

# **A WORLD AT THE BRINK OF HOSTILITIES: STRIKING A BALANCE BETWEEN INTERNATIONAL LAW AND INTERNATIONAL POLITICS**

**BY**

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## **1.0 INTRODUCTION**

The world over the years has been met with several hostilities which have threatened the territorial sanctity and sovereignty of States in the international scene. Most of these hostilities have been carried out by the very developed States often referred to as 'world powers' who run roughshod on less developed countries to satisfy their wants or to showcase their military and imperial might. These world powers have over the years invaded helpless and less developed countries, undermining their territorial integrity and sovereignty recognized under international law.

The need to address these hostilities which are threatening the existence of the world has prompted the writing of this paper. In addressing this, this paper intends to strike a balance between international law and international politics as the two terms are inextricably linked in matters pertaining to activities of international States. This paper in addressing the topic in view, shall use the Russian-Ukrainian Conflict as a case study with passing reference to other hostile activities carried out by States on other States over the years. This paper shall also examine the consequence of Russia's invasion on Ukraine under international law and whether same is a violation of international law. This paper shall in the final analysis, make recommendations that could help strike a balance between international law and international politics.

## **2.0 THE RUSSIAN-UKRAINIAN CONFLICT AS A CASE STUDY: HISTORY AND SYNOPSIS.**

The Russia-Ukrainian Conflict is an ongoing conflict between Russia (together with Pro-Russian Separatists Forces) and Ukraine. It began in February 2014, following the Ukrainian Revolution of Dignity, and it initially focused on the status Crimea and parts of the Donbas, internationally recognized as part of Ukraine. The first eight years of the conflict included Russian annexation of Crimea in 2014 and the war in Donbas (2014–present) between Ukraine and Russian-backed separatists, as well as naval incidents, cyber-warfare, and political tensions. Following a Russian military build-up on the Russian-Ukrainian border from late 2021, the conflict expanded significantly when Russia launched a full scale invasion on Ukraine on 24 February 2022. The 24<sup>th</sup> February, 2022 invasion by Russia has led to a full-blown conflict between the two neighboring States

with death tolls rising by the day. At the time of writing this paper, according to the US Intelligence Assessment, about 7000 Russian troops have been killed<sup>1</sup> and about 9000 of Ukrainian troops<sup>2</sup> also lost as a result of the war. Not less than 953 Ukrainian civilians have been killed of which 78 of them are children, and not less than 1,557 injured as a result of the war.<sup>3</sup>

This invasion by Russia has been met with stiff condemnation by international States who have described the invasion as disrespect to the territorial integrity and sovereignty of the State of Ukraine.<sup>4</sup> This has come with severe economic sanctions on the State of Russia, its companies and individuals<sup>5</sup> alike.

The Russian invasion of Ukraine highlights the hostilities carried out by most of the world powers over the years. The United States has been involved in about 33 hostilities which involved bombings and invasions since the end of the Second World War with renowned mentions of the invasion in Nicaragua in the 1980s, the Iranian invasion in 1987 and the Syrian bombings in 2014<sup>6</sup>. Having examined the Russian-Ukrainian war, it is pertinent to go further to examine whether the invasion of Russia on the State of Ukraine is a violation of international law.

### **3.0 IS RUSSIA'S INVASION IN VIOLATION OF INTERNATIONAL LAW – STRIKING A BALANCE BETWEEN INTERNATIONAL LAW AND INTERNATIONAL POLITICS.**

Under international law, acts of invasion are expressly prohibited by State parties in their international relations. International law provides that States must respect the sovereignty and territorial integrity of one another.<sup>7</sup> Article 1 (1) of the United Nations Charter, is to the effect that “States are to maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of facts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace”. In the 2012 *Nicaragua v Colombia* case<sup>8</sup> the International Court of Justice (ICJ) held that, States are to respect the territorial integrity of

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<sup>1</sup>Andrew Roth, 'How Many Russian Soldiers Have Died in The War In Ukraine' (*The Guardian*, 22 March, 2022) <https://amp.theguardian.com/world/2022/mar/22/how-many-russian-soldiers-died-ukraine-losses> accessed 25th March, 2022.

<sup>2</sup>Ibid.

<sup>3</sup>Statista Research Development, 'Number of Civilian Casualties During The War In Ukraine 2022' (*Statista*, March 22, 2022) <https://www.statista.com/statistics/1293492/ukraine-war-casualties/> Accessed March 25<sup>th</sup> 2022.

<sup>4</sup>Op Cit 1.

<sup>5</sup>Roman Abramovich, the owner of Chelsea is one of the individuals who has been affected by the economic sanctions as a result of the war. His club and assets in UK has been seized by the UK Government.

<sup>6</sup>Akana, 'US Bombing List' (*Akana*, February 26<sup>th</sup> 2022) <https://www.minds.com/akana/> Accessed March 26<sup>th</sup> 2022.

<sup>7</sup>United Nations Charter 1945, Article 2 (1)

<sup>8</sup>(2012) I.C.J GL 124

other states. It is an obligation flowing from the sovereignty of States and from the equality of States. This also was the decision of the ICJ in the 2002 *Indonesia v Malaysia* case<sup>9</sup>.

It is a general principle of international law, that the threat or use of force by States are prohibited and states should refrain from applying same. This is well captured under Article 2(4) of the UN Charter which provides to the effect that, States are to refrain in their international relations from the threat or use of force. The unprovoked invasion by Russia on the territory of Ukraine is well described as the use of force prohibited by international law. The ICJ in a plethora of cases has shunned the use of force by States while holding them liable in violation of international law. In the 1949 *Corfu Channel* case<sup>10</sup> the ICJ frowned on the use of force when the Royal Navy of the UK swept for mines on the territory of Albania. This decision was also followed in the 1986 *Nicaragua v US* case<sup>11</sup> where it also held the US liable for the invasion of Nicaragua similar to the Russian invasion. In the most recent, 9<sup>th</sup> February, 2022 ICJ decision in the *DRC v Uganda* case<sup>12</sup>, the court equally found Uganda liable in violation of international law for the use of force in intentionally destroying properties and resources in the Democratic Republic of Congo. The only recognized exception to the use of force under international law is in respect to 'self defense' provided under Article 51 of the UN Charter. But can it be said that Russia acted in self-defense? This can't be said. Because, the pre-condition for self-defense is that it must be in response to an immediate threat or actual use of force which is very much non-existent in the Russian-Ukrainian conflict.

#### **4.0 RECOMMENDATION FOR STRIKING A BALANCE BETWEEN INTERNATIONAL LAW AND INTERNATIONAL POLITICS.**

For an effective balance between international law and politics, it is imperative that treaties be respected by States and when there is a violation of any treaty by any State, the ICJ and the UN Security Council who are recognized bodies saddled with enforcing and punishing the activities of States at the international scene should not fail to do so. Treaties are made to be kept and respected; violation of same should come with severe sanctions and reparations. Chapter VII of the United Nations Charter provides that the United Nations is obligated to determine and maintain international peace and security. Under this provision, particularly Article 41 and 42, the UN Security Council can intervene on humanitarian grounds in the domestic affairs even though Article 2(4) guarantees the sovereignty of a state. This is to ensure that conflicts does not metamorphose into global catastrophe and the need to save humanity from the needless scourge of war. However, there is a

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<sup>9</sup>(2002) ICJ Rep 625.

<sup>10</sup>*UK v Albania (Merits)* 1949 I.C.J (Apr. 9)

<sup>11</sup>1986 I.C.J (June 27<sup>th</sup>)

<sup>12</sup>2022 I.C.J (February 9<sup>th</sup>)

stumbling block, which further underscores the influence of International Politics over International Law. For the UN Security Council to intervene in such circumstance, it would require that the five permanent member of the Council namely; USA, Russia, China, United Kingdom and France must vote to permit such intervention, if any of these states vetoes any resolution of the UN Security Council, that is the end of such resolution. On the other hand, the ICJ, though has been referred to as a “toothless bulldog” because, the two conflicting States must consent to its jurisdiction before it can have powers to adjudicate, should not fail to tenaciously without fear uphold international law whenever it has jurisdiction to adjudicate on any conflict.

## **5.0 CONCLUSION.**

In the final analysis, international law and politics are inextricable terms and for international politics to be effective, international law, on the other hand, must be upheld and respected to the later to check-mate hostilities such as the Russian invasion on Ukraine. States must refrain from hostilities in their international relations which undermines the sanctity of the world, and causes a threat and breach of peace as same is in violation of international law.