Russian-Ukrainian Conflict: International Humanitarian Law and Civilian Settlements

Yordan Gunawan, Qinnara Zegia Gultom, Shafirah Amarulia, Mohammad Hazyar Arumbinang

1Facultat de Dret, Universitat Pompeu Fabra, Spain
2Faculty of Law, Universitas Muhammadiyah Yogyakarta, Indonesia
3Faculty of Law, University of Melbourne, Australia

email correspondence: yordangunawan@umy.ac.id

ABSTRACT

The research analyzes the views of the International Humanitarian Law (IHL) and UN Charter violations in the case of the invasion of civilian settlements in the Russia-Ukraine conflict for justice. The conflict, which took place on February 24, 2022, has raised serious concerns about violations of the UN Charter and IHL and the protection of civilians. This research collected data and information from various primary and secondary sources, including reports of international organizations, legal documents, and journal analysis. A qualitative approach was used to analyze the impact of the invasion of civilian settlements on IHL in the case of the Russia and Ukraine case. The results show that the view of IHL in the context of the invasion of civilian settlements in the Russia-Ukraine case has caused great harm to civilians, ranging from damage to homes, infrastructure, and public facilities, including casualties. It also appears that Russia has ignored the guiding principles of the UN Charter. To overcome this problem, several steps can be taken. First, there is a need to increase understanding and awareness of IHL among all parties involved in the conflict. Second, increase efforts to maintain brotherhood between nations. Third, working together to assist in humanitarian terms in the event of armed conflict, famine, and starvation. The resulting policy implications and recommendations can be used as a guide for policymakers and practitioners to improve the humanitarian protection of civilians in the future.

Keywords: Humanitarian Law; Civilian Settlement Invasion; Russian-Ukrainian Conflict; Justice for Civilians; UN Charter;

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INTRODUCTION

Small and large-scale conflicts have always existed. Differing interests often cause conflict, and the desire to control or expand territory is also one of the factors that can create conflict. Often, conflicts over territory lead to acts of aggression or annexation by one party against another. According to the International Humanitarian Law for the justice, international and non-international armed conflicts are two types of armed conflicts that continue to occur around the
The countries currently experiencing conflict are Russia and Ukraine (Krementsov, 2017; Kuncoro, 2015; Merezhko, 2015). In early February 2022, the conflict between Russia and Ukraine flared up again after a Russian battle fleet showed force in Belarus, on the border of Ukraine. President Vladimir Putin began a massive military operation in Ukraine on February 24, 2022. Explosions were heard in places ranging from the outskirts of the capital city of Kyiv to the Russian-controlled eastern Donbas region. As is well known, there has been tension in Russia-Ukraine relations since 2014 (Naufal & Syaefudin, 2023; Radulescu, 2023; Rexhepi, 2017).

When Volodymyr Zelensky became President of Ukraine in 2019, he decided to sign up with NATO (North Atlantic Treaty Organization). Russia perceived this as a threat to its sovereignty. This is because Ukraine shares a direct border with Russia, so there is no longer a border between NATO and Russia. As a result, Russia invaded Ukraine to prevent Ukraine from joining NATO. Russia's invasion of Ukraine certainly violated International Humanitarian Law (IHL). From the perspective of humanitarian law, war is an unavoidable reality. Therefore, humanitarian law seeks to ensure that warfare remains humane. In other words, international humanitarian law aims to humanize war (Christina et al., 2023; Kahfi & Permanasari, 2022; Peng, 2017).

In the military conflict between Russia and Ukraine, there are military attacks that need to be evaluated from a humanitarian law perspective. The attack occurred when missiles fired by Russian soldiers hit the world center of Kremenchuk, resulting in a fire in the parking lot and damage to four floors of the commercial center building, as well as several explosions that hit the Retroville shopping center in the refuge. These attacks had a devastating impact on civilians, with more than 13 people killed and between 50 and 1,000 injured during the attacks. This raises the question of whether the attack was a provision of Article 27 of the 1949 Geneva Convention, which provides protection not only for members of the military but also for civilians who are not involved in enemy actions (Izzuddin et al., 2022).

In addition, Russia's attack on Ukraine raises questions about its validity, and this must be evaluated in the light of Articles 24 to 26 of the United Nations Charter which aims to maintain international peace and security, as well as commissioning the preparation of a plan to be submitted to UN members for the establishment weapons management system. Furthermore, consideration can also be given to Article 34 of the UN Charter which provides the authority to investigate events or situations that may trigger international conflicts or events.

In assessing this situation, it is important to consider various factors and seek a balanced understanding of the conflict, without taking sides or favoring any particular party. Such conflicts often involve complex aspects, and careful and objective understanding is essential in dealing with them. Articles 24 to 26 of the UN Charter, which establish the weapons control system and protect international peace and security, thus declare that Russia's attack on Ukraine is...
unjustified. Furthermore, the disagreement is unwarranted in accordance with UN Charter Article 34, which deals with the power to look into any international conflict or disagreement (Sondakh & Karisoh, 2023; Svarin, 2016). It is possible to apply the requirements to scale the Russia-Ukraine war and to implement Russia-Ukraine in order to validate the Russia-Ukraine application. In order to safeguard the nation against public interest, civil unrest, or calamity, actual acts are needed; this is not an official, artificial, or legal idea. Wiener asserts that need is a given.

Two primary questions were the focus of the analysis: First, how does one categorize the situation in Ukraine in accordance with international law (ius in bello), and is there an international legal foundation (ius ad bellum) for using force in this case? Second, UN engagement in the war between Russia and Ukraine against invasions of civilian settlements.

METHOD

This normative research aimed to investigate the war between Russia and Ukraine from the point of view of international law and tried to describe the obligations of the parties in protecting the civilian population under international humanitarian law. Hopefully, the results of this research can help to understand the problems that occurred related to what happens in international law. The data collection was through a literature review. The instrument in this research was secondary data in the form of documents consisting of primary, secondary, and non-legal materials. The data were analyzed qualitatively and then presented descriptively.

ANALYSIS AND DISCUSSION

After the Crimea crisis, the dispute in Russia-Ukraine relations continued. The crisis started when NATO was trying to expand its membership to Eastern Europe by attracting Ukraine as a target. President Putin did not let Ukraine off the hook because he considered this a threat and a violation for Russia. In the case of Russia and Ukraine, it should be emphasized that general international law prohibits the use of force, as stated in Article 2(4) of the UN Charter. Fortunately, there are some, albeit very limited, exceptions to this. It is important to analyze whether the reasons for Russia’s armed actions in Ukraine fall under one of these exceptions. To answer this, we need to look at the reasons, widely reported in various electronic media, why Russian President Vladimir Putin launched a massive military attack on Ukraine on February 24, 2022 (The Spectator, 2022). There are three reasons why Putin attacked Ukraine.

The first is a preventive defense under Article 51 of the UN Charter, according to which Russia invaded Ukraine to prevent a possible future attack on Ukraine. This is very important because the reason for self-defense can only be used in situations of an armed attack, where the form of attack must be clear and, therefore, the basis for the urgency of military operations. But if we look at Russia’s invasion of Ukraine, there is no need to rush. Preventive self-defense cannot be considered an exception to Article 2(4) of the UN Charter.
Another justification is the right to self-defense, based on the collective rights of the Donetsk and Luhansk Republics, based on which Russia can act at the request of the governments of the Donetsk and Luhansk Republics, in this case, declaring an attack from Ukraine. The fact that Putin signed the decree of independence of the Donetsk and Luhansk Republics, which considers Ukraine a breakaway region, does not mean that the Donetsk and Luhansk Republics are independent states.

The military operation is also based on humanitarian intervention, although President Putin did not specifically mention humanitarian intervention. Putin said intervention in Ukraine was necessary to save Ukrainian citizens from genocide. However, according to international law, humanitarian intervention cannot be carried out without the approval of the UN Security Council. Based on the analysis of these three reasons, it can be said that Russia's military action against Ukraine is illegal and violates international law.

Another issue is how to classify the situation in Ukraine according to international law. It should be emphasized that this is an armed conflict between Russia and Ukraine and an international conflict, as it affects two countries. However, let's not forget that the armed conflict between Ukraine and separatist groups in Donetsk and Luhansk has been raging since 2014. At this stage, this conflict can also be classified as an international conflict, as the facts on the ground show that Russia has gained control over the separatist forces in Donetsk and Luhansk.

Several obligations in international humanitarian law aim to limit the use of force in all armed conflicts. In general, international humanitarian law obliges belligerent states to protect civilians and surrendered, wounded, or captured combatants without attacking them. Some specific requirements of international humanitarian law impose obligations on these parties to the conflict: Do not allow yourself to be attacked, do not starve them (with the help of the International Red Cross, the UN, or NGOs), and always treat them humanely, only move if necessary and also do not capture them.

During the ongoing armed conflict between Russia and Ukraine, Ukrainian authorities are arming and disarming civilians for self-defense and direct participation in the war. Therefore, it should be emphasized that non-combatants can only be protected as long as they act as civilians unless they are involved in the war. However, if they are involved, they automatically lose their protected status and are legally considered aggressors, and Russia accuses them of carrying or using weapons against Russia. In international humanitarian law, there is also the term "total attack," which means that when the enemy approaches, they do not have time to mobilize as usual but takes up arms and launches an attack of his own accord. This is used against populations in uninhabited areas (Henderson, 2007)

However, the principle of proportionality (Article 51(5)(b) API) states that even if there is a clear military objective, it is not possible to attack it if the expected harm to civilians, or civilian property, is too great. In relation to expected military advantages. The principle of proportionality...
prohibits attacks against military objectives which are “expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”

On the other hand, international humanitarian law also aims to minimize the use of force necessary to defeat the enemy and refrain from using inhumane or inhumane weapons and strategies. In this case, the goal of minimization is on the side of Russia and Ukraine: Make something an identifiable military item so the attacker can see it. This is especially true in areas that can normally be used for civilian and military purposes. However, if a building normally used for civilian purposes is used for military purposes, then the protection is lost, and the enemy attack is legitimate.

When planning or executing an attack, take care not to endanger civilians or their property. This is particularly important for missions in densely populated civilian areas. Therefore, parties should avoid using weapons that can hit a large area with a single blow, as there is a serious risk of damaging buildings or killing civilians. For example, Russia has warned about Russian airstrikes in Ukraine so that residents in targeted areas have the opportunity to leave the area before the attack and not use weapons that are inappropriate, indiscriminate, or cause unnecessary suffering.

The obligations of third countries in the event of an armed conflict between Russia and Ukraine are also closely linked to international treaties. In the event of a dispute, third countries have the following obligations: Support in this context means both direct support (military aid, military assistance, financial assistance, etc.) and indirect support. In this case, Belarus allowed Russia to use Ukrainian border areas to attack Ukraine (Reetz, 2022)

Belarus' actions meet the criteria of Article 16 of the International Law Commission (ILC) for state responsibility for acts contrary to international law. Therefore, Belarus' actions are considered an act of war under international law and an attack on Ukraine, as occupation laws are not accepted during an attack. The law will prosecute all parties currently accused of international crimes in their jurisdictions. It should be remembered that there is no amnesty for international crimes, and the general principle of immunity does not apply.

The maintenance of international peace and security is one of the main objectives of the establishment of the United Nations (UN), as stated in Article 1 of the UN Charter. To create international peace and security, the UN is obliged to encourage disputes to be resolved peacefully, which can be done in several ways: Preventive Diplomacy, Peace Creation, Peacekeeping, Peacebuilding, and Peace Enforcement, which is the main responsibility of the UN Security Council as its main body (Ratu et al., 2022)

Therefore, the existence of the UN Security Council is the main organ in the structure of the UN Organization. Therefore, Articles 24 to 26 of the UN Charter regulate the functions of the powers of the UN Security Council, including giving UN members the main responsibility for
maintaining security and peace throughout the world, as well as formulating plans to be submitted to members who join the UN in the establishment of an armament regulatory system. In addition, the UN Security Council specifically, which is regulated in Article 34 of the UN Charter, states that the UN Security Council has the authority to investigate any dispute or situation that may cause conflict or may lead to an international conflict (Irni et al., 2023).

The current dispute between Ukraine and Russia has been around for a long time, with diplomatic relations ending. Russian President Vladimir Putin rejecting Ukraine's desire to join NATO (North Atlantic Treaty Organization) is the reason for the recent conflict. The reason is the increasing influence of the United States and NATO's constant intervention in Eastern Europe that threatens Russia.

There is a difference of opinion between Russia and Ukraine that causes the conflict. Since the Soviet Union collapsed, Ukraine declared independence and established diplomatic relations with Russia. After several years of regime change, Ukraine's political policy became more pro-Western, so Russia's role diminished (Christina et al., 2023). In addition, the war caused casualties, with 137 Ukrainian civilians and military killed. Russian attacks have so far injured 316 people, which is likely to rise. The attacks are the largest against any European country since World War II (Izzuddin et al., 2022).

The biggest consequence of the war between Russia and Ukraine has been a humanitarian crisis that has damaged the economy and society. Hundreds of civilians died, were injured, and lost their human right to live in peace during the war. The Ukraine-Russia war has also caused a crisis in the two countries that are exporters of energy, foodstuffs, and mineral resources, as the war has increased the prices of oil, gas, and wheat on the global market. To meet their needs, countries that used to import goods from Russia and Ukraine had to look for alternatives. Due to high demand compared to low supply, the war also threatens inflation (Ratu et al., 2022).

The war between Russia and Ukraine has also caused a refugee crisis. According to data from the United Nations High Commissioner for Refugees (UNHCR), as of March 25, 2022, more than 10 million Ukrainians had left their country to flee to safety. More than 6.5 million people have fled to refugee camps in Ukraine, and 3.7 million have left their country. Due to increased security risks, damage to transportation facilities, and lack of information on where and how to find safety and accommodation, an estimated 13 million Ukrainians remain trapped in affected areas. One of the consequences of the ongoing war between Russia and Ukraine is the possibility of a humanitarian crisis or human rights crisis if the war continues (Christina et al., 2023).

One evidence of the conflict between Russia and Ukraine is Russia's violation of Human Rights and Humanitarian Law. By considering both guidelines for handling international conflicts, it is hoped that the actions of the United Nations, as the world's largest peace institution, can resolve and follow up on conflicts so that there are no casualties. The sanctions issued by the
United Nations against Russia in February 2022 began with sanctions against the ceasefire carried out in the eastern region of Separatist Ukraine. These sanctions initially blocked two Russian state-owned banks, Vnesheconom Bank and Promsvyaz Bank, and their subsidiaries from financing the Russian military. However, on February 24, 2022, the sanctions were expanded to cover more Russian financial institutions, including the country's two largest banks, Sberbank and VTB Bank, which are blocked from accessing the US financial system. In addition, sanctions prohibit United States companies and individuals from purchasing Russian sovereign debt on the secondary market. While export controls have been imposed to prevent the import of Russian technology products, the Russian elite and their families have been financially targeted (Christina et al., 2023).

Russia's invasion of Ukraine is in clear violation of Article 27 of the Geneva Convention. This article stipulates that protection should be given to the civilian population not engaged in hostilities or warfare as well as to members of the Armed Forces. The UN can resolve conflicts between states and has a role to play in resolving the conflict between Russia and Ukraine. However, conflict resolution efforts are not always successful or maximized. The UN organized an emergency general meeting a while ago to discuss Russia's invasion of Ukraine. All UN member states attended the emergency meeting, which resulted in the UN Conflict Resolution for Ukraine being approved by 141 member states. The Conflict Resolution called on Russia to leave Ukraine immediately.

However, Russia refused and even continued to invade. World leaders, the UN Secretary-General, the US President, the UK Prime Minister, the South Korean President, and even the Indonesian President also condemned the Russian state and called for the invasion to stop. However, this did not stop Vladimir Putin from invading. The Russian President even declared that Russia would attack any country that prevented him from invading Ukraine (Izzuddin et al., 2022).

The International Court of Justice (ICJ), an institution under the auspices of the United Nations, also has a role in resolving the conflict between Russia and Ukraine. Under International Law, the ICJ can resolve legal disputes submitted by UN member states (Hani Adhani, 2022). In addition, the ICJ can provide its opinion and advice on legal questions submitted by UN-formed institutions. Russia's invasion of Ukraine is an object that can be tried by the International Court of Justice.

Exactly 3 days after the invasion by Russia, Ukrainian representatives submitted a lawsuit to the ICJ. In the lawsuit, two issues are raised. The first is the violation of genocide committed by Russia against Ukraine. Then secondly, there was a mistake made by Russia which stated that there had been acts of genocide in Donetsk and Luhansk, so this was the main cause of Russia carrying out military operations. In the trial held on March 7, 2022, the Ukrainian side came and expressed its opinion, but the Russian side was not present at the trial, so there was no
specific information submitted by the Russian side. Russia's absence at the trial, making the ICJ have considerations related to interim decisions that are considered not too comprehensive so that this makes the ICJ not hasty in making decisions regarding the case (Manogar & Christianti, 2023).

The UN Security Council has voted in an emergency session of the UN general assembly that took place on March 2, 2022, to pass a Draft Resolution condemning the Russian Military attack on Ukraine and asking Russia to stop military action and withdraw its soldiers from Ukraine. Of the 193 voting members, 141 countries, including Indonesia, supported the resolution. This mechanism is carried out because it is by the UN Charter (Desi Rahmadani, 2023).

It seems that the UN Security Council cannot provide maximum results in the UN session. This is seen by how strong the Russian State is and the lack of UN authority given because Russia is one of the permanent Members, so all countries cannot draft a truly strong resolution to stop this conflict. Despite being a party to the conflict, Russia has Veto rights in the general assembly held in New York (Manogar & Christianti, 2023).

**CONCLUSION**

Russia has violated the principles of international humanitarian law in carrying out its military invasion, including violating civilian protection, the use of prohibited weapons such as land mines and chemical weapons, and the sending of troops without identification marks to Ukraine, all of which are contrary to the provisions of international humanitarian law that stipulate protection against victims of war, the prohibition of the use of prohibited weapons, as well as the principles of identifying attackers and accessing humanitarian aid.

Based on the analysis, Putin's justification for attacking Ukraine is based on three things. The first is personal self-defense, which can be exercised under Article 51 of the UN Charter if Russia attacks Ukraine to prevent possible future Ukrainian attacks. But given Russia's invasion of Ukraine, we do not know any of this firsthand. Another reason is the right to collective self-defense against Russian bases, namely the Donetsk and Luhansk republics.

When President Putin signed the decree on the independence of the Donetsk and Luhansk republics, the Donetsk and Luhansk republics claims of sovereign power became unreasonable, and that was the reason for the independence of the Donetsk and Luhansk republics in the region. This is considered an act of Ukrainian separatism. Another justification is humanitarian intervention, but according to international law, humanitarian intervention cannot be carried out without the approval of the UN Security Council. Based on the analysis of these three justifications, it can be said that Russia's military action against Ukraine is illegal and contrary to international law. Several obligations in international humanitarian law aim to limit the use of force in armed conflict. International humanitarian law requires armed forces to refrain from attacking and protect civilians and combatants who have
surrendered, been wounded, or captured. International humanitarian law also requires that the use of force be kept to a minimum and that the use of indiscriminate or inhumane weapons and tactics be avoided.

REFERENCES


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