International responsibility for human rights violations in the context of the Russian war on Ukraine



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Abstract:

The war launched by Russia against Ukraine in 2022 represents an indicative example of the crisis of international law characterized by repeated violation of the principles that govern it, such as the prohibition of the use of force in international relations. The problem of the research paper mainly revolves around: How effective is the international legal system in effect in protecting the basic rights of Ukrainian civilians in light of the ongoing armed conflict?

In preparing the research, we relied mainly on the descriptive method that is compatible with the theoretical part of the study. We have divided the research into two complementary axes. In the first, we define the nature of the armed conflict, while in the second axis, we show the effects of the violations committed against human rights. We have noticed failure of the United Nations to maintain international peace and security as main result.

Keywords: *Armed conflict; International law; Russia; International crimes; Human rights.*

1. Introduction:

Most specialists in international law agree that the failure of members of the international community to implement the collective security system on the ground, and thus their inability to find a balance between global powers, has led to the multiplication of armed conflicts across the world in which the major countries of the world are involved without any party being present able to prevent or deter it, as was the American war on Afghanistan in 2001, then the American war on Iraq in 2003, and Russia did not refrain from imposing its hegemony on countries that it considered a source of threat to its national security, so it annexed the South Ossetia region in 2008, then After that, the war it launched against Ukraine starting in February 2022, Which has so far led to the occupation of part of its territory, in complete violation of the rules of international law related to the prohibition of the use of force or the threat of its use in international relations. The Russian military initiative in Ukraine has become a grave violation of the rules of international humanitarian law and international human rights law due to the barbarism that has characterized the behavior of the Russian armed forces, the latter of which has not hesitated to use weapons and strategies that conflict with the constraints of proportionality and distinction that are supposed to govern the behavior of his forces, which targeted hospitals and schools, and did not distinguish between civilians and military personnel in the ground and air operations they launched, and the media has proven this on more than one occasion.

Importance of the study:

Studying the issue of international responsibility for human rights violations in the context of the Russian war on Ukraine is important, the basic dimensions of which can be summarized in the following points:

-The Russian military intervention in the Ukrainian region involves ambiguities that have been the subject of intense debate among specialists in international law and international relations, perhaps the most important of them is the issue of the legitimacy of the Russian military initiative in the region, which invoked its right to legitimate defense against the threat represented by Ukraine's accession to NATO;

-Various media outlets and non-governmental organizations have recorded repeated violations of the rules of international humanitarian law that restrict the behavior of conflicting parties during clashes, which often claimed the lives of unarmed civilians, as well as damage to public or private property, or even cultural property and the natural environment.

Objectives of the study:

The study of the current topic aims to achieve a set of goals, perhaps the most important of which are:

-Determining the legal system applicable to the armed conflict in Ukraine in light of the clash of defenses of the countries concerned, which requires us to shed light on the background and circumstances of the armed conflict;

-Adjudicating the issue of the implications of the gross violations of fundamental Ukrainian civilian rights, whether with regard to the responsibility of political or military leaders, or even the responsibility of States themselves in light of the text of the draft articles on the responsibility of States for an internationally wrongful act.

The problematic:

From what was previously mentioned, it appears logical to us that we ask the following problematic:

How effective is the internationally applicable legal system in protecting the fundamental rights of Ukrainian civilians in light of the ongoing armed conflict in the region?

Division of the study:

We decided to divide the current study into two complementary axes. Within the framework of the first axis, we address defining the nature of the armed conflict in Ukraine by identifying the circumstances that led to its outbreak and the violation to international law committed by Russian forces. As for the second axis, we show the effects resulting from violations and abuses committed against the Ukrainian human rights and the law of armed conflict for political and military leaders, or even for the countries concerned.

Scientific methodology:

In preparing this research paper, we relied on a group of scientific methods, perhaps the most important of which is: the descriptive method that is compatible with the theoretical part of the study, especially with regard to the narration of the legal texts applicable to the armed conflict. We also relied on the historical method with regard to the narration of the facts that led to the outbreak of armed conflict in Ukraine, while we relied on the analytical method to study the effectiveness of the legal system in force in protecting the rights of Ukrainian civilians.

2. The nature of the armed conflict between Russia and Ukraine:

The protection of human rights represents one of the priorities that members of the international community set upon themselves after the end of World War II, and specifically the background of the humanitarian disasters that were recorded across various parts of the world, in which millions of civilians who had no connection to the armed conflict were killed. Therefore, it was necessary to

adopt an integrated legal system that takes into account the various aspects in which the armed conflict is embodied, whether related to the rules of engagement, the protection of civilians, or even at a later stage after the end of the armed conflict, which were subjected to each of the four Geneva conventions of 1949, and their Additional Protocols of 1977.

The armed conflict in Ukraine is subject to the same legal system, and this requires us to shed light on a group of issues that were a matter of disagreement at the doctrinal level, especially with regard to the background of the armed conflict **(a)** and the legal system to which it is subject **(b).**

a. Background of the armed conflict between Russia and Ukraine:

The end of the Cold War was accompanied by a climate characterized by reconciliation and peace in relations between countries, in addition to the radical changes that occurred during this period of time, perhaps the most prominent of which was the collapse of the Soviet Union, the disintegration of its republics, and the secession of Eastern European countries from Soviet control, which led to the elimination of totalitarian regimes which ruled these countries (pawluszko, 2023, p. 12). Moreover, most specialists in the field of international relations agree that Ukraine remained loyal to Russia even after the latter recognized the independence of Ukraine following the delivery of nuclear weapons in accordance with the Budapest Memorandum of 1994 (Zadorozhny, 2015, p. 10), It was not truly liberated except after the Euromaidan protests, which resulted in the establishment of a pro-western government that moved towards joining the institutional organizations that run and govern its political, economic, commercial, scientific, cultural, and even defense life in the form of NATO, which constituted a decisive turning point in Ukraine's relationship with Russia, where NATO did not stop expanding, the number of its members increased to 30 countries after Hungary, Poland, and the Czech Republic joined it in 1999, then Bulgaria, Romania, Slovakia, Lithuania, and Estonia in 2004 (Schimmelfennig, 1998, pp. 59-62), but the turning point was in relations between Russia and the United States of America in 2008 when was recorded after NATO promised Georgia and Ukraine to annex it to it in 2008 within the framework of the Bucharest Summit, which led Russia to invade Georgia and annex the region of South Ossetia and Abkhazia to it as a logical response to the threat, which threatens its national security and the integrity of its territory, as well as the danger that the expansion of this entity represents to security in Europe and the entire world (Thomas, 2009, p. 38), in light of the hostile statements of NATO officials against Russia, the latter of which was classified by them as representing the most important and direct threat for security, peace and stability in the Euro-Atlantic region (organization, 2023).

It appears from what was mentioned above that the military initiative undertaken by Russia on February 24th, 2022 was only the result of Western countries violating their verbal pledges towards the Soviet Union in 1991 related to

the principle of equal security, which the Eastern and Western camps were supposed to adhere to, and indivisible in accordance with the text of the European Security Charter adopted within the Organization for Security and Cooperation in Europe (shifrinson, Spring 2016, pp. 12-13). Russian President Vladimir Putin stated in the speech he issued after the beginning of the war that the Russian presence in the Ukrainian region does not represent a disruption to it, but rather embodies the efforts of the Russian authorities to protect its national security in the first place and to protect individuals who have a close relationship with the Russian nation and who are located in the east of the country, and claimed that they are being subjected to linguistic genocide in that region, and that the moral goal that the military forces seek to reach there is to eradicate Nazism in the region and disarm that threatens their interests and security in Ukraine and abroad (Duben, 2023, pp. 2-3).

b. Russian violations of the rules of international law in Ukraine:

The Russian military intervention in Ukraine began in February 2022, and most specialists in the field of international law and international relations agree that this military initiative involves serious violations of the basic principles governing relations between States, which are included in the Charter of the United Nations (Nihreieva, Jannuary-December 2022, pp. 6-7), starting with the obligation placed on them to resolve all their international disputes shall be resolved by peaceful means in a way that does not endanger international peace and security (Alexander, October 2023, p. 6). These means are mainly negotiations, investigation, mediation, conciliation, arbitration and judicial settlement, most of which have not been taken, according to the Russian President's statement, and which have been halted about the negotiations in which the Russian authorities participated with NATO countries over the course of 30 years, while the former tried with determination and patience to reach an agreement on the principles of equal security, Russia's proposals were met, according to the statements of its officials, with deception and cynical lies, or attempts at pressure and blackmail (Rumer, 2016, pp. 4-11). The Russian invasion of Ukraine contradicts the principle of prohibiting the use of force or the threat of its use in relations between states, and this is directed against the territorial integrity or political independence of any State (Hoffmann, 2022, p. 208). Indeed, the Russian military initiative in Ukraine came outside the pre-determined international legal framework for the use of force, that is, under an authorization from the UN Security Council to employ deterrent measures by using air, sea, and land forces (organization U. N., 1945, p. Article 39), or by implementing the natural right of States to legitimate self-defense as long as the case under study did not meet the preconditions for implementing this right, namely the condition of proportionality and necessity, and the existence of an actual attack on Russian territory or one of the Russian interests (Hoffmann, 2022, pp. 214-215).

As for the battlefield, various reports prepared by governmental or non-governmental organizations on the effects of the Russian war in Ukraine have recorded repeated violations of the basic rights of individuals through the implementation of military operations by military forces in which they ignored the principle of discrimination that is supposed to restrict their behavior in the field for example, they launched Recent large-scale attacks on the second largest city in Ukraine, in which a large number of civilians were killed and hundreds of others were injured, and residential areas and health facilities were damaged. These attacks were characterized by their indiscriminate nature, and included the use of explosive weapons with wide-area effects and prohibited cluster ammunition (international, 2022). Among the incidents reported by international media were the attacks that resulted in the killing of 12 civilians and the wounding of 26 others in the town of "Derhachi", which targeted five hospitals, or even the aerial bombardment that struck a residential complex in the city of "Chernihiv" in northeastern Ukraine in March 2022, which led to the death of 47 civilians. Human rights violations were also embodied in subjecting Ukrainian civilians to executions without prior trials and torture in 17 villages and small towns in the "Kiev" and "Chernihiv" regions, which investigations conducted by the organization (Human Rights Watch) reported that 22 extrajudicial executions, 9 unlawful killings, and 6 enforced disappearances were committed, in addition to the imprisonment of 21 Ukrainian civilians in inhuman and degrading conditions, in which they were subjected to various forms of inhuman treatment (watch, 2024).

3. International responsibility for crimes committed during the Russian-Ukrainian international conflict:

Most specialists in international humanitarian law agree that the current armed conflict between Russia and Ukraine actually involves serious violations of the restrictions included in the framework of the international conventions forming the structure of international humanitarian law. It did not stop with Russia's violation of the rules prohibiting the use of force in international relations, but rather extended to include as well the violations that were committed by Russian military forces on land, sea, and air in the Ukrainian region, including the deliberate targeting of civilians and public and private property, as well as the destruction of facilities containing dangerous forces, such as dams, and the targeting of nuclear reactors.

In this part of the study, we examine the forms in which Russian violations of the rules of international law and the rules of international human rights law have been embodied in Ukraine **(a)**, while we highlight the potential effects resulting from such violations **(b)**.

a. Russia's responsibility for violations committed against Ukrainians:

The International Court of Justice represents the main judicial body of the United Nations, and the role of this international judicial body is to settle legal disputes brought before it by States in accordance with the relevant rules of international law, and to express an advisory opinion on legal matters referred to it by United Nations bodies and accredited specialized agencies (Greenwood, 2022, p. 1842). The International Court of Justice is exclusively concerned with disputes that arise between States, as stipulated in Article 34 of its Statute, which states the following: "1. Only states may be parties in cases before the Court.

2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative" (Organization, 1945, p. article 34), the drafters of the Statute also stated that the court is competent to adjudicate all legal disputes related to various matters, including: any issue of international law; or the existence of any fact that, if followed, would constitute a breach of an international obligation; The nature or extent of reparation to be provided for breach of an international obligation (Organization, 1945, p. article 36(2)). These elements include armed conflicts, and violations committed by one state or another in violation of its relevant international obligations (Gil, 2023, p. 6). In this regard, reference is made to the draft articles relating to the responsibility of States for internationally wrongful acts, which stipulate in its first article that: "Every internationally wrongful act committed by a State entails its international responsibility," and the State's international responsibility is raised if it commits an act or neglects an obligation, both attributable to it, constitute a violation of the relevant rules of international law. In the event that the aggressor State is convicted, for example, this may lead to it being obligated to make reparation for the damage, whether through restitution, compensation, or satisfaction, with one of them or a combination of them (law, 2001, pp. articles 34-38).

The practices undertaken by the Russian military forces in the Ukrainian region leave no room for doubt that holding Russia accountable before the International Court of Justice will inevitably lead to its condemnation and obligation to compensate the attacked State for the damages it suffered, and even more so to restore the occupied territories and which was annexed to Ukraine in some way, which actually happened at the beginning of the nineties of the last century when Iraq annexed parts of the Kuwaiti territory to its territory (Greenwood, New world order or old? the invasion of Kuwait and the rule of law, 1992, pp. 153-178).

b. The international responsibility of Russian political and military leaders for international crimes in Ukraine:

The Second Pre-Trial Chamber of the International Criminal Court, supported by the United Nations, issued an arrest warrant against Russian

President Vladimir Putin in March 2023 on allegations of war crimes related to the deportation and illegal transfer of children from Ukraine. The Pre-Trial Chamber also issued an arrest warrant for the head of the Commission of Children's Rights in Russia, Maria Alekseevna Lvova-Belova, raises the responsibility of the Russian President and the Chairperson of the Children's Rights Commission for their failure to exercise control over their civilian and military subordinates who committed or permitted acts described as war crimes (Court, 2023). Violations committed by Russian military forces against civilians, residential areas, and public property can also be included in the category of war crimes according to the text of Article 8 of the Rome Statute, paragraph 2-(b) of which states the following: “For the purpose of this Statute, "war crimes" means:

(b) Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

(i) Intentionally directing attacks against the civilian population as such or against individual

civilians not taking direct part in hostilities;

(ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;” (Organization u. N., 1998, p. Article 8 para.2(b)).

Moreover, Russia's responsibility is raised under other legislative mechanisms for war crimes committed by its forces, as the features of war crimes are defined to varying degrees between one international convention and another, between those that address the issue in general, as is the case with the Hague Regulations relating to the Laws and Customs of War on Land of 1907, and its authors merely enumerate the forms in which war crimes are embodied without defining the latter, and among what is stated in the text of Article 23 thereof: “In addition to the prohibitions stipulated in special agreements, it is specifically prohibited:

(a) Use of poison or toxic weapons.

(b) Killing or wounding members of the enemy state or army by resorting to treachery.

(c) Killing or wounding an enemy who has declared his intention to surrender, after he has laid down arms or has become hors de combat.

(d) Declaration of non-sustainability.

(e) The use of weapons, missiles and resources likely to cause unnecessary injury and suffering...” (land, 1907, p. Article 23).

The countries participating in the preparation of the four Geneva Conventions of 1949 adhered to the same position referred to above, but without

referring to these forms in a single convention, and they enumerated them dispersedly in the four conventions, so they referred to them, for example, in Articles 50 and 53 of the Geneva Convention for the Improvement of the Condition of the Wounded and Sick in the Armed forces in the field (cross, 1949, p. articles 50 and 53), and in Articles 44 and 54 of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Armed Forces at Sea (Cross, 1949, pp. Articles 44-54), or even Article 130 of the Geneva Convention relative to the Treatment of Prisoners of War (Cross, the convention (III) relative to the treatment of prisoners of war, 1949, p. Article 130), or Article 147 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War (cross I. C., 1949, p. Article 147).

4. Conclusion:

It appears from what was mentioned above that the response by members of the international community to acts of aggression and the resulting illegal behavior of invasion, occupation and annexation represents one of the most important challenges that countries have had to address in recent years, and the most complex, given the absence of international mechanisms capable of implementing the rules of international law in a proper manner, and this is what we were able to observe on more than one occasion and the Russian war on Ukraine, which once again embodied unprecedented barbarism and violence in the international arena, and confirmed another time that the only logic that governs international relations is the law of force and nothing else.

The completed study allowed us to come up with a set of results, perhaps the most important one was:

-International armed conflicts are governed by a set of rules included in a group of international conventions forming the structure of international humanitarian law and international human rights law. These were explicitly violated in the context of the armed conflict launched by Russia against Ukraine, as the first did not intend to invade the Ukrainian territory, and illegally annexed it to its territory.

Through the completed study, we were able to uncover a number of legal gaps, in order to fill them we recommend the following:

-We recommend the need to intensify diplomatic efforts undertaken by neutral countries that have nothing to do with the armed conflict, in order to increase the chances of reaching a peaceful solution to the conflict, and whose first step should be to demand a ceasefire between the two conflicting parties;

-Ensuring effective protection for non-governmental organizations and political activists who provide assistance to the victims of these armed conflicts.

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