



INTERNATIONAL PUBLIC LAW IN CURRENT GLOBAL RELATIONS: THE CASE OF WAR IN UKRAINE

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Abstract

International public law, comprising the legal principles governing the relations between sovereign states and international actors, is integral to maintaining global order and addressing conflicts. The war in Ukraine, which began with Russia's invasion in February 2022, has become a focal point for the application and challenges of international law in contemporary global relations. The conflict in Ukraine underscores critical aspects of international public law, particularly regarding state sovereignty, territorial integrity, and the prohibition of aggression. Russia's actions have been widely condemned by the international community as violations of these core principles, leading to a series of sanctions and diplomatic responses aimed at restoring peace and upholding international norms. The International Criminal Court (ICC) has launched investigations into alleged war crimes and crimes against humanity, reinforcing the global commitment to accountability and justice. The war also highlights the role and limitations of international institutions, such as the United Nations (UN) Security Council, where geopolitical dynamics often impede decisive action. Despite these challenges, various international bodies, including the UN General Assembly and the European Union (EU), have played significant roles in coordinating responses, providing humanitarian aid, and supporting Ukraine's sovereignty. In the broader context of global relations, the Ukraine conflict illustrates the complexities and crucial importance of international public law. It demonstrates the ongoing struggle to balance state sovereignty with international norms on human rights and the laws of war. The international community's efforts—ranging from diplomatic initiatives and economic sanctions to legal proceedings and humanitarian support—reflect the evolving and critical role of international law in fostering peace, security, and justice in an increasingly interconnected world.

Key words: *Sovereignty, territorial integrity, aggression, accountability.*

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Introduction

International public law, which governs the relationships between sovereign states and international entities, plays a pivotal role in maintaining global order and resolving conflicts. The war in Ukraine, initiated by Russia's invasion in February 2022, has become a key case study in the application and challenges of contemporary international law [1]. This conflict brings into focus critical aspects such as state sovereignty, territorial integrity, and the prohibition of aggression, all of which have been severely violated according to widespread international condemnation.

Russia's actions have prompted a wave of diplomatic and economic responses, including sanctions aimed at pressuring the country to restore peace and adhere to international norms. Investigations by the International Criminal Court (ICC) into alleged war crimes further highlight the global commitment to justice and accountability. Also NATO's involvement in the Ukraine conflict, though limited to providing military aid and intelligence, faces significant challenges, including the legal constraints of Article 5, which prevents direct military intervention as Ukraine is not a NATO member, and the geopolitical risks of provoking a larger confrontation with nuclear-armed Russia [2].

At the same time, the war exposes the limitations of international institutions like the UN Security Council, where geopolitical interests often prevent decisive action. Nevertheless, bodies such as the UN General Assembly and the European Union (EU) have played important roles in coordinating humanitarian aid and reinforcing Ukraine's sovereignty. This conflict underscores the complex and evolving nature of international public law in addressing modern global crises [3].

The Ukraine-Russia War: A Public Law Analysis

The Ukraine-Russia war, which escalated into full-scale invasion on February 24, 2022, has not only transformed geopolitical landscapes but also tested the boundaries and limits of public law at both the international and domestic levels. Public law, which governs the relationships between individuals and the state as well as between states, is a crucial lens through which to analyze the conflict. This analysis will explore the war through several key legal frameworks: international law, human rights law, humanitarian law, state sovereignty, and the principles of self-determination and intervention. It will also examine how the conflict has highlighted the strengths and weaknesses of these legal structures and what the war signifies for the future of global public law [4].

International Law and the Use of Force

At the core of public law is the principle of state sovereignty, which is enshrined in the United Nations Charter. Article 2(4) prohibits the use of force by states against the territorial integrity or political independence of any state, except in self-defense or



when authorized by the UN Security Council. Russia's invasion of Ukraine, viewed under this framework, represents a violation of this principle. 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 [5].

Russian Justifications vs. International Norms

Russia has presented several justifications for its actions, claiming that its invasion is a "special military operation" aimed at "denazification" and "demilitarization" of Ukraine. Moscow also invoked the defense of Russian-speaking minorities in Eastern Ukraine, citing the alleged genocide of Russian-speaking people in the Donbas region as a cause for intervention. However, these justifications are widely rejected by the international community, which sees them as a pretext for territorial expansion and an illegal breach of Ukrainian sovereignty.

Putin's claims that Russian ethnic minority in Ukraine have a right to determine its political status and pursue its economic, social, and cultural development is not wrong per se, but that does not presume that they have the right to unilaterally secede from Ukraine and form their own separate state. In recognition of states right to preserve their territorial integrity, secession is allowed only in extreme cases of repeated oppression or subjugation of the minority, leaving it with no other option to exercise internal self-determination in a meaningful way [6].

Under international law, intervention on humanitarian grounds is highly controversial. The International Court of Justice (ICJ) and International Criminal Court (ICC) frameworks do not easily accommodate such claims unless a clear and imminent genocide or large-scale humanitarian catastrophe is demonstrable, which, in Ukraine's case, has not been conclusively proven. Apart from clear statements and condemnations, evidence for war crimes, for instance, has been documented and led the ICC to issue an arrest wanted against President Putin and Maria Lvova-Belova for the 'unlawful deportation and transfer of Ukrainian children from occupied areas of Ukraine to the Russian Federation'[7].

Self-Defense and Collective Security

Ukraine, on the other hand, has invoked Article 51 of the UN Charter, which allows for the inherent right of individual or collective self-defense in the event of an armed attack. Ukraine's position has been bolstered by military aid from NATO countries, although NATO itself has refrained from direct intervention to avoid escalating the conflict into a broader war with Russia. As stated: "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. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time



such action as it deems necessary in order to maintain or restore international peace and security” [8].

Only two provisions in the UN Charter allow the use of force in international relations: in self-defense (Art. 51) and by UNSC authorization (Art. 42). The first option is limited to an armed attack against a state or an imminent threat, leaving no choice of means or moment of deliberation. For the second legal option the threat can be no imminent, and may arise from various situations, but the use of force can only be made by a collective decision of the UNSC members. Still there is a gap – what should be done when people’s lives are in imminent and grave danger, but the UNSC members refuse to act or rely on the veto to prevent action [9]?

The reluctance of the UN Security Council to take decisive action stems from Russia’s veto power as a permanent member of the council. This limitation of international public law, where a powerful state can block collective action even when it violates the principles of the very institution it helps govern, reveals a structural weakness in the global system of collective security.

Sovereignty vs. Self-Determination

Sovereignty is a cornerstone of international law, yet it often comes into conflict with the principle of self-determination. The Ukrainian crisis is an embodiment of this tension. State sovereignty refers to the concept that a state has full control and authority over its own territory and domestic affairs, free from external interference. This principle is central to international law and implies that a sovereign state has the exclusive right to govern its population, enact laws, and manage its resources without the interference of other states. It is also a key element in maintaining international order, as it ensures that states respect each other's borders and political independence. State sovereignty is enshrined in international documents like the United Nations Charter, specifically in Article 2(1), which states that the organization is based on the principle of the sovereign equality of all its members. Furthermore, it underpins the principle of non-intervention, which prohibits states from interfering in the internal or external affairs of another sovereign state.

When norms are unclear or contradictory, and when the system is structurally permissive, the likely results are unpredictability and instability in the system. In combination, the examples – and the lack of clarity they reflect – constitute a serious problem for international society. Without consistent and effective signposts, appropriate behavior cannot be identified and states are able to justify self-interested aggressive behavior. For example, in Iraq in 2003, the United States justified its breach of norms concerning the use of force, sovereignty, and non-intervention by claiming that it was acting in part to defend the human rights of the Iraqi people against a brutal dictator. In 2008, Russia justified its invasion of Georgia in part through an appeal to norms concerning genocide and the protection of civilians in conflict [10].



Crimea and Donbas: A Challenge to Sovereignty

In 2014, Russia annexed Crimea after a disputed referendum, which Moscow claims reflected the will of the predominantly Russian-speaking population to join Russia. Similarly, the self-proclaimed Donetsk People's Republic (DPR) and Luhansk People's Republic (LPR) in Eastern Ukraine declared independence, allegedly following the aspirations of their local populations. Russia's actions in these regions have raised questions about the legal limits of self-determination.

The conflict in Donbas left Russia facing escalating economic penalties from the United States and the European Union that stifled its economy. In 2016, NATO responded to the fears of member states along Russian borders by reinforcing its military capabilities in Estonia, Latvia, Lithuania, Poland, and Romania and standing by its 2008 pledge that Ukraine and Georgia "will become" members. In 2019, the United States also abandoned the Intermediate Nuclear Forces (INF) Treaty after accusing Russia of noncompliance, a step that would allow for nuclear deployments in Central and Eastern Europe as well as around the Russian periphery in Asia [11]. International law does recognize the right of peoples to self-determination, as outlined in Article 1(2) of the UN Charter and in the International Covenant on Civil and Political Rights (ICCPR). However, this principle is generally applicable to colonies or territories under foreign domination, not to regions within a sovereign state. The ICJ has consistently upheld that secessionist movements, such as those in Crimea, Donetsk, and Luhansk, do not have an automatic right to secede under international law without the consent of the parent state.

Kosovo Precedent and Russian Claims

Russia has frequently cited the case of Kosovo, which declared independence from Serbia in 2008, to support its actions in Crimea and the Donbas. The Kosovo case is a significant precedent in international public law regarding self-determination and state sovereignty. After Kosovo declared independence from Serbia in 2008, Serbia contested the legality of the declaration, citing violations of its sovereignty. In 2010, the International Court of Justice (ICJ) issued an advisory opinion stating that Kosovo's declaration did not violate international law. The ICJ did not affirm Kosovo's right to secede but concluded that international law contains no prohibition against unilateral declarations of independence. Kosovo's case is often referenced in discussions of remedial secession, which suggests that regions suffering grave human rights abuses may have a right to secede. However, the legal implications remain debated, particularly as Russia uses the Kosovo precedent to justify actions in Crimea and Donbas, though international consensus does not support the comparison. While the ICJ ruled in 2010 that Kosovo's declaration of independence did not violate international law, it is important to note that Kosovo's situation was unique, emerging from a protracted and internationally mediated conflict [12], whereas Crimea's annexation and the conflict in Eastern Ukraine lack such international endorsement.



The principle of territorial integrity remains paramount, and Russia's actions are widely seen as a violation of Ukraine's sovereignty, despite its references to self-determination. This reflects a clear limitation of public law, where principles like self-determination and sovereignty can clash without clear mechanisms for reconciliation.

Humanitarian Law and War Crimes

Another significant area of public law implicated in the Ukraine-Russia war is international humanitarian law, particularly the laws of war (*jus in bello*). These laws, codified primarily in the Geneva Conventions, govern the conduct of hostilities, the protection of civilians, and the treatment of prisoners of war.

Violations of International Humanitarian Law

There have been widespread allegations of violations of humanitarian law by both sides in the conflict. Reports from international organizations, such as Human Rights Watch and Amnesty International, document attacks on civilian infrastructure, indiscriminate bombing of urban areas, and the targeting of hospitals and schools by Russian forces, in violation of the Geneva Conventions. Similarly, Ukrainian forces have been accused of mistreatment of prisoners and using civilian structures for military purposes, though on a much smaller scale compared to the alleged actions of Russia.

The ICC has opened an investigation into possible war crimes committed during the conflict, but enforcing accountability for these crimes is challenging. Russia does not recognize the jurisdiction of the ICC, and even if individual military leaders or politicians are indicted, bringing them to trial is difficult without their capture or surrender. This again illustrates the limitations of public law, particularly international criminal law, in conflicts involving powerful states.

The Refugee Crisis and Human Rights Law

The war has also triggered one of the largest refugee crises in Europe since World War II, with millions of Ukrainians fleeing to neighboring countries. The 1951 Refugee Convention outlines the responsibilities of states toward refugees, and European countries have largely responded with open borders and temporary protection measures for displaced Ukrainians. However, the differential treatment of Ukrainian refugees compared to non-European refugees in past crises (e.g., from Syria or Afghanistan) has raised questions about the equitable application of international human rights law.

The European Court of Human Rights (ECHR), to which Ukraine and Russia are both signatories, has also become a battleground for legal cases arising from the conflict. Ukrainian citizens have filed numerous complaints against Russia for human rights violations, yet the enforcement of ECHR judgments remains problematic, especially after Russia's expulsion from the Council of Europe in March 2022. Council of Europe



in a published statement: In an extraordinary meeting this morning, the Committee of Ministers decided, in the context of the procedure launched under Article 8 of the Statute of the Council of Europe that the Russian Federation ceases to be a member of the Council of Europe as from today, after 26 years of membership [13].

Cyber Warfare and Public Law

An emerging and increasingly significant dimension of the Ukraine-Russia war is cyber warfare. Both Russia and Ukraine, along with external actors, have engaged in cyberattacks that target government institutions, critical infrastructure, and media outlets. The applicability of public law to cyber warfare is still developing, but existing legal frameworks provide some guidance.

Tallinn Manual and Cyber Operations

The Tallinn Manual on the International Law Applicable to Cyber Warfare, an influential but non-binding document, suggests that cyber operations can constitute acts of war if they result in significant destruction or injury, much like traditional kinetic attacks.

Published in March 2013, The Tallinn Manual, is the first comprehensive and authoritative attempt to analyze the application of international law to cyber warfare. It was produced by an international team of legal scholars at the request of the NATO Cooperative Cyber Defense Center of Excellence located in Tallinn, Estonia. The manual represents the views of the authors in their personal capacities and does not reflect the official policy of NATO or its member states. A follow-up report, the Tallinn Manual 2.0, was released in February 2017. Tallinn 2.0 broadens the scope to assess how international legal principles can be applied to malevolent cyber operations that do not rise to the level of an armed attack [14].

Sovereignty is a foundational principle of international law. Its Latin origin - *sui juris*, *esse suae potestatis*, *superanus* or *summa potestas* - indicates that sovereignty refers to the supreme authority of the prince or king or, applied to modern international law, the State. This Rule recognizes that various aspects of cyberspace and State cyber operations are not beyond the reach of the principle of sovereignty. In particular, States enjoy sovereignty over any cyber infrastructure located on their territory and activities associated with that cyber infrastructure. Although territoriality lies at the heart of the principle of sovereignty, in certain circumstances, States may also exercise sovereign prerogatives such as jurisdiction over cyber infrastructure and activities abroad, as well as over certain persons engaged in those activities (Rules 10-11). Finally, the territorial nature of sovereignty also places restrictions on other States' cyber operations directed at cyber infrastructure located in sovereign territory [15]. By this standard, several cyberattacks during the Ukraine war, such as the use of malware targeting Ukrainian infrastructure, could be considered violations of international law.



However, the diffuse nature of cyber warfare, where state and non-state actors often operate anonymously or through proxies, complicates attribution and legal accountability. International law struggles to keep pace with technological developments, making cyber warfare a gray area in the legal domain. This lack of clarity on the legal limits of cyber operations presents a critical challenge for public law moving forward.

Sanctions and Economic Warfare: Legal Implications

Another important aspect of the conflict is the imposition of economic sanctions on Russia by Western states. These sanctions, targeting sectors such as finance, energy, and defense, have sought to cripple Russia's ability to sustain its war effort. While sanctions are a legitimate tool of statecraft under international law, their legality and effectiveness have been the subject of debate.

Unilateral Sanctions and International Law

International law permits collective sanctions authorized by the UN Security Council, but many of the sanctions against Russia have been imposed unilaterally by individual states or groups of states, such as the European Union and the United States. While unilateral sanctions are not expressly prohibited, they raise concerns about sovereignty and non-interference in domestic affairs, especially when they have significant extraterritorial effects.

Russia has challenged the legality of these sanctions at the World Trade Organization (WTO), arguing that they violate the principles of free trade and international economic law. However, many states imposing sanctions justify them on national security grounds, invoking exceptions under WTO rules. This legal tension highlights another limitation of public law, where economic measures can conflict with established legal norms governing trade and commerce.

The Role of International Institutions

The Ukraine-Russia war has put significant strain on international institutions, from the United Nations to the ICC and the OSCE (Organization for Security and Co-operation in Europe). These bodies have been unable to prevent the conflict or bring about a swift resolution, raising questions about their relevance and effectiveness in the modern world.

UN Security Council Paralysis

The UN Security Council's paralysis, due to Russia's veto power, underscores a structural flaw in the global governance system. Furthermore, while the UN Security Council has been predictably hampered by the use of the Russian veto, much of the communication that has taken – and is currently taking – place has been within the



various organs of the UN. Of particular note is the fact that, in an emergency special session that took place on 2 March 2022 as a result of an invocation of the Uniting for Peace mechanism, the UN General Assembly condemned the intervention in unusually categorical terms – explicitly, and correctly, deploring it as an act of aggression – and with what was a surprising majority of states voting in support of its adoption. This limitation illustrates the growing irrelevance of some international institutions in conflicts involving powerful states with veto powers [16].

NATO and Collective Defense

Though NATO is not a public law institution, its role in the Ukraine-Russia conflict raises critical questions about collective defense under international law, especially the scope of its Article 5 provisions. Article 5 of the North Atlantic Treaty states that an armed attack against one or more NATO members is considered an attack on all members, triggering a collective response. The principle of collective defense is at the very heart of NATO's founding treaty. It remains a unique and enduring principle that binds its members together, committing them to protect each other and setting a spirit of solidarity within the Alliance [17].

Since Ukraine is not a NATO member, Article 5 has not been invoked. This reflects the alliance's legal and strategic boundaries, as Ukraine does not qualify for the automatic mutual defense clause under NATO's framework. Instead, NATO members have opted to provide substantial military aid to Ukraine, including intelligence sharing, training, and arms supplies. However, they have carefully avoided direct military involvement, mindful of the risks of escalation that could lead to a broader conflict with nuclear-armed Russia.

This measured response underscores NATO's legal limitations in intervening on behalf of non-members while balancing the geopolitical risks of provoking Russia into a full-scale confrontation with the alliance. Furthermore, international law's principle of non-intervention and state sovereignty restricts NATO's ability to act directly within Ukraine unless a direct attack on a member state occurs, which could then invoke Article 5. In conclusion, while NATO's support for Ukraine is substantial, it remains bound by a legal framework designed to prevent direct involvement, carefully maintaining a balance between assisting a threatened sovereign state and mitigating the risk of triggering a larger-scale conflict, which international law seeks to avoid.

Conclusion: Public Law is in serious crisis

How to overcome this crisis?

The Ukraine-Russia war has exposed significant limitations in public law. While international law provides clear principles regarding the use of force, state sovereignty, and human rights, the conflict has demonstrated that powerful states can evade accountability, especially in the absence of effective enforcement mechanisms.



Humanitarian law has proven difficult to enforce, and international institutions like the UN have been paralyzed by geopolitical considerations. Moreover, emerging domains like cyber warfare and economic sanctions present new challenges for public law, which has struggled to keep pace with technological and geopolitical developments.

The conflict underscores the need for reforms in the international legal order, particularly regarding the enforcement of international law and the prevention of abuses by powerful states. Public law, as it stands, offers important protections but remains limited in its capacity to regulate conflicts between major powers like Russia and its neighbors. If future crises are to be better managed, a rethinking of these frameworks may be essential.

Is the reform of United Nations Security Council (UNSC) possible way out of crisis?

Yes, reforming the United Nations Security Council (UNSC) is often discussed as a potential solution to address the limitations exposed by conflicts like the Ukraine-Russia war. The current structure allows five permanent members (P5) – the United States, Russia, China, France, and the United Kingdom – to veto any substantive resolution, often paralyzing the body when one of these members has a direct interest in the issue. Russia, for example, has used its veto power to block action on its invasion of Ukraine, which undermines the Security Council's ability to uphold international peace and security. Reforming the Security Council could enhance its legitimacy and effectiveness, but achieving consensus among UN members, especially the P5, remains a major obstacle.

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