians and maintain human security during humanitarian interventions.[11] The investigation intervention country adopts means to test the rationality of the intervention action and whether there is an excessive use of force. This is crucial in ensuring all actions taken during humanitarian interventions align with humanitarian principles.

Moreover, investigating the effect of humanitarian intervention is essential in reflecting whether the action has achieved its most important goal of preventing or stopping humanitarian crises. The investigation mechanism and the reporting mechanism complement each other to ensure that humanitarian interventions use appropriate means to achieve humanitarian results.

By establishing these mechanisms under the framework of the United Nations, the U.N. can fulfill its mandate effectively, efficiently, and in line with humanitarian principles. The proposed investigation mechanism plays an essential role in this process by enabling the U.N. to monitor interventions and make better-informed decisions in the future.

Regulating humanitarian interventions is crucial to ensure that the U.N. can uphold its responsibility to protect civilians and maintain human security during humanitarian crises. The investigation and reporting mechanisms are essential in this process and must be implemented to ensure that all actions taken during humanitarian interventions align with humanitarian principles.

This paper suggests establishing a new investigation mechanism under the United Nations framework with the participation of non-governmental organizations and member states. The mechanism will urge intervention countries to assume responsibility, avoid excessive use of force, and ensure that legitimate humanitarian interventions are reasonable.

The investigation mechanism is crucial in standardizing the means and results of humanitarian interventions and ensuring that all actions taken align with humanitarian principles. By implementing this mechanism, the U.N. can uphold its responsibility to protect civilians and maintain human security during humanitarian crises. The participation of non-governmental organizations and member states in the investigation mechanism is crucial in ensuring its impartiality and transparency.

The investigation mechanism faces the challenge of restraining and punishing major powers that violate authorization resolutions. For example, during NATO's intervention in Kosovo, depleted

uranium weapons were used by NATO troops. However, since the United States did not sign the "Rome Statute," the International Criminal Court cannot sue them for using these weapons. It is true that currently, there is no adequate supervision and punishment mechanism for large countries such as the United States. However, despite these structural flaws, we must continue to work towards improving the investigation mechanism as it remains the most effective tool in ensuring accountability and justice for gross human rights violations and crimes against humanity.

6. Conclusion

After analyzing the specific facts of the war between Russia and Ukraine, it is clear that the armed attacks by the Russian Federation on Ukraine have crossed the line and constitute a violation of the prohibition of the use of force and aggression. Therefore, any legal arguments put forward by the Russian Federation to justify their actions are without merit and must be dismissed. It is imperative that we hold the Russian Federation accountable for its actions, and its leaders must also be held personally responsible. This is essential to ensure that those who violate international law are held responsible for their actions and that justice is served.

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