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INTERNATIONAL LAW AND THE WAR IN UKRAINE

Russia invaded Ukraine in the early hours of February 24, 2022. The attack came almost exactly eight years after Russia annexed Crimea. Attacking the country on multiple fronts and targeting numerous cities with missile and aerial strikes as well as ground forces. By the following day, its forces were closing in on Kyiv, the capital. Ukraine has since requested the help of the international community which has responded with military and humanitarian aid and harsh sanctions on Russia. The country has also sought relief at international forums such as before the International Court of Justice and the International Criminal Court.

Russia's assault is a clear violation of the United Nations Charter and that sanctions imposed by the United States and others are a legally permissible response. They also argued that, despite the failure of the U.N. Security Council to prevent the conflict in Ukraine, «this might be a moment for a renewed and more inclusive engagement around the legitimate interpretation of the international law that governs the use of force».

Serious violations of human rights (e.g. the ban of torture, right to life) in many respects overlap in substance with international crimes, and core human rights apply in war as in peace times. Under human rights law, states have an obligation to persecute and punish perpetrators of certain serious human rights abuses through their domestic legal systems. International human rights courts such as the European Court of Human Rights cannot persecute individual perpetrators, but can order remedies for victims of rights abuses.

The Rome Statute of the International Criminal Court provides the definitions of core international crimes [5]:

Genocide. According to art. 6 of the Rome Statute, 'genocide' means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.

Crimes against humanity, according to art. 7 of the Rome Statute, when committed as part of a widespread or systematic attack directed against any civilian population.

War crimes, according to Article 8 of the Rome Statute, war crimes include:

- Wilful killing;

- Torture or inhuman treatment, including biological experiments;
- Wilfully causing great suffering, or serious injury to body or health, and many others.[5]

Crime of aggression, according to Article 8bis of the Rome Statute, the means ‘the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State, of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations’.

Since the beginning of the war in Ukraine, the international community has raised alarm about the growing number of war crimes. The Law of Armed Conflict consists in international treaties (such as the 1949 Geneva Conventions [1] establishing the rules of International Humanitarian Law, or the 1948 Genocide Convention [2]) and customary international law. All together these treaties aim at, regulating the relations between parties to the conflict. Concretely, war crimes refer to the serious violations of international humanitarian law. They are now listed in Article 8 of the Rome Statute of the International Criminal Court [3], adopted in 1998. Some states are not subject to the Court’s jurisdiction because they have not ratified the Statute (including Russia and Ukraine).

In the midst of war, human rights and international law institutions have responded with unprecedented speed to the unfolding crisis, not least due to the strong engagement of the Ukraine government in multilateral fora. While these institutions can deliver little immediate relief for Ukraine citizens, the initiatives have important political functions: they show the political and legal alternatives to the logic of war chosen by the Russian government; they contribute to formalizing international consensus and providing independent legal assessments of the attack; and, most importantly, they prepare the ground to ensure accountability for crimes committed in the context of the war.

The law is everywhere, even if we cannot see it. All states around the world have sided with the law and are taking advantage of the possibilities that it offers. Russia’s exclusion from the United Nations Human Rights Council is a recent illustration of this. This is part of a turning point taking place in international relations. We are now aware of the strength of the multilateral system.

Most recently, German Chancellor Olaf Scholz described the Russian invasion as a «flagrant breach of international law». For him, the death of thousands of civilians are «war crimes for which the Russian President bears responsibility» [4].

It cannot be ruled out that the right of peoples to self-determination is a fundamental right under international law. That means that any Russian ethnic minority in Ukraine has a right to determine its political status and pursue its economic, social, and cultural development. Yet, there is no right to unilaterally secede from a state and form a separate state.

One conclusion then might be that international law has proven generally ineffectual when it comes to checking great powers' actions. Another might be that it is in the interest of every member of the international community – including great powers – to adhere to a system of rules, even when there are short-term incentives to defect. In fact, this might be a moment for a renewed and more inclusive engagement around the legitimate interpretation of the international law that governs the use of force.

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SPECIFICS OF POLICE WORK IN THE CONDITIONS OF MILITARY CONFLICTS

The National Police of Ukraine is a central executive body that serves the public by ensuring the protection of human rights and freedoms, combating crime, maintaining public safety and order [1].

In its activities, the National Police is guided by the Constitution, international treaties of Ukraine, the Law «On the National Police» and other laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, as well as acts of the Ministry of Internal Affairs of Ukraine issued in accordance with them, and other normative legal acts [2, Article 6].

According to Art. 1 of the Law of Ukraine (hereinafter – the Law) «On the Legal Regime of Martial Law», martial law is a special legal regime introduced in Ukraine or in some of its regions in the event of armed aggression or threat of attack, danger to the state independence of Ukraine, its territorial integrity and provides for the provision of the relevant state authorities, military command, military administrations and local self-government bodies with the powers necessary to avert the threat, repel