

Received: 28 November 2022 Accepted: 28 March, 2023

DOI: <https://doi.org/10.33182/rr.v8i4.218>

VIOLETION OF INTERNATIONAL HUMANITARIAN LAW VIS A VIS DISPUTE BETWEEN UKRAINE AND RUSSIA

Ms. Mansi Trivedi¹, Ms. Amrita Singh², Ms. Hiral Pandey³, Dr. Priyamvada Tiwari⁴

Abstract

“War determines who is left, not who is right.”

The Ukraine-Russia conflict began in 2014 and has been a source of ongoing tension and violence in the region. Both sides' violation of international humanitarian law (IHL) has been a major concern, with civilians often bearing the brunt of the violence. One of the main violations of IHL in this conflict has been targeting civilians. Both sides have been accused of deliberately attacking civilians and civilian infrastructure, including hospitals, schools, and homes. This is a clear violation of the principle of distinction, which requires parties to a conflict to distinguish between military targets and civilian objects and to only attack military targets. The ongoing war between Ukraine and Russia highlights the challenges of enforcing international humanitarian law in a complex and protracted conflict. While both sides have made commitments to abide by IHL, the reality on the ground has often been very different. The lack of accountability for violations of IHL has also been a major obstacle, with both sides often refusing to acknowledge their responsibility for such violations. The violation of international humanitarian law in the conflict between Ukraine and Russia has had devastating consequences for civilians in the region. Both sides have been accused of targeting civilians, using indiscriminate weapons, mistreating prisoners, and denying humanitarian access to those in need. The displacement of civilians and allegations of war crimes and crimes against humanity have further compounded the humanitarian toll of the war. This paper tries to analyse the concept and violation of International Humanitarian law vis a vis the Ukraine-Russia war.

Keywords: *Accountability, Civilians, Conflicts, Crimes, Humanitarian Law, Violation.*

Introduction

Today, the world has developed a lot and it has done many and achieved many things that were impossible to even think about in the past, whether it is finding water on the moon or reaching the

¹Assistant Professor, Shri Vaishnav Institute of Law, Shri Vaishnav Vidyapeeth Vishwavidyalaya, Indore
Email: gcusihuaman@unsa.edu.pe

²Assistant Professor, Shri Vaishnav Institute of Law, Shri Vaishnav Vidyapeeth Vishwavidyalaya, Indore
Email: cvera@unsa.edu.pe

³Research Scholar, Department of Law, Vikram University, Ujjain
Email: ceorval@gmail.com

⁴Associate Professor, Department of Law, PIMR, Indore
Email: jaguilargo@unsa.edu.pe

surface of Mars.

But still, there is something that mankind is unable to achieve and it seems it will never be achieved and that is international peace. There have been continuous fights between different nations over multiple issues. For example, territory disputes, water-sharing and many more. Although different initiatives have been taken to dissolve this conflict, for example, the International Humanitarian Laws and more, there is still no benefit of such steps at a large scale. And the countries still continue to harm human rights and are always at war. An excellent illustration of this type of conflict can be seen in the war, between Ukraine and Russia. In this article, our goal is to explore the intricacies of this conflict from a perspective. By examining the aspects surrounding the Ukraine-Russia war we aim to gain an understanding of its complexities and shed light on violations of international humanitarian law that have taken place. Ultimately our objective is to emphasize the importance of upholding principles and protecting human rights during times of armed conflict.

What is International Humanitarian Law?

International humanitarian law (IHL) is a body of law that seeks to regulate warfare and protect those who are not or no longer directly participating in hostilities, including civilians and wounded or sick combatants. IHL is also commonly referred to as the law of war or the law of armed conflict, and it aims to reduce the impact of war on people and property while preserving the essential rights of humanity.

IHL applies to both international armed conflicts (IAC) and non-international armed conflicts (NIAC). IACs are conflicts between two or more states or when one state uses force against another. NIACs are conflicts that take place within the borders of a single state, where non-state actors such as rebel groups or terrorists are involved.

Under IHL, certain acts are prohibited during armed conflicts, such as intentionally targeting civilians or using weapons that cause unnecessary suffering or harm. Combatants must follow the rules of distinction by distinguishing between military and civilian targets, as well as the rules of proportionality by ensuring that the military advantage gained by an attack is not outweighed by the harm caused to civilians and other protected persons.

IHL also establishes rules for the treatment of prisoners of war, the sick and wounded, and civilians who have been detained or are under occupation.

These rules require that they be treated humanely, without discrimination based on race, religion, or other factors.

International humanitarian law is enforced by various bodies, including international courts and tribunals, national courts, and other accountability...mechanisms such as truth commissions and reconciliation processes. Perpetrators who violate IHL can be held accountable for war crimes, crimes against humanity, and genocide.

The International Criminal Court (ICC) is the primary international court responsible for prosecuting individuals for war crimes and other serious international crimes. However, domestic jurisdictions also play an important role in ensuring accountability for IHL violations, particularly through national courts and national prosecution systems.

Overall, the goal of IHL is to minimize the human suffering caused by armed conflict, protect civilians and other non-combatants, and facilitate the provision of humanitarian assistance to those in need. It serves as a critical framework for preserving the dignity and rights of all individuals affected by armed conflict, regardless of their status or affiliation...Furthermore, IHL seeks to prevent future conflicts by promoting respect for the law and principles of humanity even in times of war. It encourages dialogue and negotiation between conflicting parties to resolve disagreements through peaceful means.

The principles of IHL apply equally to all parties involved in an armed conflict, including state actors, non-state armed groups, and individuals. Compliance with IHL is not voluntary but a legal obligation and those who violate it may face consequences including criminal prosecution.

In addition to preventing violations of IHL, efforts must also be made to provide humanitarian aid and support to those affected by armed conflicts. This includes ensuring safe access to food, water, shelter, and medical care for civilians and other non-combatants.

The significance of IHL cannot be overstated in promoting the protection of civilians and mitigating the impact of armed conflicts.

It provides a framework for all parties involved in an armed conflict to conduct themselves with humanity and respect for the laws of war. By reducing the suffering of those affected by conflict, IHL contributes to the establishment of sustainable peace and stability. It is therefore crucial that states and other actors continue to promote and observe the principles of IHL in all armed conflicts and ensure accountability for violations of this law.

Russia-Ukraine War

The Russia-Ukraine war, which started in 2014, is a significant conflict in Eastern Europe. The war began when Russia annexed Crimea, a region that Ukraine considers a sovereign territory.

Since then, the conflict has expanded to include Donbas, comprising two separatist regions, Donetsk and Luhansk. The ongoing war has resulted in significant casualties, with more than 13,000 people killed and over 30,000 injured to date.

The conflict has affected not only Ukraine and Russia but also Europe as a whole, due to the resulting political tension and economic sanctions. Additionally, the conflict highlights the underlying historical and political tensions between Moscow and Kyiv, which have been simmering for decades.

The root cause of the Russia-Ukraine war can be traced back to Ukraine's decision to move closer

to the West by seeking integration into the European Union and NATO. This move threatened Russia's strategic interests in the region, as it would have weakened Moscow's influence in Ukraine, a country with which it shares deep historical and cultural ties.

Russia also feared that Ukraine's closer ties with the West would enable NATO to establish a military presence near its borders, which it considers a significant security threat.⁵

In response, Russia annexed Crimea, which had been part of Ukraine since 1954, and subsequently supported separatist rebels in Donetsk and Luhansk. The conflict escalated into a full-scale war, with both sides accusing each other of aggression and violations of international law. The West, including the United States and the European Union, imposed economic sanctions on Russia in response to its actions in Ukraine.

Additionally, the war in Ukraine can also be seen as a continuation of a long-standing geopolitical rivalry between Russia and the West. Ukraine, with its strategic location and vast resources, has historically been a contested territory between these two powers. The collapse of the Soviet Union in 1991 saw Ukraine gain independence, but Russia continued to view it as within its sphere of influence.⁶

The conflict in Ukraine has taken a heavy toll on both sides. The UN estimates that over 13,000 people have been killed and more than 1.6 million have been displaced since the war began in 2014. Peace...efforts have so far been unsuccessful, with several ceasefire agreements being violated by both sides.

The conflict has also had wider implications for international relations. It has intensified tensions between Russia and the West, leading to an increase in military activity and arms build-up in the region. It has also raised concerns about the possibility of further annexations and interventions by Russia in neighboring countries.

In addition to the conflict in Ukraine proper, there has also been a separatist movement in the Crimean Peninsula, which was annexed by Russia in 2014.

Many Ukrainians see this as an illegal occupation by Russia, but Moscow maintains that it was a legitimate move to protect the rights of ethnic Russians in the region.

The conflict in Ukraine remains a complex and volatile situation that has caused significant human suffering and political instability. The ongoing fighting has resulted in thousands of deaths and displacement of civilians, as well as economic damage and social unrest.

⁵Russia-Ukraine War, Human Rights Watch, *available at*: <https://www.hrw.org/tag/russia-ukraine-war#:~:text=Russian%20forces%20committed%20a%20litany,be%20investigated%20as%20war%20crimes> (last visited on August 6, 2023)

⁶Russia, Ukraine & International Law: On Occupation, Armed Conflict and Human Rights, Human Rights Watch, 23 February 2022, *available at*: <https://www.hrw.org/news/2022/02/23/russia-ukraine-international-law-occupation-armed-conflict-and-human-rights> (last visited on August 5, 2023)

Efforts to resolve the conflict through diplomatic channels, including the Minsk agreements and the Normandy format talks, have been challenging due to deep-rooted mistrust and disagreements between the parties involved.⁷

The conflict has also highlighted broader issues related to regional security and the balance of power between Russia and the West. It has prompted debates on the effectiveness of international law and the role of regional and global powers in resolving conflicts.

The situation in Ukraine remains highly fluid, and the future course of the conflict remains uncertain. The international community, including the United Nations and key global powers, continues to call for a peaceful resolution to the conflict and for all parties to respect human rights and international law.

The humanitarian crisis resulting from the conflict has also been a major concern. Many civilians have been displaced from their homes, and access to necessities such as food and medical care has been severely limited. The international community has been providing aid and support to address the humanitarian situation, but the needs remain significant.⁸ In addition, the conflict has had significant economic consequences for Ukraine, with the country struggling to stabilize its economy and attract foreign investment. Sanctions imposed by Western countries on Russia have also had an impact on the global economy.

The conflict in Ukraine is a complex and challenging issue with far-reaching implications. It requires continued attention and engagement from the...international community to support a peaceful resolution and address the ongoing humanitarian crisis.

It also highlights the importance of promoting respect for human rights, international law, and the sovereignty of nations. This conflict/Tension in Ukraine serves as an example of the ongoing challenges facing the international community in maintaining global peace and security. It illustrates the importance of diplomacy, multilateral cooperation, and the rule of law in resolving conflicts and preventing future international crises.

As the situation in Ukraine continues to evolve, it is critical for the international community to

⁷Human Rights Council Discusses the Situation of Human Rights in Ukraine and in the Democratic Republic of the Congo under its Technical Assistance and Capacity Building Agenda Item, United Nations, 4 October 2022, *available at*: <https://www.ohchr.org/en/press-releases/2022/10/human-rights-council-discusses-situation-human-rights-ukraine-and-democratic> (last visited on August 8, 2023)

⁸ War crimes have been committed in Ukraine conflict, top UN human rights inquiry reveals, United Nations, 23 September 2022, *available at*: <https://news.un.org/en/story/2022/09/1127691> (last visited on August 10, 2023)

remain engaged and committed to promoting a peaceful resolution to the conflict and supporting the people of Ukraine in their efforts to rebuild their country and strengthen their democracy.⁹

Did the Russia-Ukraine war violate the IHL

The ongoing war between Russia and Ukraine since 2014 has resulted in numerous brutalities and human rights violations. The war has not only affected the lives of millions of people but has also violated various international humanitarian laws. Despite international pressure and attempts to resolve the conflict, the two countries are still engaged in a bloody war resulting in catastrophic humanitarian consequences.

Firstly, one of the primary violations of international humanitarian law (IHL) has been the deliberate targeting of civilians, which has caused disproportionate harm and loss of life. Both sides have been accused of targeting civilians, resulting in a significant number of deaths and injuries. In April 2014, the Ukrainian military launched a military operation in the eastern region of Donetsk, which led to the displacement of tens of thousands of civilians.

During the conflict, there have been several reports of indiscriminate shelling by Russian-backed separatists, resulting in the deaths of innocent civilians. Moreover, there have been several reports of attacks on hospitals, schools, and other civilian infrastructure, which have further exacerbated the humanitarian crisis.¹⁰

Secondly, international humanitarian law prohibits torture, inhumane treatment, and the use of prohibited weapons. Despite this, there have been numerous reports of torture and inhumane treatment of prisoners of war by both sides.

Furthermore, there have been allegations of the use of chemical weapons by the Russian side, which have been widely condemned by the international community. The use of such weapons is not only a violation of international law but also poses a serious threat to the health and safety of civilians.

Finally, the conflict in Eastern Ukraine has had a devastating humanitarian impact on the civilian population. According to the UN, over 13,000 people have been killed and more than 30,000 have been injured since the beginning of the conflict. Moreover, over 1.4 million people have been displaced, and many are living in dire conditions without access to basic amenities such as water, food, and healthcare. The conflict has also disrupted the education system, with many schools and universities destroyed or closed, denying children and young people the opportunity to receive an education.

In conclusion, the conflict in Eastern Ukraine continues to have a significant impact on the region

⁹War in Ukraine, Council of Europe, *available at*: <https://www.coe.int/en/web/commissioner/war-in-ukraine> (last visited on August 10, 2023)

¹⁰Vivek Dhupdale, The Russian-Ukraine War: An Absolute violation of International Humanitarian Law, Research Gate, July 2022, *available at*: https://www.researchgate.net/publication/362303774_THE_RUSSIA-UKRAINE_WAR_AN_ABSOLUTE_VIOLATION_OF_INTERNATIONAL_HUMANITARIAN_LAW (last visited on August 11, 2023)

and its people. The ongoing fighting, human rights violations, use of prohibited weapons, and humanitarian crisis require urgent attention and action from the international community¹¹. It is imperative that all parties involved in the conflict prioritize the protection of civilians and adhere to international humanitarian law. It is also crucial for the international community to provide support and assistance to the affected populations, including access to basic needs, healthcare, and education.

Ultimately, a peaceful and lasting solution to the conflict in Eastern Ukraine can only be achieved through diplomatic efforts and a commitment by all parties to negotiate a solution that addresses the underlying issues at the root of the conflict. The ongoing war between Russia and Ukraine since 2014 has resulted in numerous brutalities and human rights violations.

The war has not only affected the lives of millions of people but has also violated various international humanitarian laws. Despite international pressure and attempts to resolve the conflict, the two countries are still engaged in a bloody war resulting in catastrophic humanitarian consequences. In this article, we will discuss how Russia and Ukraine's actions have violated international humanitarian law.¹²

Impact on World Economy

The war, between Russia and Ukraine has had an impact on the economy. It has affected aspects such as energy prices, trade disruptions, economic sanctions, investor confidence, currency fluctuations and costs related to aid and reconstruction. Ukraine plays a role in Russia's natural gas exports to Europe, which raises concerns about the stability of the energy supply and its effects on markets. The imposition of trade restrictions embargoes and sanctions has disrupted trade patterns and supply chains.

These economic sanctions have also had an impact on trade and investment by affecting businesses and financial markets.

The geopolitical uncertainties have resulted in a decrease in investor confidence leading to slowdowns and reduced growth prospects. Furthermore, currency fluctuations in the hryvnia and Russian ruble have affected the competitiveness of trade well as inflation rates and purchasing power, for individuals and businesses.¹³

The violence has also resulted in high expenses for humanitarian assistance and reconstruction, taking money away from other global development projects. The full scope of the Russia-Ukraine

¹¹Report on the Human Rights Situation in Ukraine, United Nations, 24 March 2023, *available at*: <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-35th-periodic-report-ENG.pdf> (last visited on August 13, 2023)

¹² Vivek Dhupdale, The Russian-Ukraine War: An Absolute violation of International Humanitarian Law, Research Gate, July 2022, *available at*: https://www.researchgate.net/publication/362303774_THE_RUSSIA-UKRAINE_WAR_AN_ABSOLUTE_VIOLATION_OF_INTERNATIONAL_HUMANITARIAN_LAW (last visited on August 13, 2023)

¹³ Muhammad Balbaa, The Impacts of Russian-Ukrainian War on the Global Economy, Research Gate, April 2022, *available at*: https://www.researchgate.net/publication/360074361_The_Impacts_of_Russian-Ukrainian_War_on_the_Global_Economy (last visited on August 14, 2023)

war's economic impact is complicated and varied, with both direct and indirect repercussions. The situation is still changing, and its ramifications for the economy are being continuously examined and evaluated.

Role of Geneva Convention

The Geneva Conventions, established in 1864, are essential international treaties that protect civilians, prisoners of war, and wounded soldiers. Russia's invasion of Ukraine violates these conventions by targeting civilian areas, using indiscriminate weapons, and denying access to essential resources. The International Committee of the Red Cross (ICRC) has condemned Russia's violations, while the United Nations has called for an immediate ceasefire and withdrawal of Russian forces from Ukraine. These violations are a serious crime against humanity and warrant investigation and prosecution.¹⁴

The Russian-Ukrainian War has been severely influenced by the Geneva Conventions, which tackles transgressions of IHL. These conventions place a strong emphasis on safeguarding the provision of humanitarian aid, treating prisoners of war humanely, protecting medical professionals and facilities, and protecting civilians. However, the parties' desire to uphold international legal duties is what determines whether these Conventions will be successful. Reports of civilian fatalities and damage to civilian infrastructure during the Russian-Ukrainian conflict constitute breaches of the Conventions. The Conventions also stress how crucial it is to guarantee impacted communities' access to humanitarian help. The parties' dedication and compliance are necessary for the application and enforcement of these Conventions.

Role of International Court of Justice

The International Court of Justice (ICJ) has not played a direct role in the Ukraine-Russia conflict as of August 29, 2023. The ICJ is the principal judicial organ of the United Nations and primarily deals with disputes between states. However, its jurisdiction is based on the consent of the parties involved, and both Ukraine and Russia would need to agree to submit their dispute to the court for it to have a role in the conflict.

Other international legal mechanisms and institutions involved in addressing the Ukraine-Russia conflict include the International Criminal Court (ICC), the European Court of Human Rights (ECHR), and the United Nations Security Council (UNSC). The ICC investigates war crimes, crimes against humanity, and genocide, while the ECHR hears cases related to alleged violations of the European Convention on Human Rights.

Ukraine has brought cases against Russia before the ECHR, alleging human rights abuses in Crimea and Eastern Ukraine. The situation in Ukraine is complex and evolving, and the involvement of

¹⁴ Igor Nesteruk, Impact of the Russian invasion of Ukraine on the COVID-19 pandemic dynamics, Research gate, March 2022, *available at*: https://www.researchgate.net/publication/359604508_Impact_of_the_Russian_invasion_of_Ukraine_on_the_COVID-19_pandemic_dynamics (last visited on August 15, 2023)

international legal mechanisms may change over time. For the most up-to-date information on the role of the ICJ or other international legal institutions in the Ukraine-Russia war, it is recommended to consult reliable sources or news outlets. The International Court of Justice (ICJ) has been actively involved in the Ukraine-Russia conflict. It has already made contributions, in holding Russia responsible for its actions. The ICJ has the authority to issue a verdict on the case's merits demand reparations from Russia request the withdrawal of forces from Ukraine or implement measures to address the harm caused by Russia. Additionally, the ICJ has the option to provide a binding advisory opinion regarding the legality of Russia's invasion of Ukraine. Although not legally binding for Russia this advisory opinion would serve as a statement reflecting the Court's perspective on the invasion.¹⁵

Suggestions

There has been a long violation of international treaties and agreements. Therefore, there is a need to make strict laws so that every country follows them and contributes to the establishment of peace in the world and eliminates all unrest and disharmony. But, for that, there is an urgent need to follow some steps, which are as follows-

1. First of all, to establish peace and to avoid the violation of Human Rights, every country needs to be standing on the same page and their motive should be world peace.
2. Secondly, there is a need to implement homogeneous laws in all countries. For example, if all countries adopt the idea of Human rights, there will be no need for humanitarian law. It is obligatory for the countries to respect these rights of an individual as well state.
3. The states to take steps to appoint a regulatory authority to provide protection during the crisis that occurs during the warfare and violations against International Humanitarian Law.

And if these steps are being followed then an International Law can be implemented properly.¹⁶

Conclusion

Therefore, we can see that there are ample laws at the international level to protect various rights like Human rights, etc. But still, these laws are not effective. And the main reason behind this is the unenforceability of these laws because at the international level law can be made but adhering to that or not is the discretion of the respective country only, which makes all international laws, treaties, agreements etc. baseless and ineffective.

And this is the biggest problem of today's world. And the violation of International Humanitarian

¹⁵ Igor Nesteruk, Impact of the Russian invasion of Ukraine on the COVID-19 pandemic dynamics, Research gate, March 2022, *available at* https://www.researchgate.net/publication/359604508_Impact_of_the_Russian_invasion_of_Ukraine_on_the_COVID-19_pandemic_dynamics (last visited on August 15, 2023)

¹⁶ Human Rights Council Discusses the Situation of Human Rights in Ukraine and in the Democratic Republic of the Congo under its Technical Assistance and Capacity Building Agenda Item, United Nations, 4 October 2022, *available at* <https://www.ohchr.org/en/press-releases/2022/10/human-rights-council-discusses-situation-human-rights-ukraine-and-democratic> (last visited on August 18, 2023)

Law during the Russia and Ukraine war is the best example of this.

Therefore, there is a need to take steps to make these laws enforceable because without enforceability there is no benefit of these laws and thus is a waste of resources only. And after this only world peace and harmony can be established in the literal sense.¹⁷

List of References

- War in Ukraine, Council of Europe, *available at*: <https://www.coe.int/en/web/commissioner/war-in-ukraine>
- Human Rights Council Discusses the Situation of Human Rights in Ukraine and in the Democratic Republic of the Congo under its Technical Assistance and Capacity Building Agenda Item, United Nations, 4 October 2022, *available at*: <https://www.ohchr.org/en/press-releases/2022/10/human-rights-council-discusses-situation-human-rights-ukraine-and-democratic>
- Igor Nesteruk, Impact of the Russian invasion of Ukraine on the COVID-19 pandemic dynamics, Research Gate, March 2022, *available at*: https://www.researchgate.net/publication/359604508_Impact_of_the_Russian_invasion_of_Ukraine_on_the_COVID-19_pandemic_dynamics
- Louis Henkin, International human Rights as 'Rights', 23 *Human Rights* (1981)"
- Muhammad Balbaa, The Impacts of Russian-Ukrainian War on the Global Economy, Research Gate, April 2022, *available at*: https://www.researchgate.net/publication/360074361_The_Impacts_of-Russian-Ukrainian_War_on_the_Global_Economy
- Report on the Human Rights Situation in Ukraine, United Nations, 24 March 2023, *available at*: <https://www.ohchr.org/sites/default/files/documents/countries/ukraine/2023/23-03-24-Ukraine-35th-periodic-report-ENG.pdf>
- Russia, Ukraine & International Law: On Occupation, Armed Conflict and Human Rights, Human Rights Watch, 23 February 2022, *available at*: <https://www.hrw.org/news/2022/02/23/russia-ukraine-international-law-occupation-armed-conflict-and-human-rights>
- Russia-Ukraine War, Human Rights Watch, *available at*: <https://www.hrw.org/tag/russia-ukraine-war#:~:text=Russian%20forces%20committed%20a%20litany,be%20investigated%20as%20war%20crimes>
- Thomas Buergenthal, The Evolving International Human Rights System, 100(4) *American Journal of International Law* (2006)
- Vivek Dhupdale, The Russian-Ukraine War: An Absolute violation of International Humanitarian Law, Research Gate, July 2022, *available at*: https://www.researchgate.net/publication/362303774_THE_RUSSIA-UKRAINE_WAR_AN_ABSOLUTE_VIOLATION_OF_INTERNATIONAL_HUMANITARIAN_LAW
- War crimes have been committed in Ukraine conflict, top UN human rights inquiry reveals, United Nations, 23 September 2022, *available at*: <https://news.un.org/en/story/2022/09/1127691>

¹⁷ Russia, Ukraine & International Law: On Occupation, Armed Conflict and Human Rights, Human Rights Watch, 23 February 2022, *available at*: <https://www.hrw.org/news/2022/02/23/russia-ukraine-international-law-occupation-armed-conflict-and-human-rights> (last visited on August 18, 2023)