




The Russian Military Intervention in Ukraine: An Analysis through the Lens of International Law

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ABSTRACT

Russian troops invaded Ukrainian territory on February 22, 2022, for the sake of defending its borders from the alleged NATO threat, led by the United States. This move created widespread legal debate, calling for a number of positions on whether Russia's actions were justifiable self-defence in international law or breached the Geneva Conventions governing international humanitarian law. This research paper aims to bring to the fore the military activities carried out by Russian soldiers in Ukraine, taking into account the legality of such a military operation under Article 51 of the United Nations Charter, which discusses the right to self-defence and exercise of the right of self-defence on the part of states. We shall also examine whether military intervention violates humanitarian law. The analysis shall use relevant legal documents, albeit more specifically, the 1949 Geneva Conventions, the Rome Statute of the International Criminal Court of 1998, in addition to using the United

Nations Charter and those that are supplementary. To this effect, the paper will examine the subjectivity of operations to international law and humanitarian implications thereof towards Ukraine. The findings of this research on the legality of military interventions and state responsibilities according to international law will offer a complete appreciation of the legal and ethical dimensions of the conflict.

INTRODUCTION

Under the new international order, the global arena has witnessed several military interventions aimed primarily at eliminating violations of international humanitarian law and human rights, as well as changing political regimes that infringe upon these rights. Regardless of the justifications presented for these military actions, a common characteristic is the use of armed force against the integrity and independence of states, which undermines their role as the largest sponsors of peace in the world. Much discourse has been dedicated to exploring the legal nature of these military interventions.

Military intervention, in general, oscillates between two prominent concepts in international law: the legitimate right to defend a state's sovereignty and territorial integrity (as seen in the U.S. war on terrorism) and the violation of international humanitarian law. Such interventions often result in casualties and infrastructural damage, whether intentional or unintentional (as exemplified by the war in Gaza).

On February 22, 2022, Russian troops invaded Ukrainian territory under the pretext of defending national security against perceived threats from the West, particularly NATO. This military operation triggered significant political reactions, dividing global opinion. One faction categorically rejects Russia's infringement on Ukraine's sovereignty, while another supports Russia's justifications.

From an international law perspective, the key questions arise: How does the Russian military intervention align with the requirements for legitimate defense as outlined in Article 51 of the UN Charter? Additionally, how does it relate to violations of international humanitarian law?

To address these issues, we have structured the research paper into two main topics. The first

topic examines Russian military intervention and its connection to the right of legitimate defense. This will include an analysis of military intervention in international law (the first requirement) and the legitimacy of Russian military actions in light of international humanitarian law (the second requirement).

The second topic will explore the extent to which the Russian military intervention violated international humanitarian law. This includes assessing Russia's international responsibility for such violations (the first requirement) and evaluating how these violations in Ukraine substantiate the case for Russia's international accountability (the second requirement).

In tackling these questions, we employed an analytical approach, gathering relevant legal material and analyzing it in relation to the realities of the Russian-Ukrainian armed conflict.

Section One: Russia's declaration of war on Ukraine and the issue of justifying it by the right of legitimate defence

The tension in the relationship between the two states led to a military intervention carried out by the Russian Armed Forces on Ukrainian territory, and the Russian government's pretext was that what it was doing came in the context of Article 51 of the UN Charter and that the state has the right to defend itself from any threat affecting its security and sovereignty.¹

The concept of legitimate defense did not fully materialize until after the establishment of the United Nations. It emerged as a recognized principle within international norms and laws, allowing

1 See Article 51 of the Charter of the United Nations. Available at: <https://www.un.org/ar/about-us/un-charter/full-text> (Last access: 04.10.2024).

states to take measures they consider necessary to protect their core interests when under attack. As public international law evolved, emphasizing the principle of preventing military force, the idea of legitimate defense developed as an exception to the general rule against the use of force, as outlined in the UN Charter,² which aims to maintain international peace and security.³

From a legal perspective, military intervention extends beyond the principles of public international law, such as the principle of non-interference in the internal affairs of states. It can also be analyzed through the lens of international humanitarian law, particularly in reference to the second Common Article of the four Geneva Conventions of 1949. This article stipulates the international protection of members of the armed forces who have laid down their weapons, as well as individuals unable to fight due to illness, disability, detention, or other reasons. All such individuals must be treated humanely in all circumstances, without any harmful discrimination based on race, color, sex, religion, belief, birth, wealth, or any other criterion.⁴

Based on the previous discussion, we will examine the manifestations of military intervention in international law. This will involve a detailed explanation of each aspect separately in the first and the second requirement. We will also assess the legality of military intervention within the framework of international law.

The First Demand: Manifestations of military intervention in international law

Although the use of force and its threat are prohibited under the United Nations Charter, the international landscape reveals a different reality. Numerous international conflicts continue to occur where force has been employed, each with its justification based on specific contexts. The wars in Afghanistan, Iraq, and Ukraine represent Western military interventions that were framed under various pretexts, including the war on terrorism, preemptive war, preventive war, and humanitarian military intervention. These aspects of military intervention will be discussed in detail in the following sections.

The First Branch: Military intervention as a manifestation of the war on terror

Terrorism is not a new phenomenon and does not have a singular definition.⁵ Its manifestations have varied across different times and places, yet its fundamental nature has remained constant. Since the League of Nations established the Convention for the Prevention and Punishment of Terrorism in 1937, combating terrorism has consistently been a priority for the international community. Starting in 1963, sixteen international legal instruments aimed at preventing and punishing terrorist acts have been adopted. Furthermore, for over a decade, the United Nations General Assembly has passed annual resolutions on measures to combat international terrorism, initiated by the Sixth Committee.⁶

The Security Council has adopted numerous resolutions aimed at combating terrorism, with Resolution 1373/2001 holding particular significance. Adopted in the aftermath of the events of September 11, 2001, this resolution has both a general and binding nature. Its adoption under Chapter VII of the United Nations Charter signifies that

2 The prohibition of resorting to the use of force and the threat of it is stipulated in Article 51 of the charter, which states as follows: “nothing in this charter weakens or detracts from the natural right of states, individually or collectively, to defend themselves if an armed force attacks a member of the United Nations, until the Security Council takes the necessary measures to maintain international peace and security”. See the full text of the Charter available at: <https://www.un.org/ar/about-us/un-charter/full-text> (Last access: 04.10.2024).

3 Kamrsho, H., Alloush, F. (2020). The limits of legitimate defence under the UN Charter and the statute of the International Criminal Court. *Journal of Legal and Political Sciences*, Vol. 11, No. 02, p. 551.

4 Mabrouk, G. (2014). The military intervention in Mali and the extent of its legitimacy. *Notebooks of Politics and Law*, No. 11, p. 64.

5 NATO. (2020). The reference method for combating terrorism, p. 11.

6 United Nations. (2009). Handbook on international cooperation in criminal matters to combat terrorism. United Nations Office on drugs and crime, New York, p. 1.

terrorism is to be regarded as a threat to international peace and security.⁷

NATO defines terrorism in its military documents as “the unlawful use or threat of use of force or violence, which instils fear and terror, against individuals or any attempt to coerce or intimidate governments or societies or to impose control over populations and property to achieve political, religious, or ideological goals.”⁸

A significant debate arose during the Rome Conference that established the International Criminal Court regarding the court’s jurisdiction over international terrorism crimes. Attendees were divided into two opposing views. The first group argued that terrorism should fall under the court’s jurisdiction, as it is one of the most serious crimes threatening international peace and security, in addition to violating international humanitarian law. The second group, however, contended that terrorism is a transnational crime, and the court should not address it due to difficulties in defining it, a lack of consensus on the definition of international terrorism, and challenges in investigation and prosecution. They argued that national criminal courts should be the sole authority to address such crimes.

The second Branch: Military intervention as a form of humanitarian intervention

Although the concept of intervention has been widely applied in international relations, there is little consensus among scholars on the definition of “humanitarian intervention”, leading to the emergence of various interpretations. One interpretation is the broad concept of humanitarian intervention, which holds that such interventions are justified in response to any form of suffering, whether caused by natural disasters or human actions, such as armed conflicts. In contrast, the narrow concept restricts humanitarian intervention to actions that are free from political or military motivations and any form of coercion. In this sense, humanitarian intervention is truly humanitarian,

meaning it does not involve economic or strategic interests, nor does it exhibit bias or selectivity in its outcomes or methods.⁹

In 1915, the jurist Roger defined humanitarian intervention as the right of a state to exert control over another state’s actions concerning its internal sovereignty when the law of humanity is in conflict, with the intervening state seeking to justify its actions legally.¹⁰

Christopher Greenwood states that humanitarian intervention is limited to cases where a large segment of citizens—who may not necessarily be subjects of a state or another state—are exposed to death or torture on a large scale as a result of the policies of the government of that state.¹¹

The Secretary-General of the United Nations, Kofi Annan, raised his famous question about how the international community should respond to gross and systematic violations of human rights that affect every principle of our common humanity. The International Commission on Intervention and State Sovereignty specifically^{12*} described this issue as follows: “Generally, it aims to build a broader understanding of the problem of reconciling intervention to protect human beings with state sovereignty. More specifically, it seeks to develop a global political consensus on how to move beyond polemics and often paralysis, towards effective action within the international system, particularly through the United Nations”.¹³

The Committee uses six criteria to justify humanitarian military intervention, aiming to have these criteria accepted at the global level. It believes that these criteria can help bridge the gap

7 Ibid.

8 NATO. (2020). The reference method for combating terrorism, p. 11.

9 Awashria, R. (2003). Humanitarian Intervention as a Mechanism for Achieving World Peace in the Concept of the Countries of the North. Available at: <https://www.asjpcerist.dz/en/article/75645> (Last access: 04.10.2024).

10 Ibid., p. 13.

11 Ibid., p. 14.

12 * The International Commission on Intervention and State Sovereignty is a body established by the Government of Canada in September 2000 in the wake of the controversy surrounding the NATO bombing campaign in Kosovo. See: Massingham, E. (2009). Military Intervention for Humanitarian Purposes: Does the Doctrine of the Responsibility to Protect Enhance the Legitimacy of the Use of Force for Humanitarian Purposes? *International Review of the Red Cross*, Vol. 91, No. 876, p. 160.

13 Ibid., p. 160.

between theory and practice regarding the responsibility to protect. These criteria are:¹⁴

1. **The Just Cause Criterion:** This requires the existence of widespread loss of life, with or without the intent to commit genocide, as a result of a deliberate act or negligence by the state;
2. **The Appropriate Authority Criterion:** This determines the body authorized to intervene in humanitarian situations;
3. **The Good Intention Criterion:** This means that the purpose of humanitarian intervention is to stop or prevent human suffering, and that overthrowing the regime is not a legitimate reason for intervention;
4. **The Last Resort Criterion:** This indicates that resorting to the use of force should be the last option for intervention, as outlined in Articles... of the Charter of the United Nations;
5. **The Appropriate Means Criterion:** This emphasizes the need to consider proportionality in any intervention process, in accordance with the principle of proportionality in international humanitarian law;
6. **The Reasonable Probability of Success Criterion:** This requires that military action be justified, provided that its chances of success are reasonable.

The third branch: Military intervention as a manifestation of preemptive war

Both the concepts of preventive and preemptive war, despite their different pronunciations, lead to the same act. They serve as a circumvention by major powers to confer some kind of legitimacy on their aggressive actions, allowing them to evade international accountability. It should also be noted that the preparatory committee for the draft definition of the crime of aggression has rejected the notion of a legitimate preventive defense.¹⁵

14 Ibid., pp. 161-162.

15 Saadi, M. Between preventive war and proactive war in international law. Available at: <https://www.asjp.cerist.dz/en/downloadArticle/325/1/1/45310> (Last access: 04.10.2024).

Despite the preparatory committee's rejection of preemptive war as a means of legitimate defense, the international arena has witnessed many practices that illustrate this concept. One notable example is the Cuban Missile Crisis:

The Cuban Missile Crisis: During this crisis, the United States put forward several formal legal arguments in support of establishing a so-called "defensive quarantine" before any actual use of force by the Soviet Union or Cuba. Most of these arguments centered on the role of regional organizations and their ability to authorize the use of force in the absence of a formal Security Council resolution. However, several Security Council representatives discussed the notion of preemption during the Council's deliberations on the American proposal. Although there was no clear consensus supporting this principle, there was also no clear consensus opposing it. Many states that opposed the United States' position did not outright reject the principle of preemption; rather, they questioned whether the criteria established under customary law had been met in this particular case.¹⁶

Six-Day War (1967): On June 5, 1967, Israel launched an armed attack against the United Arab Republic (comprising Syria and Egypt) and quickly achieved victory in what became known as the Six-Day War. During Security Council discussions, Israel claimed that it was acting in anticipation of what it believed would be an imminent attack by Arab states. The Soviet Union, Syria, and Morocco opposed Israel's actions, rejecting any principle of preemptive self-defense. Conversely, Israel's supporters, such as the United States and the United Kingdom, tended to endorse the principle of preemption. However, once again, there was no clear consensus against the principle.¹⁷

The second demand: Legality of Russian military intervention in international law

The right of legitimate defense has held significant importance in international law since the issu-

16 Arend, C. (2003). International Law and the Preemptive Use of Military Force, The Center for Strategic and International Studies and the Massachusetts, Institute of Technology, The Washington Quarterly, p. 94.

17 Ibid, pp. 94, 95.

ance of the Charter of the United Nations,¹⁸ Article 2(4), originally stated that the non-resort to the use of force and the threat of force in the relationships between states is paramount. In this context, Resolution 2526 of the United Nations General Assembly indicates that the threat or use of force constitutes a violation of international law and the Charter of the United Nations. However, the Charter makes an exception in Article 51, which provides for the inherent right of a state to respond to any aggression against its security and territorial integrity. Analyzing the text of Article 51, we note that the international legislator coined the term “natural”, describing the right of legitimate defense as a “right”. This indicates that this right has existed since ancient times, and that Article 51 has revealed and regulated it. The use of the term “authentic” does not merely denote the preservation of a widespread right; rather, it was developed to recognize that states still have the right to exercise legitimate defense, albeit under the control and responsibility of the UN Security Council¹⁹.

The question that arises in this regard is how to explain the Russian military intervention in Ukraine through the Russian perspective on this concept, as well as the views of the rest of the international community. In the first part, we will discuss the Russian justifications for military intervention, linking it to Article 51. Then, we will analyze the nature of this intervention concerning the conditions for exercising the right of legitimate defense in international law, along with comments from various segments of the international community on the subject in the second part.

The first branch: Russia invokes the provisions of Article 51 as justification for military intervention in Ukraine

Russia believes that it has the full right to use force if it perceives a threat to its security, consid-

ering Article 51 of the UN Charter; it asserts that Russia’s interests are as legitimate as those of the West and emphasizes that the United States and Europe have ignored its interests in this context.²⁰

In a surprising development, contrary to many estimates, Russian President Vladimir Putin announced the launch of a military operation in Ukraine early on Thursday morning in 2022. In an address to the people, Putin emphasized that the circumstances required decisive and immediate action after the Donbas republics appealed to Moscow for help. He stressed that his country’s plans did not include the occupation of Ukraine, but that many individuals, including Russian citizens, should be brought to justice for crimes against civilians, as he stated.²¹

The second branch: The conformity of Russian military operations in Ukraine with the conditions of legitimate defence in Article 51 of the charter

The right to legitimate defense is an inherent and natural right of both states and individuals, recognized by most domestic and international legal systems. However, exercising this right does not grant states or individuals broad discretion. The right to legitimate defense is mentioned in the United Nations Charter because it is not absolute; it comes with conditions that must be met for this right to be invoked. These conditions can be examined in international courts and international criminal courts as a justification for permissibility, whether related to the act of aggression on one hand, or the act of response on the other.²²

The conditions that must be met for an act of aggression or an act that justifies retaliation are as follows: the aggression must be armed and unlawful; it must be immediate and direct; it must involve a violation of one of the essential rights of the state; and the state’s will must play a role in the occurrence of the aggression.²³

18 Benalla, A.K. (2019). The legitimacy of military intervention outside the framework of the Security Council: The situation in Syria. Political Studies, Egyptian Institute for Studies, p. 3.

19 Tuta, H. (2018). The right of legitimate defense between international legality and American practice. Journal of Law, Vol. 07, No. 02, p. 164.

20 An article published on the Al Jazeera.net, available at: <https://www.aljazeera.net/midan/reality/politics/2022/2/24/> (Last access: 04.10.2024).

21 Ibid.

22 Kamrsho, H., Alawash, F., Op-cit, p. 556.

23 Ibid., p. 558.

As for the conditions that must be met in the act of repelling aggression, the response or self-defense must be justified if the state or individual has no other means than resorting to defensive action. In other words, there must be a necessity that compels the response to the aggression, and it must be carried out in a manner proportional to the scale of the aggression.²⁴

Accordingly, for the act of response or defense to be justified and deemed permissible under the principles of legitimate defense, two conditions must be met: necessity and proportionality.²⁵

Therefore, the question remains: If the Russian military intervention is not an exercise of the right to legitimate defense, as the Russian government claims, can this intervention be considered a violation of international humanitarian law? This question becomes especially pertinent in light of the International Criminal Court's actions, as its prosecutor has called for an investigation into international crimes allegedly committed on Ukrainian territory since the beginning of the operations. This is the issue we will address in the next section.

Second section: Russian military intervention in Ukraine in the light of international humanitarian law

International humanitarian law was established to prevent war and mitigate its devastating effects on humanity. It achieves this by establishing preventive and deterrent mechanisms that regulate the conduct of combat operations and the treatment of civilians, prisoners of war, and other issues arising on the battlefield. State adherence to international humanitarian law is based on political will and commitment to the provisions of international agreements and norms. Any violation of these rules by a state or its individuals will result in the state's civil liability for any damages caused, in addition to the criminal liability of individuals whose actions constitute war crimes under international criminal law.

Accordingly, we will discuss in this section the establishment of Russia's international responsibility for violating the rules of international hu-

manitarian law in the first part. We will then examine how the Russian military intervention in Ukraine constituted violations of these rules and the extent to which this serves as a justification for establishing Russia's international responsibility in the second part.

The first demand: Establishment of Russia's international responsibility for violating the rules of international humanitarian law

Rule 149 of Customary International Humanitarian Law provides that a state is responsible for violations of international humanitarian law attributable to it, which include: violations committed by its organs, including its armed forces; violations committed by persons or entities delegated a degree of governmental authority; violations committed by persons or groups acting on its instructions or under its direction or control; and violations committed by private persons or groups that the state recognizes as its conduct.²⁶

Therefore, the establishment of Russia's international responsibility for violating the rules of international humanitarian law is subject to those rules regarding the legal basis for this responsibility, whether in the Rome Statute or the agreements of international humanitarian law.

The first branch: The legal basis for international responsibility for violations of international humanitarian law in the Rome Statute of 1998

Establishing international responsibility in cases of serious violations of international humanitarian law and international criminal law is crucial for maintaining stability and human security. The first paragraph of Article 8 of the Statute of the International Criminal Court stipulates that the Court has subject-matter jurisdiction over war crimes, espe-

24 Ibid.

25 Ibid..

26 ICRC. The database of international humanitarian law, customary international humanitarian law, custom IHL Database. Available at: https://ihl-databases.icrc.org/customary-ihl/ara/docs/v1_rul_rule149 (Last access: 07.10.2024).

cially when they are committed as part of a general plan or policy or during large-scale commission of these crimes. The second paragraph of the same article confirms that war crimes represent serious violations of international humanitarian law.²⁷

The Rome Statute classifies war crimes according to four criteria: grave breaches of the four Geneva Conventions of 1949, other breaches of the rules and customs of armed conflict, and crimes of armed aggression against the security and territorial integrity of states.²⁸

The Statute criminalized aggression in its latest amendment in 2010 at the Kampala Conference. Article 08 bis* defines the crime of aggression as established by the United Nations General Assembly in its Resolution No. 3314 dated 1974. According to the definition in Article 08 bis, the crime of aggression is committed within the framework of an aggressive act stemming from the personal will of an individual who has the means to control the political and military actions of the aggressor state.²⁹

Paragraph 2 of the above article defines an act of aggression as the use of armed force by a state against the sovereignty, territorial integrity, or political independence of another state, or in any manner inconsistent with the Charter of the United Nations. The term 'act of aggression' applies to any of the following acts, whether with or without a declaration of war, in accordance with United Nations General Assembly Resolution 3314 (XXIX) dated 14 December 1974.³⁰

1. The invasion or attack by the armed forces of a state on the territory of another state;
2. Any military occupation resulting from such actions, regardless of duration;
3. Any annexation by force of the territory of another state, or part thereof.³¹

27 Lunisi, A. (2019). Gross violations of the rules of international humanitarian law: between the text of Article 8/2 of the statute of the International Criminal Court and the obstacles to its activation. *International Journal of legal and Political Research*, Vol. 3, No. 02, pp. 131-132.

28 See International Criminal Court. (2021). *Statute of the International Criminal Court*, Article 8. ISBN No. 92-9227-386-8, The Hague, The Netherlands.

29 United Nations. *Résolution 3314 (XXIX) De L'assemblée Générale, Définition De L'agression*. Audiovisual Library Of International Law, p. 5.

30 Kina, M.L. (2016). The Concept of the Crime of Aggression in the System of the Permanent International Criminal Court. *Journal of Political and Legal Notebooks*, Issue 14, p. 299.

31 Ibid.

The second branch: The legal basis for international responsibility for violations of international humanitarian law in the four Geneva Conventions of 1949

Serious violations of the four Geneva Conventions of 1949 are acts committed against persons or property protected under these conventions.³² These violations include acts such as murder, torture, inhuman treatment, forcing prisoners of war or protected persons to serve in the armed forces of the hostile state, unlawful deportation, transfer, or confinement, and taking hostages.³³

Other violations of the laws and customs of armed conflict include 26 war crimes, such as directing attacks against the civilian population, intentionally targeting civilian objects, launching attacks against personnel, installations, materials, units, or vehicles involved in humanitarian or peacekeeping missions, intentionally launching attacks knowing they will cause incidental loss of life or injury to civilians, and conducting indiscriminate attacks, including shelling of towns, villages, and dwellings or isolated buildings that are not military objectives.³⁴

The legal basis for international responsibility for violations of international humanitarian law can also be found in Article 5 of the Convention on the Prevention and Punishment of the Crime of Genocide. This article obligates the parties to the Convention (i.e., states) to adopt, in accordance with their national constitutions, the necessary legislative measures to enforce the provisions of the Convention. In particular, it requires states to impose effective criminal penalties on perpetrators of genocide or any of the other acts listed in

32 The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules to limit the barbarity of war. The Conventions provide protection to people who do not participate in the hostilities (civilians, health workers, and relief workers) and those who are no longer participating in the hostilities (wounded, sick, shipwrecked soldiers, and prisoners of war). See the official website of the International Committee of the Red Cross available at: <https://www.icrc.org/ar/document/geneva-conventions-1949-additional-protocols> (Last access: 12.10.2024).

33 Lounisi, A., Op-cit, pp. 135-136.

34 Ibid.

Article 3 of the Convention.³⁵

The legal basis for international responsibility for violations of international humanitarian law can also be found in Article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. This article requires each State Party to adopt effective legislative, administrative, judicial, or other measures to prevent acts of torture within its jurisdiction. It also explicitly states that no exceptional circumstances—whether a state of war, a threat of war, internal political instability, or any other public emergency—can be invoked by a State Party as a justification for torture. Additionally, orders from a superior officer or public authority cannot be used as a justification for torture.³⁶

The second demand: Violation of the rules of international humanitarian law by the Russian military intervention in Ukraine as a justification for Russia's international responsibility

In light of the above, we observe that the Russian army's commitment to the rules of international humanitarian law during its military intervention in Ukraine appears to be low. This is evident from reports by the United Nations and preliminary investigations by the International Criminal Court, which suggest the possibility of widespread human rights violations and breaches of international humanitarian law by Russian forces in Ukraine. Such actions could inevitably lead to the establishment of international criminal responsibility for Russia.

35 See article 05 of the Convention on the Prevention and Punishment of the Crime of Genocide, adopted and submitted for signature, ratification or accession by the UN General Assembly Resolution 260 a (D-3), of December 9, 1948; date of entry into force: January 12, 1951.

36 See article 02 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly and opened for signature, ratification and accession in resolution 46/39 of 10 December 1984; date of entry into force: June 26, 1987.

The first branch: Russian military intervention violates the rules of international humanitarian law from the perspective of the United Nations

The United Nations has warned that ongoing violence in Ukraine has left millions living in “constant fear” of indiscriminate shelling, while efforts continue to reach the country's most vulnerable populations. A month after Russia's invasion, more than 3.7 million people have fled the country, with an estimated 13 million others stranded in affected areas or unable to leave due to increased security risks and the destruction of bridges and roads, according to Carolina Lindholm Billing, the UN Refugee Agency's representative in Ukraine.³⁷

According to the Office of the UN High Commissioner for Human Rights, 78 children have been killed and 105 injured in Ukraine since the war began in February 2022. However, these figures only reflect those the UN has been able to confirm, and the actual toll is likely to be much higher. The war has also had devastating effects on civilian infrastructure and access to basic services. For instance, the World Health Organization has reported attacks on healthcare facilities across the country, while the Ukrainian Ministry of Education and Science has documented damage to more than 500 educational facilities.³⁸

For his part, United Nations Secretary-General António Guterres stated in a speech to the General Assembly that the Russian invasion of Ukraine compels UN member states to unite in “cooperation and solidarity” to support all those affected and “overcome this violation of international law”. During a Security Council session on Tuesday morning, Ukrainian President Volodymyr Zelensky discussed what he described as the most horrific war crimes since the end of World War II, committed by Russian forces in his country. The session included a screening of video clips showing atrocities against civilians and the destruction of infrastructure and buildings.³⁹

Michelle Bachelet, the UN High Commissioner

37 The United Nations news website available at: <https://news.un.org/ar/> (Last access: 12.10.2024).

38 Ibid.

39 Ibid.

for Human Rights, expressed her horror at the images of civilians killed in the streets and in makeshift graves in the town of Bucha, Ukraine. Bachelet added that the reports received raise serious and disturbing questions about the possibility of war crimes, severe violations of international humanitarian law, and grave violations of international human rights law.⁴⁰

The second branch: Violation of the rules of international humanitarian law by the Russian military intervention from the perspective of the International Criminal Court

The Prosecutor of the International Criminal Court (ICC), Karim Khan, announced his decision to open an investigation into the situation in Ukraine as soon as possible. In a statement, Mr. Khan explained that while Ukraine is not a party to the Rome Statute and therefore cannot refer the situation directly to his office, it has twice exercised its right to accept the Court's jurisdiction over alleged crimes under the Rome Statute.⁴¹

The first declaration, submitted in 2014, allowed the ICC to investigate crimes committed on Ukrainian territory between 21 November 2013 and 22 February 2014. The second declaration extended this period indefinitely, granting the ICC jurisdiction over alleged crimes occurring throughout Ukraine from 20 February 2014 onward.⁴²

The ICC Prosecutor stated that, after reviewing his Office's findings from the preliminary examination into the situation in Ukraine, he has confirmed "a reasonable basis to proceed with the opening of an investigation". He added, "In particular, I am satisfied that there is a reasonable basis to believe that alleged war crimes and crimes against humanity have been committed in Ukraine, based on the events already assessed during the Office's preliminary examination."⁴³

The International Criminal Court's decision to open an investigation into Russian military violations during its intervention in Ukraine signals inter-

national accountability for the Russian government. This indication is further validated by the issuance of an arrest warrant for the Russian president by the ICC Prosecutor, following the proven violation.⁴⁴

CONCLUSION

There is a broad consensus that the use of force in international relations is a taboo that the United Nations does not tolerate. However, the issue of military intervention for humanitarian purposes, or what is known as preemptive wars, remains contentious. This has placed the UN in a difficult position, particularly since the countries most likely to engage in such interventions are permanent members of the Security Council.

In light of our study on Russia's military intervention in Ukraine, we have reached the following conclusions:

- Military operations in Ukraine do not fall under the provisions of Article 51 of the United Nations Charter, as Russia claims, because the conditions required by the article are not met;
- Russia's military intervention in Ukraine constitutes a violation of international law and international criminal law, as outlined in Article 8bis of the Rome Statute;
- Russia has committed violations of international humanitarian law during its military intervention in Ukraine, as evidenced by the documented information presented above.

44 The arrest warrant states: "There are reasonable grounds to believe that Vladimir Putin is criminally responsible individually for the war crimes of unlawful deportation of population (children) and the war crime of unlawful transfer of population (children) from certain occupied areas of Ukraine to the Russian Federation (within the meaning of Articles 8-2-a-vii and 8-2-b-8 of the Rome Statute), directly, and/or jointly with and/or through other persons (Article 25-3-a of the Rome Statute), as well as for the failure to exercise due control over his civilian and military subordinates who committed or permitted these crimes and who were under his authority and employees under his control, in accordance with the rules on superior responsibility (Article 28-b of the Rome Statute)". See the official website of the International Criminal Court available at: <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and> (Last access: 12.10.2024).

40 Ibid.

41 Ibid.

42 Ibid.

43 Ibid.

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2. Convention on the Prevention and Punishment of the Crime of Genocide, adopted and submitted for signature, ratification or accession by the UN General Assembly Resolution 260 a (D-3), of December 9, 1948; date of entry into force: January 12, 1951;
3. International Criminal Court. (2021). Statute of the International Criminal Court, Article 8. ISBN No. 92-9227-386-8, The Hague, The Netherlands;
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