

Article 51 of the UN Charter: Compliance Thereto Russia

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In order to escape liabilities and pursue its evil ends, aggressors will always justify the unjustifiable. No infringement of international law will ever be openly admitted by a State despite the fact that it has obviously committed wrongful acts. This is Russia's case, i.e., Russia's attack of Ukraine is a blatant violation of prohibition on "use of force." Its reliance on the principle of self-defense under Article 51 of the UN Charter falls short.

A decade ago, war between Russia and Ukraine started. Russia's annexation of Crimea in 2014 marked the beginning of Russia's military aggression of Ukraine. On February 24, 2022, Russia launched a full-scale invasion of Ukraine. In a television address, Putin said he aims to "demilitarize" and "de-Nazify" Ukraine, reiterating his unsubstantiated allegation that Ukrainian forces are carrying out a "genocide" in breakaway pro-Russian territories in the east.¹ He claims Kyiv has been carrying

out a "genocide" against the Russian-speaking population of the Donetsk and Luhansk regions, collectively known as the Donbas.² However, the international community considered these actions by Russia to be in breach of international law, i.e., Article 2(4) of the UN Charter on the "use of force." Article 2 (4) of the UN Charter prohibits the use of force and calls on all Members to respect the sovereignty, territorial integrity and political independence of other States.³ The prohibition on the use of force is not absolute. Self-defense and the Security Council's authorization are two accepted exceptions as explicitly set out in Article 51 of the UN Charter. Force may be used against another when a state is acting in self-defense. This was the legal justification invoked by Russia with regard its military aggression. It argues that it has responsibility to protect Russians in the Donbas region.

Article 51 provides that a state has the right to defend itself individually when attacked. It likewise allows a member state to act in the defense of another member state that has been subjected to an unlawful armed attack. Thus, an attacked member state can rely on individual self-defense; and collective self-defense provided that the latter asks for support. It should be pointed out that Donetsk and Luhansk are neither unrecognized internationally nor member state of the United Nations. They do not even qualify as states under international law, notwithstanding Russia's recognition of their independence.⁴ Thus, it cannot justify its actions as one in collective self-defense of Donetsk and Luhansk with regard its allegation that Ukraine was committing genocide because such right attaches only to States, not to non-State groups.

Also, there is no rule in customary international law which permits another state to exercise the right of collective self-defense based on its own assessment of the situation.⁵ Russia's above-mentioned justification is baseless because aside from the fact that Donetsk and Luhansk lack international recognition, it is also important that aid from other states must be explicitly requested by the attacked state.

Moreover, on its claim for individual self-defense, Russia claims that NATO's eastward expansion, and Ukraine's military build-up poses not only a "very real threat to Russia's interests but to the very existence of the Russian state and to its

sovereignty"⁶ However, it should be noted that the use force is permitted only in the event of actual armed attack. Anent thereto, the measures to be taken must be necessary and proportionate. Ukraine has not committed or threatened to commit an armed attack against Russia.

A state may respond in defense to an armed attack only if the attack is of significant gravity. Here, there was no imminent armed attack on Russia and

there is no reasonable necessity on the circumstances that would warrant the use of anticipatory self-defense.

Verily, like the prohibition on the use of force, the principle of “self defense” is likewise explicitly established in the UN charter. However, such cannot be used to shelter unlawful acts and justify flagrant violation of international law.

A state is obliged to act according to the international agreements it has ratified. Thus, if the Russian attacks do not fall under the principle of self-defense, it would qualify as an “internationally wrongful act” under the law on State Responsibility because of its blatant violation of the UN Charter and customary international law prohibition on the use of force.⁷



Russia’s attack on Ukraine is really an obvious violation of international law. No credible proof was ever presented by Russia to justify its defenses as regards its compliance to Article 51 of the UN Charter.

Should Russia believe that its defenses hold weight, it should have brought the subject matter before the UN considering that it is one of the permanent members of the UN Security Council. However, Russia may have other interests and agendas regarding its attack against Ukraine that’s why it went beyond the unimaginable.

¹ 24 France, “February 24, 2022: The day Russia invaded Ukraine”, February 14, 2023, available at <https://www.france24.com/en/live-news/20230214-february-24-2022-the-day-russia-invaded-ukraine> (last visited March 18, 2024)

² ALJAZEERA, ‘Smells of genocide’: How Putin justifies Russia’s war in Ukraine, March 9, 2022, available at <https://www.aljazeera.com/news/2022/3/9/smells-of-genocide-how-putin-justifies-russias-war-in-ukraine> (last visited March 19, 2024)

³ UN Security Council, Purposes and Principles of the UN (Chapter I UN Charter) available at <https://www.un.org/securitycouncil/> (last visited March 15, 2024)

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⁴ John B. Bellinger III, PBS News Hour, How Russia’s attack on Ukraine violates international law, March 4, 2022, available at <https://www.pbs.org/newshour/world/how-russias-attack-on-ukraine-violates-international-law> (last visited March 19, 2024)

⁵ MAX-PLANCK-INSTITUT, World Court Digest, available at https://www.mpil.de/de/pub/publikationen/archiv/world-court-digest.cfm?fuseaction_wcd=aktdat&aktdat=106020000100.cfm#:~:text=There%20is%20no%20rule%20in,own%20assessment%20of%20the%20situation (last visited March 19, 2024) – Part 1, April 29, 2022, available at <https://dailyjus.com/world/2022/04/implications-of-the-war-in-ukraine-under-international-law-the-use-of-force-under-international-law> (last visited March 19, 2024)

⁶ Jus Mundi, DAILY JUS, Implications Of The War In Ukraine Under International Law

⁷ Michael N. Schmitt, Russia’s “Special Military Operation” and the (Claimed) Right of Self-Defense, February 28, 2022, available at <https://lieber.westpoint.edu/russia-special-military-operation-claimed-right-self-defense/> (last visited March 17, 2024)