

Genocide And Its Consequences From The Perspective Of International Law (A Case Study Of The Russia-Ukraine War)

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Abstract

Genocide is an old crime and a new concept. Of course, in a way, it seems difficult to explain genocide to those who have not been affected by it. Everyone is aware of the need to deal legally with the crime of murder, and every country has a law to prohibit and punish this crime. Genocide is an international crime recognized as an international crime under the Convention against Genocide and is customarily accepted as an international rule under international law. This is a shocking international crime that is an act against human rights and violates the most basic human right, the right to life.

Of course, given that genocide is a crime aimed at destroying all or part of a national, ethnic, racial or religious group, it should not only be considered a crime against the right to life, but also a crime against other human rights. The anti-human nature of genocide has made it an act against human rights, the prohibition of which is a mandatory rule from the perspective of international law to the protection of all human rights, especially the right to life, and to guarantee world peace and security. Therefore, to relate the genocide and its consequences from the perspective of international law in the Russia-Ukraine war, in this article, we first examine the generalities and concepts related to genocide and then how the Russia-Ukraine war confronts this phenomenon and what The consequences will be stated from the perspective of international law.

Keywords: genocide, international law, war, Russia, Ukraine

Introduction

International crimes include four types of crimes, genocide, crimes against humanity, war crimes, and ethnic cleansing. Genocide is one of the most heinous international crimes with customary characteristics, which is dealt with under the jurisdiction of the International Court of Justice. This crime may be committed at any time by any person with the intent to physically or biologically destroy a particular racial, religious or ethnic group. Under international law, genocide is a crime that requires the denial of the right to exist of human groups; A crime that has wounded the human conscience and is contrary to the ruling spirit of the United Nations (Rizm al-Din Khan and Ahmad, 2019: 17). In the fight against international crime, including genocide, awareness of the root causes, such as ethnic, racial, cultural,

and religious inflexibility, lack of rule of law, and discrimination and hatred against certain human groups can be very helpful (Manolang et al., 20). 761).

In the practical sense (and using the terms ICTY) the relationship between the crime of genocide and the crime against humanity under Article 7 of the Statute of the International Criminal Court is not one-sided. This is because genocide does not require government or organizational policy other than crimes against humanity under Article 7 of the ICC Charter. Thus, the relationship between genocidal crimes and against humanity is one of the "reciprocal or reciprocal" characteristics. The difference between the two crimes is further emphasized.

There is a clear line between genocide and war crimes because the second category presupposes

armed conflict. But genocide is usually in the category of systemic crimes, the same cannot be said of war crimes. But this does not mean that genocide can not take place in the context of an armed conflict. If the goal of the military campaign is to eliminate the majority of civilians, the threshold of genocide reaches a point where the target civilians are (at least) part of a group protected by the law against genocide and are targeted as members of the target group. Apart from the exceptional circumstances that can be imagined in theory beyond action, man alone cannot eliminate one or all of the groups protected by the rule against genocide in whole or in part. Therefore, for all practical purposes, the occurrence of the crime of genocide requires a collective activity with a destructive purpose.

The result is that for all practical purposes, the general genocide must have an objective point of reference. According to this assumption, what could be a major structural difference between genocide and crimes against humanity is technical diversity. This diversity lies in the fact that collective action constitutes an objective underlying element of crimes against humanity while constituting an objective reference point of the need for intent to commit genocide. In the case of genocide, it is clear - and has been usefully endorsed by the ICC elements of crime - that these steps can be the basis for condemning a complete crime, not just a genocide, because collective action serves as a reference point in determining genocide intent. It acts on crimes against humanity. Although collective action (widespread and systematic attacks on any civilian population) constitutes an objective underlying element, the legal outcome appears to be the same.

Tensions between Russia and Ukraine have risen sharply in recent years, eventually leading to the Russian government's decision to launch a military strike on Ukraine. A decision that had been anticipated by many since the start of the military operation on February 24, 2022, following the recognition of the self-proclaimed republics of eastern Ukraine by Russia. This action, despite being predictable, caused a great shock to the whole world and especially to the continent of Europe. This is the first military invasion of

continental Europe in 77 years, and it is still unclear exactly where it will end. What seems certain is that the European governments, as well as the United States, will impose extensive sanctions on Russia in the least anticipated response, sanctions that should be imposed unilaterally and multilaterally and in no way possible. They do not exist through the mechanism set out in Chapter 7 of the UN Charter due to Russia's veto. This, of course, raises deeper concerns for the international community, as such a deep rift between members of the Security Council is a serious threat to the survival of the United Nations and, more generally, to world peace. At present, the situation is such that it is impossible to accurately predict the consequences of Russia's military invasion of Ukraine, but what seems to be heard from the statements of European and American officials is a tendency for a strong, proportionate and, of course, controlled approach. Which does not allow the fire of another house-burning war to ignite (McKay and Murphy, 2022: 376).

Therefore, the main issue to be addressed is genocide and its consequences from the perspective of international law in the Russia-Ukraine war. The question is, is the international order based on these norms and structures effective? The answer to this question requires a very broad study, but a few issues can be raised here. First, the occasional inefficiency of international norms and structures in such crises should not cause their effectiveness to be forgotten in other cases, which are very numerous; Second, in the absence of these norms, the consequences of any illegitimacy would have to be accepted, while at least in cases of violation of fundamental rules and the imperative of international law, the duty of non-recognition has created a serious obstacle to the normalization of incorrect procedures (Article 2). 41 Articles on the International Liability of States); Third, even in times of war and military occupation, the provisions of international humanitarian law, human rights and the rights of refugees can alleviate the suffering of victims. The perpetrators of international crimes are being prosecuted. In the case of Ukraine, the Prosecutor of the International Criminal Court has

emphasized the role of this court in the administration of justice.

Elements required for genocide

1- Agents

Committing the crime of genocide does not require a specific position in the governmental or quasi-governmental organizational structure.

2- Protected groups (groups and categories, national and ethnic, racial, religious)

The general concept of the protected group is not to impose a sense of reciprocity. The protected group does not have to be a minority within a country. Group members do not need to live in a defined territory. Conversely, protected groups will in many cases extend beyond the territory of a state. This is certainly true of racial and religious groups, but it can also be true of national and ethnic groups. It has been suggested that territorial factors should be considered as part of a larger group, which alone constitutes a protected group in the sense of defining genocide. A common culture, history, way of life, language or religion can be the common denominator of these concepts, although these elements do not require a collective presence. If the basis of group identity is sufficiently developed, one of them is sufficient. Recognizing the group as a people or a minority is a key factor. Conversely, not every distinctive feature that a group has in common makes it eligible for recognition. According to an almost unanimous view, racial groups are people who have some inherited physical characteristics or traits. An individual cannot escape from a racial group as defined, and so this understanding directly reflects the idea of the specific vulnerability of group members. A religious group does not need to be specially organized but must exist sustainably. These criteria should be considered when examining the status of recently separated or formed religious communities. The more secular the group's focus, the more questionable the quality of the religious group supported.

3- Prohibited acts

Which include killing, causing serious physical or mental harm, imposing group living conditions for its intentional physical destruction, measures to prevent birth within groups, forcing children to be transferred to other groups

4-Mental elements

To condemn genocide, the mental elements of the general condition of intent and the special condition for committing it must be met.

Genocide in international law

The word genocide was not coined before World War II. The word (Genocide) is a combination of two words: the Greek word "Genos", meaning birth and species, and the Latin word "caedere", meaning to kill or massacre. So it means that people are killed or massacred because of who they are. According to the legal definition in the Statute of the International Criminal Court, the crime of genocide is committed when one of the acts listed in paragraph 6 is committed "with the intent to destroy or all of a nation, ethnicity, race or religious group and so on." (Nabhai, 2017: 69).

Under international humanitarian law governing war crimes, crimes against humanity and genocide, individuals are criminally liable for their actions or omissions. Only individuals can be held responsible for these crimes, not institutions such as organized armed groups, political groups, organizations or governments. The positions, positions, and affiliations of the perpetrator are all irrelevant (Kohler, 2018). Behaviours that can lead to personal responsibility include: committing a crime, participating in it (as an accomplice), facilitating the crime (by gathering victims in one place for their future killing, providing weapons, planning a crime to be executed by others in the future, inciting or encouraging another person to commit a crime), or ordering the commission of a crime. Those who follow illegal orders can be held individually liable for crimes committed following such orders.

Those responsible for preventing or punishing these crimes are legally responsible for the commander or superior. To be criminally committed under the concept of superior responsibility, they don't need to be militarily

superior (such as a military commander). A person may be superior in the civilian sense. Therefore, superiors include not only military commanders but also police officers, the governor of a rural district (as in the Rwandan conflict), or even city mayors or business leaders. What matters is not the formal relationship between one person and another, but the fact that a person is in a position to prevent or participate in another crime, and to punish perpetrators of international crimes (Ding, 2016: 11).

Of course, the superior must be aware that his subordinate is about to commit a crime or has committed a crime. In this case, if necessary, the superior should investigate to prevent the crime or punishment of the offender. Failure to do so could result in criminal liability. The reason for the concept of superior responsibility is that the superior knowledge of the crimes of his subordinates and the non-punishment of them by his subordinates, if not understood as encouragement, can be taken as his consent to such behaviour. This can increase the risk of committing new crimes. It is not the duty to prevent or punish absolute crimes. This is because a superior cannot be expected to stop or punish the perpetrators under any circumstances. However, he or she should take all possible measures to ensure that disciplinary proceedings or criminal proceedings are instituted, or ultimately refer the matter to a competent person or authority (usually a high-ranking military officer or a national official).

Thus, the crime of genocide can be divided into three different lights: biological genocide, cultural genocide, and political genocide.

1. Biological genocide means abnormal interference in the policies of the offspring to change the anthropological definition of groups within a country.
2. Cultural genocide leads to the banning of regional languages and the destruction of cultural and religious works and books. Also, the forced separation of children from their parents falls into this category of genocide because it is an obstacle to the continuation of the group's identity.
3. Political genocide erodes the entire governing structure of a country. For some

states, the easiest way to solve the problems of ethnic groups in a country is to transfer the population or, in a drastic measure, to eliminate the group or genocide. Therefore, genocide can be considered the last stage of ethnic cleansing. Therefore, it should be noted that this category of crimes, especially crimes against humanity and genocide, are not actions that occur on their own, but over time and based on the underlying factors, they can develop. Named as avoidable measures (Zare Khan Mohammadi and Alipour, 1400: 34).

Illegal orders

4. The main point about illegal orders is that a soldier can not shirk his criminal responsibility if he obeys an illegal order; Even if it is a direct order from his superior. However, the Statute of the International Criminal Court contains a limited exception or, as stated in the legal literature, "defence against reluctance." This statute excludes criminal liability for conduct "provided by reluctance resulting from the threat of imminent death or from the threat of imminent continuous physical injury to that person (for example, a hostile person) or another person," provided " "That the person does not intend to cause harm greater than the harm he seeks to prevent." Given the nature of genocide and crimes against humanity, the reluctant defence will rarely apply to cases where a suspect harms multiple victims. In this case, if the court finds that the attacker acted reluctantly but finds that this type of defence is not enforceable, it may impose a lighter sentence on the attacker than what could otherwise have been imposed. Interestingly, contrary to the statute of the International Criminal Court, the statutes of the International Criminal Court for the former Yugoslavia and the International Criminal Court for Rwanda do not support reluctant defence (Leader, 2017: 29).

The question that arises is what could be done if a war crime, a crime against humanity or genocide had taken place? As we will see below, judicial and non-judicial methods can be used to deal with international crimes. As you probably know, the decision about the most appropriate way to deal with international crime, which is judicial, non-judicial or a combination of both, is a matter of debate. Instead of dwelling on such issues, we will simply present the options available.

Judicial methods

All states are now bound by the 1949 Geneva Conventions on International Criminal Procedure. Under these treaties, they are committed to guaranteeing the observance and enforcement of the rights of war. In particular, this means that all states must ensure that laws, military instructions, and other regulations give effect to the various articles of the four Geneva Conventions. In addition, governments must enforce these laws. This requires an investigation into alleged war crimes committed by their nationals, including members of the armed forces of these countries, as well as other international crimes at their borders. Governments must also ensure that defendants are prosecuted by international standards. Beyond the obligation to prosecute their nationals, however, governments must ensure that foreign nationals who have seriously violated the Geneva Conventions or the 1977 Geneva Accession Protocol do not enjoy immunity, or, simply put, escape punishment (Whether at home or in a safe place outside). In this regard, the principle of universal competence is raised (Imanzadeh, 1393: 25).

Global competence

According to the principle of universal jurisdiction, some international crimes are so important that governments are required to bring the perpetrators to justice, regardless of their nationality or the place where the crime was committed. This is a principle of customary law and means that all governments must follow it. Governments must prosecute offenders in their courts or facilitate their prosecution elsewhere. This principle has been invoked in the light of

gross violations of the law and custom of war, as well as serious violations of the Geneva Conventions. The Statute of the International Criminal Court requires States Parties to the Convention to arrest, prosecute, prosecute or extradite perpetrators of crimes under the Statute. The trial of Adolf Eichmann (for his role in the Holocaust during World War II) before the Jerusalem Court in 1961 was the first (and most famous) example of the application of the principle of universal jurisdiction by a national court. The court ruled that Eichmann had committed "crimes that have hurt the whole of humanity and shocked the conscience of nations" and "a great insult to the very rights of nations." After searching for the legal roots of this principle, the court found that "the jurisdiction to try crimes under international law is universal." Other examples include trials following the Rwandan genocide and the conflict in the former Yugoslavia. For example, the mayor of Mushubati (a district in Rwanda) was taken to a Swiss military tribunal in 1999. He was convicted of several crimes during the 1994 genocide, including war crimes (Fallahi and Assadollah, 2016: 62).

Genocide of Bosnia-Herzegovina and Serbia

On February 26, 2007, the International Court of Justice ruled that the Bosnian Serb forces were directly responsible for the genocide in Serbia. The court also ruled that Serbia could not prevent genocide by Bosnian Serbs and that its officials did not punish or bring to justice those genocides. In a message sent to the White House on February 8, 1994, Peter Galbraith, the US Ambassador to Croatia, announced the genocide. The message said that Radovan Karadzic's indiscriminate shelling of Sarajevo, the persecution of minority groups in northern Bosnia forcing them to flee their homes, and the use of prisoners to carry out dangerous activities on the front lines were all evidence. A genocide is taking place. "Serbia's aggressive policies and ethnic cleansing can be considered genocide," the US Congress said in a 2005 statement.

Despite the evidence of numerous war crimes committed by Serb forces in various parts of

Bosnia and Herzegovina, such as Sarajevo, Bijeljina, Prijedor, Zovornik, Banja Luka, Fuła and Viegrad, judges believe that the only criteria for genocide are the destruction of Bosnian Muslims. It is evident during the 1995 massacre in Srebrenica and eastern Bosnia.

The court concluded that many of the crimes committed during the war could be considered crimes against humanity, but that these acts were not in themselves genocidal. Following Montenegro's independence in May 2006, the court ruled that anything would happen during the war with Serbia and Montenegro.

Recently, after nearly three decades of the Bosnian war and in the last days of his 12-year mission in Bosnia and Herzegovina, the UN High Representative for Bosnia and Herzegovina, Valentin Inesco, announced a resolution on war crimes and some kind of recognition of genocide in Bosnia. Has been very significant and needs to examine all the cases and texts related to this matter, which of course does not include the description and development of all these cases in this article, but a brief reference to some related cases as follows, it seems necessary:

Ratko Mladic, the Bosnian Serb military commander, was recently sentenced to life in prison by The Hague tribunal. Thus, he is referred to as the "Bosnian Butcher" and will be imprisoned for the rest of his life for "genocide", "crimes against humanity" and "war crimes" during the Bosnian war.

Former Bosnian Serb leader Radovan Karadzic has also been sentenced to life in prison for "genocide", "war crimes" and "crimes against humanity".

Bosnia today must also be explored as sacrificial meat amid the US-Russia campaign. The Serb president of the Bosnian Presidential Council, Milorad Dodik, is angry with the Americans and has a strong desire for the person of Russian President Vladimir Putin, while other officials have American and Turkish leanings.

-Russia can be cited as a serious obstacle to Bosnia's accession to NATO.

-It seems that the key role of the current US President Joe Biden in the recent events and current political relations should not be

overlooked, because he is fully acquainted with the issues - the disintegration of the former Yugoslavia, - the Balkan region and especially the issue - the war. Bosnia has had a significant impact on relations and events for decades.

During Ratko Mladic's recent conviction, Joe Biden welcomed the UN High Court of Appeals judges' decision, describing the confirmation as "historic", given the available evidence: US role at the end of The Bosnian war, with the Dayton Accords, would have ended the physical war only for the people of Bosnia, but would have been a bone of contention for the United States, which, under various pretexts, sought their physical presence and imperceptible interference in the country's relations and arenas. It will be seen that the recent decision of the UN High Representative, which is a kind of lever of legal pressure on the United States, is no exception to this rule.

-Russia and China are staunch opponents of the presence of the UN High Representative in Bosnia and have made many attempts to end this meaningful political process, which have so far failed.

In very simple terms, due to the height of intense political, military and economic conflicts and rivalries between countries such as the United States, China and Russia, countries such as Bosnia and Herzegovina and even the Balkans, more and more attention is paid to these superpowers of the world today. We will each catch their fish from this turbulent and turbulent sea.

Legal measures

The International Criminal Tribunal for the former Yugoslavia (ICTY) was established in 1993 to try war criminals during the war in the former Yugoslavia. This court is located in The Hague. By early 2008, 45 Serbs, 12 Croats and four Bosniaks had been tried for war crimes during the Balkan wars in the 1990s. Serbs and Croats were charged with systematic war crimes. Most wartime Bosnian Serb leaders, such as Biljana Plavix, Momcilo Krajisnak, Radoslav Borjanin and Dusko Tadic, were tried and convicted of war crimes and ethnic cleansing. The trial of Radovan Karadzic and Ratko Mladic is still ongoing. They have been charged in connection with the siege of Sarajevo

and the Srebrenica massacre. President Slobodan Milosevic was also tried in connection with cases of war crimes in Bosnia, violations of the Geneva Conventions, crimes against humanity and genocide, but died in 2006 before the end of the trial. Following the death of Ali Ezzat Begovic, a court in The Hague revealed that his case was being investigated for war crimes. However, insufficient evidence was found that he was involved in war crimes. However, several Bosnian and Herzegovinian army commanders were tried and convicted in court.

Compromise

On December 6, 2004, in Bosnia and Herzegovina, Serbian President Boris Tadic apologized to all the people who had been persecuted by the Serbs during the Bosnian war.

Croatian President Ivo Juspovic apologized in April 2010 for the country's role in the Bosnian war. Bosnia and Herzegovina then expanded its relations with Croatia rapidly.

On March 31, 2010, the Serbian Parliament condemned the crimes committed in July 1995 against the Bosnian Muslim people in Srebrenica and apologized to the families of the victims.

The legal responsibility of the Netherlands and Russia's role in the genocide resolution

In July 2014, a court in the Netherlands ruled that the Dutch government was legally responsible for the 1995 killing of more than 300 Bosnian Muslim men and children in the town of Srebrenica by Serbs 1995. The Dutch soldiers handed them over to the Serbs. According to the court, the army should have known that they would be killed if they surrendered to the Serbs. The Dutch government was sentenced to pay compensation to the families of the victims. The court did not hold the Dutch government responsible for the killings of more than 7,000 other Muslims who had taken refuge around a Dutch military base in Srebrenica. Russia has also blocked the adoption of a resolution describing the incident as genocide.

Historical roots of the Russia-Ukraine war

Ukraine means a border country, and this meaning speaks volumes for the reality of this land. A land that is inevitably on the border between two opposing ideas. On the one hand, it is close to the authoritarian and pessimistic thinking of its powerful neighbour, Russia, and on the other hand, it is close to the democratic and liberal thoughts of Europe, as if it must always choose between accepting one of these two ideologies, a choice that is not always It has been easy and not necessarily cheap.

The internal manifestation of this contradiction has long been well reflected in Ukraine's domestic politics. There has been a civil war between Ukrainian political parties for a long time; Parties that are either somehow affiliated with Russian ideology and the East in general, or are in the pro-Western spectrum. The Communist Party of Ukraine is an example of a far-left and pro-Eastern party and the right-wing Freedom Party is among the far-right parties.

To better understand the roots of these internal differences and, of course, the differences between Russia and Ukraine, we must take a historical look at the events of World War II. With the outbreak of World War II, Ukraine was occupied by Nazi Germany from 1941 to 1944, but this military occupation was seen by many Ukrainians as liberation from the brutal dictatorship of Stalin, and Nazi forces were hailed as liberating forces. They were from the people of Ukraine (Pouriafrani, 2011: 14).

Finally, in 1991, after the collapse of the Soviet Union on August 23, Ukraine declared independence and rapidly moved towards Western ideas such as private property, the free market, and trade competition. The tragedy that the Ukrainian people experienced as a result of communist policies did not go away even years after the collapse of the Soviet Union, and perhaps this, along with the lack of fundamental human freedoms under communist rule, is the root of the deep hatred of a group of people. Justify its eastern neighbour.

The economic situation has improved since 1994 when Leonid Kuchma took office. Considered a pro-Soviet politician and endorsed by a wide range of Soviet supporters in eastern Ukraine, Kuchma,

with his positive economic actions, was able to attract the attention of the people of western Ukraine and, more generally, to strike a logical balance between the east. And the West to bring to the people of Ukraine the beginning of an era of economic growth. There have always been two main points of contention between Eastern and Western supporters in Ukraine, one of which has been the issue of NATO membership and the other of EU membership. Pro-Russian politicians such as Viktor Yanukovich, who was ousted by the Ukrainian people during the so-called Orange Revolution in 2004, are in favour of non-membership in NATO and the European Union. The second-largest popular movement in Ukraine after the Orange Revolution was the protest movement in 2014, this time against Viktor Yanukovich, who was re-elected President of Ukraine, which led to the ouster of Yulia Tymoshenko. Following this incident, the Russian government occupied the Crimean Peninsula, which has a Russian population, and announced in a controversial referendum that 96% of the Crimean people had agreed to join Russia. Following the events of 2014 and the occupation of the Crimean region, Russia's support for separatists in eastern Ukraine became more open and serious. Russia has repeatedly stated that it will not tolerate a NATO military presence near its borders and will not be passive in the face of the KFC's growing proximity to the West. As Russia's support for separatists in eastern Ukraine intensified, the situation in the country reached a critical stage, resulting in the displacement of more than one million people and the death of about 2,600 people. Following this situation, in the last month of 2014, the Ukrainian parliament voted to join the country. Apart from geopolitical issues, special attention should be paid to the reasons for Ukraine's importance to Russia. Ukraine is the largest country in Europe and has many valuable mines that are unique in Europe in this regard. It is also a gateway for energy to Europe and one of the most strategic regions in the world. A significant portion of all European energy consumption comes from Ukraine (McCluskey, 2022).

Take a look at Ukraine's demands

Russia has launched a large-scale offensive against its western neighbour Ukraine, signalling a sharp escalation of the Russia-Ukraine crisis that began in 2014. This is the largest conventional military invasion of Europe since World War II. Before the invasion, Russian military influence in Ukraine had begun in early 2021, with Russian President Vladimir Putin criticizing NATO expansion in 1997 as a threat to his country's security and calling for a legal ban on Ukraine joining the military coalition. He also proposed the theory of reconnection (recapture of former Soviet territories). Despite the increase in forces, Russian officials from mid-November 2021 to February 20, 2022, repeatedly rejected Russia's plan to invade Ukraine (Lindholm, 2022: 3).

The jurisdictional basis for Ukraine's lawsuit against Russia in Article 9 of the Genocide Convention. According to the same article, so far (with tolerance) 1 requests for an advisory opinion and 5 litigation lawsuits have been filed in the Court, including the lawsuits of Bosnia and Herzegovina against Serbia and Montenegro (1993-1997); Croatia's lawsuit against Serbia (2015-1999); Serbia's lawsuit against 10 NATO member states in 10 separate cases (2004-1999); And, *The Gambia v. Myanmar* (2019) to date). Although the Genocide Convention, the first human rights document since the founding of the 152-member United Nations, commemorates the events of World War II, the notion of genocide (according to the International Criminal Court for Rwanda) as a "crime of crimes" and the most heinous crime in Contemporary times are hard to imagine, but the cases, as well as the numerous allegations made against some countries, including Canada, China, and the Israeli regime, suggest that the convention could form the basis for further litigation in the future.

In the present case, Ukraine filed the following claims with the Court in its main application: Contrary to Russia's opinion, no genocide was committed in the Donbas region; Russia cannot use force under the pretext of preventing or punishing genocide; Russia has identified the two border provinces of Luhansk and Donetsk based on genocide; Russia's special military operations in Ukraine are based on false allegations of genocide

and have no basis in the Genocide Convention; Russia must ensure that these measures are not repeated, and ultimately, the damage done to that country must be compensated.

Ukraine's request for an interim injunction includes the following: 1. Suspension of Russian military operations; 2. Immediate guarantee of non-military action by Russian-controlled military and paramilitary groups and factions; 3- Avoiding

actions that aggravate the dispute; And 4- Submitting a report to the Court after one week from the issuance of the interim order of the Court and also, periodic reports thereafter to the Court.

In summary, the following table shows the conditions for issuing an interim injunction in the proceedings of the Court in general and the cases related to the present case (Stephen, 2022: 18):

Table 1- Request for issuance of a temporary order of Ukraine

Necessary conditions for issuing an interim order	Findings of the Court in the case of Ukraine v. Russia (2022) with a quorum of 13 for and 2 against
Initial or apparent qualification	1. Acceptance of mandatory jurisdiction of the Court or membership of the parties to the dispute in the document conferring jurisdiction: Ukraine and Russia join the Genocide Convention and grant jurisdiction to the Court under Article 9. 2. The existence of a dispute between the parties: the view of the Russian authorities on the commission of genocide in the Donbas region and the rejection of this claim by the Ukrainian authorities. (Paragraphs 49-24 of the Court decision)
Existence of claimed right (condition of validity): and its connection with the requested temporary measures	According to the Court of Law, Ukraine's claim that it is not subject to military action to fulfil its commitment to prevention and punishment Article 1 of the Genocide Convention) can be achieved by It is linked Russian-controlled military and paramilitary groups. (Paragraphs 64-50 of the Court decision)
The risk of irreparable right and the urgency of protecting them	According to the Court, any military operation, especially on the scale of Russian military operations, will result in the loss of many lives, physical and mental damage, and damage to property and the environment. (Paragraphs 76-65 of the Court Decision)

It is noteworthy that at present, due to Russia's military actions in Ukraine and the annexation of the Crimean peninsula to this country, several lawsuits have been filed by Ukraine against Russia in various courts (and, in other words, full-fledged legal war), including 4 lawsuits. In the European Court of Human Rights, it seems that Russia was expelled from the Council of Europe: a dispute over a bilateral investment agreement between the two countries by the State Oil and Gas Company of Ukraine against Russia; Arbitration under the Convention on the International Law of the Sea for Ukraine's lack of access to its oil and gas resources in the Crimean Peninsula; Lawsuits in the International Court of Justice under the Convention for the Suppression of the Financing

of Terrorism and the Elimination of All Forms of Racial Discrimination.

Ukraine's lawsuit against Russia

The present case raises several points in the field of international proceedings before the International Court of Justice, each of which can be the subject of a separate article:

1. Obtaining an interim injunction as a temporary victory and enforcing it through the Security Council: In general, the Court's procedure for issuing an interim injunction shows that when the parties to a dispute are engaged in an armed conflict, to compensate for a possible defeat on the

battlefield, one The parties to the dispute turn to the court for a legal victory, albeit a temporary one. Moreover, according to the interpretation of Article 94 of the Charter of the United Nations, it is not possible to request the implementation of the decisions of the Court, which are not qualified by a vote, from the Security Council. (Paragraph 4 of the interpretation of Article 94).

2. The effect of the proving threshold and the nature of the obligation in question in issuing an interim injunction: While the Court's procedure in issuing an interim injunction indicates that a very low threshold is considered for fulfilling the conditions for issuing an interim injunction relative to the substance of the case; In particular, the nature of the alleged obligation has to do with human rights obligations, the prohibition of genocide.
3. Non-citation of reports and documents related to the Ukraine crisis: One of the points to be considered in this decision is the Court's approach to similar decisions based on facts and reports on the subject matter of issuing an interim injunction. In this regard, we can refer to the similar decision of the Court in the Gambia case against Myanmar, based on the Genocide Convention. In this decision, the vacancy of this issue is completely felt. Perhaps one of the reasons for this is the imminence of the time of the Russian invasion of Ukraine with the holding of hearings in the Court, and the fact that detailed and reliable reports have not yet been published in this regard. It is worth noting that the Human Rights Council decided to establish a fact-finding commission in this regard on March 4.
4. Refusal to appear before the Court: In this case, Russia did not attend the hearings, perhaps because it knew what the final decision of the Court would be. Interestingly, shortly after the March 7 hearing, the Russian Embassy in the Netherlands sent an explanatory note to the Court stating the reasons for the disqualification (hereinafter referred to as the letter). The court regretted Russia's absence but said it would take Russia's comments into account in issuing the interim injunction. The question that arises in this regard is whether the Court can set a very short time for the parties to the dispute to be prepared to attend the hearings? This claim was made in the letter of the Russian Embassy in the Netherlands, as a reason for not participating in the relevant meetings. (Paragraph 2 of the letter) Of course, the introductory speech of the Ukrainian representative in the Court regarding the absence of Russia is interesting. (Page 14 of the March 7 hearing)
5. General remarks of the Court outside the scope of the main claim in the form of a reminder of the international obligations of the states: In the preamble to its decision, the Court refers to the dire situation in Ukraine and Russia's action raises serious issues in international law. Following this statement, the Court briefly explains the principles and objectives of the United Nations in the maintenance of international peace and security and its role as a pillar of the United Nations. Emphasis on the observance of international obligations by States under the Charter of the United Nations and international humanitarian law is another point made by the Court. Of course, the Court does not enter into these issues in the framework of its final decision to act beyond the wishes of the parties based on the principle of prohibition. However, in the light of the condition of correctness, which is the middle ground between the interim injunction and the substantive hearing, the Court seems to have raised a point which seems to have shown its substantive involvement in the issue of

coercion and the genocide convention and deviated from the prohibition principle. In the Court's view, "it seems unlikely that the Convention, in the light of its subject matter and purpose, would authorize a State Party to use unilateral force in the territory of another Member State to prevent or punish an alleged genocide." (Paragraph 59 of the Interim Order)

6. Relationship between the use of force and the Genocide Convention: The main challenge of this case is the conceptual and thematic relationship between the use of force and the Genocide Convention. From Russia's point of view, the expression of the Convention shows that the discussion of the use of force does not fall within the scope of the Convention. (Paragraph 10 of the letter) Russia Ukraine's reading of the convention is contrary to the purpose and subject of the convention. (Paragraph 12 of the letter) The second part of the present article will focus on this question.
7. Is there a compatibility between customary and genocidal treaties? Russia has raised this question in its letter to the Court (paragraph 21) and believes that the Court's jurisdiction is limited to treaties and does not include its customary aspects. The court had previously explicitly stated in the Bosnian case against Serbia that it would limit its jurisdiction only to the treaty terms of the Genocide Convention.
8. Discussion on the History of International Law and Understanding the Approach of Countries: Russia's letter to the Court contains Putin's remarks on the morning of the February 24 invasion of Ukraine as an annexe to the Russian delegation to the UN Secretary-General and Chairman of the Security Council. A detailed study of the speech contains several points, including the history of international relations and the views of the successor to the Soviet Union on the reasons for World War II and the collapse of the former Soviet Union. Apart from verifying the veracity of the Russian President's statements, a study of the history of international relations can also be effective in better understanding countries' approaches to international law; In particular, in this speech, Putin also addressed aspects of the approach of Western countries in exploiting the rules of international law in the form of strengthening or weakening it.
9. Statements by Judges for and against the Court's decision: A study of the opinions of the relevant judges reveals several points, including the excitement of some judges over Russia's invasion of Ukraine and the departure of a neutral position, specifically by Judge Yves Dode, Ukraine's special judge; Judge Benona's opposition to the Court's argument and its agreement with the final decision due to the necessity of the current situation in Ukraine; And the approach of the Russian and Chinese judges of the Court in the light of the protection of the interests of their countries, especially the similar events that may be repeated in the future in the relations between China and Taiwan. Of course, it should be noted that Judge Trinidad was absent from these hearings and, according to the President of the Court, was not able to accompany the team of judges, either in person or by video conference. Otherwise, we would have to wait for his loud comment on this issue!
10. Does Russia's claim that genocide took place in the Donbass region authorize the use of force to implement Article 1 of the Genocide Convention? Interestingly, the Ukrainian government, in its written and oral defence before the Court, has always emphasized that the Russian government has resorted to force based on false

information and false allegations of genocide in the Donbas region. The over-emphasis of Ukrainian lawyers at the hearing also raises the question of whether the allegation of genocide is a license to commit a range of actions, including the use of force. Indeed, in only one case, amid a flurry of repetitions by Ukraine's claim in the Bosnian case against Serbia in 2007 did the commitment to prevention and punishment be made through any means available to any state, provided that Within the limits of international law. (Page 47 Minutes of the March 7 hearing).

11. Extension of lawyers present in genocide-related cases: William Shabbat, who is Myanmar's lawyer in the *Gambia v. Myanmar* lawsuit under the Genocide Convention, has been criticized in some quarters. In a short article, he criticized the approach of one of Ukraine's lawyers, Harold Koo. In his view, when Harold Coe served as his international legal adviser to the State Department during the Obama administration, he represented the legitimacy of the use of force at the time of international crimes, including at the Kampala Conference. The genocide expressed the opinion of his country. In the case of Ukraine, however, he argues that the use of force can not be used as a basis for the obligation under Article 1 of the Convention to prevent and punish genocide (p. 58 onwards, 7 March v.)

Resolution of the alliance of Russia with Ukraine

The Alliance for Peace resolution, which invalidated Russia's invasion of Ukraine on February 25, 2022, endorsed the UN Secretary-General's call for an end to Russia's invasion of Ukraine and condemned Russia's special military operation. The Security Council requested that in addition to the International Atomic Energy Agency's ongoing inspections in Russia, it monitor Russia's compliance with "the steps required by the

IAEA Board". Stop and immediately, completely and unconditionally, withdraw all its troops from the territory of Ukraine within its internationally recognized borders. In addition, the draft referred to Russia's decision of February 21, 2022, regarding the situation in certain regions of Donetsk and Luhansk, Ukraine, as a violation of Ukraine's territorial integrity and sovereignty and contrary to the principles of the UN Charter. The draft also called on all parties to facilitate prompt and secure access to humanitarian assistance to those in need in Ukraine to support civilians, persons in vulnerable situations, including children, as well as relevant provisions of international humanitarian law, including Comply with the 1949 Geneva Conventions and their Additional Protocols of 1977 (Aboni, 2022: 47).

The General Assembly adopted in its resolution the same instruments as Resolution 2625 of 24 October 1970 on the Declaration of the Principles of International Law on Friendly Relations and Cooperation between States by the Charter of the United Nations and its principles, including the right of a country to The result of the threat or use of force is the seizure of another state, and any attempt to disrupt, in whole or in part, the national unity and territorial integrity of a country or its political independence are incompatible with the aims and principles of the Charter, and Resolution 3314 of 14 December 1974 It defines the use of armed force by a state against the sovereignty, territorial integrity or political independence of another country, or in any other way that is inconsistent with the Charter, as well as the final document of the 1975 Conference on Security and Cooperation in Europe and the Budapest was considered in 1994.

One of the issues that may have prevented the General Assembly from explicitly recommending sanctions on Ukraine is that since 1996, the Assembly has adopted annual resolutions emphasizing that "unilateral coercive measures" are contrary to international law. However, by Article 15 of Resolution ES-11/1, the Secretary-General's efforts to reduce tensions are welcomed, which could imply tacit approval of sanctions and

unilateral action. It should be noted that when the Assembly resolutions on unilateral coercive measures are carefully considered and read together with the relevant reports of the Office of the United Nations High Commissioner for Human Rights and Special Rapporteurs, it appears that the Assembly did not mean that all coercive measures are unilateral, illegal. Indeed, a careful examination of the Assembly's resolutions on unilateral coercive action suggests that the Assembly has adopted the view that unilateral coercive action is illegal when it interferes with the internal affairs of the country and harms human rights.

The balance of power in covering the protection of the rights of minorities in Ukraine

Following the collapse of the former Soviet Union, Russia's resources and capabilities declined significantly, and it lost much of its geopolitical influence, political position, economic power, and military capabilities. Under these circumstances, Russia not only became smaller but also found itself in a new geopolitical situation in which it had to give up its claim to a "Eurasian" state, a balancing force and a link between East and West. At a time when Russia was mired in crisis and turmoil, all the efforts of the West, especially the United States, were to prevent the revival of Russia. It was with this in mind that the West began to advance step by step around Russia, using various means such as the accession of the former Soviet republics to NATO, infiltration into Georgia, the dismemberment of the former Yugoslavia, and the establishment of missile defence bases in Poland and the Czech Republic. They angered Russia. But Russia was not in a position to react to this behaviour at the time, and it was only with the coming to power of "Vladimir Putin" that great strides were made to restore Russian power and once again Russia's power in various political, social, economic and military dimensions. Was revived. (Abdul Karim Shahidar and Amineh Moayedian, *The Legal Status of Self-Determined States in International Law*, 2015: 127).

In this regard, Russia first tried to show the Western countries, especially the United States, by recognizing the self-proclaimed republics of South Ossetia and Abkhazia under the pretext of protecting the human rights and fundamental freedoms of their minorities, and that Russia would no longer compromise its interests in the region. On the other hand, by identifying the aforementioned self-proclaimed countries, warn Georgia of the consequences of adopting a pro-Western and pro-Russian foreign policy. A brief comparison between Russia's performance in Georgia and its actions in Ukraine in recent years in identifying separatists from the Crimean Peninsula in 2014 during a military operation with pro-Russian local officials, followed by a referendum and annexation. Moscow's 2022 action in identifying the separatist states of Luhansk and Donetsk also leads us to the conclusion that the scenario of a balance of power between Russia and the West is re-emerging after the actions of the West and the United States in Afghanistan. On the evening of February 21, during a fiery and epic speech, Vladimir Putin recognized the independence of Donetsk and Luhansk, the two separatist regions of eastern Ukraine.

Now, in eastern Ukraine and along the Russian border, the two territories are seeking autonomy, which Russia considers to be two independent states, and Russia is sending troops to these areas to reduce the risk of Ukrainian victory and re-control of these territories. In further explanation of Russia's recent actions, it should be noted that in early 2014, widespread protests erupted in Kiev and throughout Ukraine. The protests resulted in the ouster of pro-Moscow President Viktorianovich. In Ukraine, power was in the hands of those who wanted to push the country further west and into the European Union. Russia was unable to digest the new developments in Ukraine, and in response, invaded the Crimean peninsula and annexed it to its territory, and in the process continued to identify the autonomous republics. Russia, once again, this time by occupying and invading Ukraine, which is seeking NATO membership, has asserted its role as a regulating entity in the international equation,

rather than following Western-defined rules (Nozarshafi'i and Masoud Rezaei, *The Russia-Georgia War: Effective Backgrounds and Motivations*, 2011: 41).

Such an approach can be seen in the actions of Western governments, most notably the United States government in Eastern Europe and the Middle East. After the collapse of the former Soviet Union, it is seen that Washington is pursuing a policy of advancing to the borders of the former pole with increasing speed. On the one hand, it is concerned about the formation and revival of an alliance of Eastern Bloc states, and on the other hand, it is trying to accelerate the process of globalization in its favour. Accompanying NATO membership, as well as helping to disintegrate and facilitate the divergence of major powers through their disintegration, is one of Washington's most important strategies in political domination of the territories left over from the former Soviet Union. A quick look at the political events of the past few decades reveals a trace of Washington in the collapse of the former Yugoslavia and other economic and military alliances in Eastern Europe.

It should be noted that the Balkan crisis and the emergence of the self-proclaimed state of Kosovo and its early recognition by the United States have several benefits for the country and its allies. Most importantly, the United States needs new justifications to maintain its military presence in Europe and explain the need for it. In this case, Washington must think of a solution and prepare a learning country in the heart of Europe, which, as an "insider base", will manage all its developments and details directly and exclusively from the United States, and will have the initiative. Be. (Tayebeh Vaezi, *The Evolution of the Concept of International Recognition of States with Emphasis on the International Recognition of South Ossetia and Abkhazia*, 2008: 109). It is no secret that the recent actions of the United States and its allies in Afghanistan are another story. After World War I, minority groups, especially in continental Europe, enjoyed unprecedented support under the auspices of the United Nations. During this period, governments, to mitigate the negative effects of the large-scale border and territorial changes in

continental Europe and some other parts of the world, established a system to protect minorities, which forms the basis of the current system of minority protection in current international law. (Sattar Azizi, *Supporting Minorities in International Law*, 2015: 20).

What is certain is that the view of international law today is very cautious about the right of minorities to self-determination. In this approach, the borders of established states are an undeniable fact and the right to self-determination, except in exceptional cases of exit from colonialism and the domination of racist regimes, only by respecting the basic principles of international law, including the principle of non-interference and the principle of territorial integrity. Has actions.

The legal justification for the Russian genocide in the military invasion of Ukraine

Russia, as the successor to the former Soviet Union, one of the founders of the post-World War II legal system, annexed Crimea in 2014, and this time, in February 2022, invaded Ukraine. Ignoring the ban on the use of force has weakened the foundations of international law and the system resulting from the UN Charter. The legal rule prohibiting threats or use of force, enshrined in Paragraph 4 of Article 2 of the Charter, as a fundamental principle in the achievement of the purposes of the United Nations, is now mandated and accepts only two exceptions: 1. Legitimate defence (Article 51 of the Charter of the United Nations). 2. International military operations under the auspices of the Security Council (Article 42 of the Charter).

In a statement issued to justify a military strike on Ukraine, Russian President Vladimir Putin sought to legalize his action, and his most important claim was that the attack was a legitimate defence in support of Russia and the government. The self-proclaimed states of the Denbas region, which Russia had previously recognized as independent states. In the statement, Putin called Western governments "potential aggressors" and said, "no one should doubt that any potential aggressor will be defeated and face dire consequences if attacked in our country." In addition, Russia, referring to the

treaty of friendship, cooperation and mutual assistance concluded with the leaders of Donetsk and Luhansk, used legitimate collective defence as a pretext to legitimize its action (Ghasempour Anaraki, 2015: 49).

Although collective self-defence is considered an inherently customary right, it is the right of states, as stated in paragraph 139 of the International Court of Justice's Advisory Opinion on the Legal Consequences of Building a Barrier in Occupied Palestine (2004). To assess whether the self-proclaimed republics of Donetsk and Luhansk constitute a "state", it is necessary to assess the legal legitimacy of their secession from Ukraine. Because unilateral segregation runs counter to the principles of territorial integrity and sovereignty of states, international law prescribes this situation in certain circumstances. In other words, the exercise of the right to self-determination and the formation of an independent state is accepted on the two assumptions of people under colonization and occupation.

Nevertheless, a doctrine called the means of separation recognizes the possibility of the separation of peoples whose human rights are grossly and systematically violated by the ruling government; But there are still doubts as to whether this doctrine has been able to penetrate the body of international law. Even assuming the acceptance of the concept of a solution separation as a legal norm, as the Russian government endorsed in its statement to the International Court of Justice in the case of the unilateral declaration of independence of Kosovo by international law (2010), its application As a last resort, there will be no other way to exercise the people's right to self-determination.

The Ukrainian government's treatment of separatists in the Denbas region does not appear to be working to ensure that secession is the last resort. Accordingly, the unilateral separation of parts of a country's territory without the consent of the parent government is not legal, and as a result, recognizing this illegal independence would be considered contrary to the principles of

sovereignty and territorial integrity of the Ukrainian government (Payment, 2022: 132).

Thus, since the self-proclaimed republics of Donetsk and Luhansk are in doubt as to the most basic element of statehood, that is, the land, they are not recognized as a state to recognize their right to collective self-defence. Also, the scope of Russia's military operations in Ukraine and the ultimate goal of demilitarizing the country, which can be seen as ensuring a change of government in Ukraine, are incompatible with customary standards of necessity and appropriateness in legitimate defence. Because of the above, Russia's reasons for legitimizing the military attack on Ukraine are not only unjustified but can also be a trigger for interpretations in its favour and a broader understanding of the concepts that underlie the current international legal order. Is. Undoubtedly, the continuation of this poisonous practise of instrumentalizing international law by powerful countries will only result in increasing chaos in the international community and weakening the power of the United Nations, and may one day lead it to the same fate as the United Nations. Suffer.

The Russian president's statement refers to a set of justifiable aspects of this. On the one hand, he speaks of defending Russia against Western threats, on the other hand, he speaks of the collective defence of the self-proclaimed republics of Luhansk and Donetsk, and in the meantime, he avoids humanitarian intervention. Of course, as noted above, Putin is neither the first nor the last leader to try to justify a blatant violation of the territorial integrity of another independent state by blatantly using legal interpretations. The governments of the West, and especially the United States, are the flag bearers of this practice, and they all agree on one thing: that the Security Council should be vetoed to prevent it from intervening in these matters! The veto is backed by impenetrable nuclear warheads. The Security Council requested that in addition to the International Atomic Energy Agency's ongoing inspections in Iran, it monitor Iran's compliance with "the steps required by the IAEA Board".

Therefore, the citizens of the international community must know that in such cases where the great powers take up arms, a call to action in the name of the Security Council is not available, and of course, if in some cases there is talk of sanctions by some governments. They will be imposed on Russian officials and the economy; in other cases, such as the United States or Britain or France, there have been no sanctions. Let alone the fact that there are serious doubts about the effectiveness of unilateral sanctions against the great powers and their legitimacy, especially if it leads to non-compliance with the principles of reciprocity as set out in Articles 49 to 54 of the International Accountability of States and the UN General Assembly. The ally has repeatedly called these actions illegal because they deviate from the limits of legitimacy.

Another argument by the Russian president to justify a military presence in Ukraine is the deployment of troops to conduct peacekeeping operations in eastern Ukraine. Putin stressed that this was a "special military operation" in Denbas and that Russia would not occupy Ukraine. But what has happened is not a peacekeeping operation, but a full-scale military offensive. Because non-coercion and non-authoritarianism, agreement and impartiality are the most important features of peacekeeping operations (Ziaee Bigdeli, Mohammad Reza, *International International Law*, Tehran: Ganj-e-Danesh, 2020, pp. 448-449). This means that peacekeepers are not allowed to use light weapons, except in the case of legitimate defence; The country of operation must be satisfied with the conduct of the operation in its own country, and the peacekeepers must not behave in such a way as to favour one side of the conflict (ibid., P. 449). The use of the term "peacekeeping operation" in the situation of Ukraine, which does not have any of these characteristics, as the UN Secretary-General rightly pointed out, is a distortion of the concept, and when Russian forces, without the consent of Ukraine, They have entered the country forcibly and are acting in a biased manner, their action is not considered as a peacekeeping operation.

Another reason why the Russian president sought to absolve his government of responsibility for violating the ban on the use of force was that the Ukrainian government had committed a crime of extermination in the east of the country, which implicitly denied Russia's humanitarian intervention. It is necessary. Humanitarian intervention implies the prescription of a state of intervention in a military manner and a violation of the sovereignty of a country that is either itself a human rights violator or unable to prevent human rights violations in its territory. To prevent States from abusing this concept and to observe the limited exceptions to the rule prohibiting the use of force, the humanitarian intervention will only be permitted under Article 42 of the Charter and with the permission of the Security Council. Therefore, it cannot be considered an exception to the rule prohibiting the use of force, and as a result, its legitimacy depends on the authorization of the Security Council. While the Russian government not only did not obtain permission from the Security Council to invade Ukraine, but the council also pursued a resolution to immediately stop the invasion of Ukraine, which failed due to Russia's veto (Shafiee and Salimi, 2019: 19).

Genocide in the Russia-Ukraine War

Under the Brussels Agreement of 25 February 2013, the President of Ukraine agreed with EU officials to finalize the signing of a free trade agreement between the EU and Ukraine (negotiated in 1999) by November. 2013 undertake a series of reforms in the judiciary and electoral system of Ukraine. But on November 21, 2013, Yanukovich announced in Lithuania that he would not sign a free trade agreement with the European Union; Ukraine's 2014 crisis was sparked when President Viktor Yanukovich refused to sign a free trade agreement with the European Union under pressure from Russia.

Opponents of the president took to the streets to protest. Eventually, with street protests spreading and five people killed, Yanukovich was ousted from the presidency by a parliamentary vote and

fled to Russia. Alexander Turchinov was also elected interim president. Following these events, Russian forces occupied the Crimean peninsula under the pretext of supporting the Russians in the region. Then, by holding a referendum on March 16, 2014, the Crimean peninsula officially became part of Russia (Zakir Hussein, 2020: 120). The events on the Crimean peninsula provided the most important factor in the confrontation between Russia and the West in the Ukraine affair. Clashes in Crimea began on February 23 with pro-Russian demonstrations. As of February 26, pro-Russian forces were rapidly seizing strategic positions and infrastructure in Crimea.

Some media outlets claimed that there were forces with Russian weapons and uniforms (albeit unofficial) among the insurgents. However, these forces were able to quickly seize strategic positions in Crimea, including the parliament. Following these developments, the parliament of the Autonomous Region of Crimea held a session to announce the fall of the regional government and the change of prime minister and called for a referendum on the region's independence, which was held in March 2014 in cooperation with Moscow. Khan Mohammadi and Alipour, 2021: 9).

Following the annexation of Crimea by Russia, tensions began in eastern Ukraine in the Donetsk, Luhansk, and Kharkiv regions, eventually leading to the occupation of government buildings by the opposition in the Donetsk and Luhansk regions. The Ukrainian government launched a military operation to put an end to their actions and movements, calling the groups that have seized government buildings terrorists.

With Russian-backed resistance from these groups, the operation was unsuccessful. At a meeting in Geneva on April 17 between the US, Russian, Ukrainian, and EU foreign policy ministers, an agreement was reached to end the unrest, but it never materialized (Madzinashvili and Sutton, 2022: 77). Following these events, the presidential election was held on May 25, 2014, in areas controlled by the Ukrainian government, and Petro Poroshenko, a 48-year-old Ukrainian businessman and billionaire, won the first round of

elections by a majority of votes. The day after the election, pro-Russian pro-independence activists stormed an airport in the eastern Ukrainian province of Donetsk and seized it.

Western organizers and supporters of the election expected the announcement of the results to ease the unrest that has gripped the Ukrainian government over most of the separatists' main strongholds and several other small towns and villages; Two Ukrainian military planes were targeted by the separatists, and finally, a Malaysia Airlines Boeing 777 with about 300 passengers in the airspace controlled by the separatists was launched by a missile whose command is still unknown. Was targeted and all its occupants were killed (McKay and Murphy, 2022: 372). In response to Russia's actions in Crimea, the United States and the European Union imposed sanctions in three stages on those involved in the annexation of Crimea to Russia. Other pressures came to Moscow from various channels through the West. Withdrawal of Russia from the G8 (eight industrialized countries). Cessation of some cooperation in the fields of security, military and technology with Russia, economic sanctions against Russia, and adoption of a resolution on the illegal annexation of Crimea to Russia at the UN General Assembly. The increase in NATO presence and presence in the Black Sea, as well as NATO member states in Russia's neighbourhood, was one of the measures taken by the US, led by the United States, to put pressure on Russia for its behaviour in Ukraine (Madzinashvili and Sutton, 2022: 79).

Russia's interests in Ukraine

Ukraine is very important to the Russians in several ways:

A) Historically, the Russians viewed Kiev as the historical origin of the first Russian state. Ukraine has been part of Russia for centuries and the history of both countries is intertwined. Also, some of the most important historical battles for the liberation of Russia with the "Battle of Poltava" in 1709, took place on Ukrainian soil.

B) Religiously, Kiev is the origin and foundation of the Russian Orthodox Church.

C) In terms of identity and culture, about 20% of the Russian-speaking population of Ukraine in the eastern parts of the country have cultural, religious and linguistic ties with Russia.

D) Economically, a large percentage of heavy industry and the mother of the Soviet Union existed in Ukraine and belonged to Ukraine after the collapse. Ukraine also exports about 80 per cent of its natural gas and 75 per cent of its crude oil to the European Union. Russian gas exports to Europe are transported through 12 gas pipelines, 5 of which pass through Ukraine. On the other hand, the presence of Ukraine in the Eurasian Customs Union project is important for Russia; Thus, the Russians pay special attention to Ukraine economically, and the country of 44 million people on the eastern and western shores of the Black Sea, the most important country in Eastern Europe for Russia economically. Of course, Ukraine is also heavily dependent on the Russian economy and has extensive trade with the Russians.

E) Strategically, Ukraine has served as a buffer between Europe and Russia for the past four centuries and has been the EU-Russia border since the collapse of the Soviet Union. Thus, Ukraine has acted as Russia's stronghold against NATO, as well as Russia's eastern defensive wall against Europe. In fact, in addition to the geopolitical competition, Ukraine has a strategic advantage over Russia in the geostrategic sphere; Because the Russian navy in the Black Sea is also stationed in the port of Sevastopol on the Crimean peninsula and this place has been of strategic importance for Russia (Bahman, 2014: 56).

Given the above, most strategists believe that Russia is a world power with Ukraine, and Russia without Ukraine is nothing more than a regional power. Therefore, from a strategic point of view, Ukraine is the focus of Moscow; Russian officials, therefore, described the recent developments in Kiev as unacceptable, a coup d'etat and an extremist act, calling Yanukovich's ouster a "brown revolution" or a "fascist revolution" and calling Stephen Bandra's followers a mere victory. This was considered a current. Accordingly, the Russians believe that the West's approach to Ukraine is based on two methods of "EU enlargement" called the "Eastern Partnership

Program" (which increases Brussels' influence) and reduces Russia's influence and encourages it to join NATO. To take.

Moscow, therefore, believes that Ukraine is at the tip of the arrow in Russia's confrontation with the West and that if Kiev joins the European Union, other countries in the former Soviet Union will gradually move out of the Kremlin's sphere of influence. Ukraine's accession to the European Union not only places Russia on the border with NATO but also effectively jeopardizes Vladimir Putin's plan to form a Moscow-led bloc; Because if Ukraine leaves this geopolitical bloc, only the former Soviet independent states, which have mostly dictatorial regimes, will be present. Undoubtedly, such a thing would not be good for the international image of Putin's Eurasian Union. In this regard, Moscow wants a pro-Russian government in Ukraine and therefore will not tolerate a pro-Western and NATO member state.

Genocide and its consequences from the perspective of international law in the Russia-Ukraine war

On February 26, 2022, Ukraine filed a lawsuit against Russia in the International Court of Justice. According to it, the International Court of Justice (ICJ) is responsible for resolving disputes between the contracting parties.

Related to the interpretation, application or realization of the Convention. In this way, Ukraine was able to ensure that the court would hear the claim, even if none of the parties was among the 73 countries that had accepted the ICJ's mandatory jurisdiction. However, even in the case of a favourable verdict, the real challenge is to implement any order that the court may issue.

In its application, Ukraine claims that Vladimir Putin initiated a special military operation based on alleged genocidal acts that took place in the Luhansk and Donetsk provinces of Ukraine. The applicant also claims that it is the Russian Federation that is "planning genocidal actions in Ukraine". According to Ukraine, since the spring of 2014, the Russian Federation has been systematically providing legally armed groups with heavy weapons, money, personnel and

training. Ukraine sees this as an attempt by Russia to exert its influence and dominance over the country. Two of these armed groups (the Donetsk People's Republic (DPR) and the Luhansk People's Republic (LPR) are now recognized by Russia, before launching military operations with the explicit aim of preventing and punishing alleged acts of genocide.

In its application, Ukraine also refers to its suspended claim in the Statute against Russia in this regard. Application of the International Convention for the Suppression of the Financing of Terrorism and the International Convention for the Elimination of All Forms of Racial Discrimination slowly opens its way through the ICJ trial, stating that the lawsuits in that case "Document Russia's Violation of Russia's International Obligations 2014 onwards" by failing to take measures to prevent the provision of weapons and other support along with the application, Ukraine There is also a request for interim measures, in which he seeks to "protect his rights so that he is not exposed to false allegations of genocide and exposed to military operations by another government in his territory." Response to the Request By Article 74 (1) of the Rules of Court, the President of the International Court of Justice draws the attention of the Russian Federation to the need to act in such a way that the rulings issued by the Court Enable your proper works Have.

The court also announced that a public hearing on the case in which Ukraine could present its oral arguments would be held on Monday, March 7, after which the Russian argument was presented. The hearings will be broadcast on the court website. As stated above, the real issue for Ukraine will be the implementation of any decision after obtaining a potentially favourable judgment, or if the court issues interim measures. Although both countries are members of the United Nations, the tribunal is unable to enforce such rulings. Ukraine can ask the UN Security Council to take action against Russia, but as a permanent member of the Council, the Russian Federation has the power to veto any request. Meanwhile, the European Court of Human Rights, where Ukraine has also filed a lawsuit against Russia, has issued immediate interim measures in connection with the military

operation, urging the Russian government to refrain from military strikes on civilians and civilian objects.

In his book *The Great Chess*, Zbigniew Brzezinski emphasizes that without Ukraine, all of Moscow's efforts to rebuild its influence in the former Soviet Union would fail. The basic idea of the book was that the United States could only establish itself as the world's only superpower if it could prevent the emergence of a superpower in the Eurasian region. "After the collapse of the Soviet Union in 1991, Dick Cheney, then-Secretary of Defense, believed that something had to be done to bring the collapse of the Soviet Union to the collapse of Russia," Robert Gates wrote in an article on the Ukraine crisis. . According to him, it is only with the collapse of Russia that this country will never again be a threat to the rest of the world "(Manolang et al., 2022: 765).

These remarks not only overshadow the geopolitical dimension of the Ukraine crisis but also reflect international competition over it. What matters in this crisis is not the internal problems of Ukraine or the struggle against corruption and dictatorship, but rather the international conflict over power and influence in the region that has brought Russia face to face. Accordingly, the crisis in Ukraine has increased the verbal tension between the leaders and political officials of Russia and the United States. The level of these verbal tensions, which are also threatening, has been almost unprecedented since the collapse of the Soviet Union. That is why many are talking about the resumption of the Cold War. However, this conflict has important consequences for relations between the two sides:

- 1- Intensification of geopolitical competition in different and strategic regions of the world

Russia has tried to liken its position on developments in Ukraine to similar events in the Middle East, the Balkans, and elsewhere, in all of which the West, especially the United States, has resorted to some form of sabotage. The consequences of such policies by the United States have been largely clear; Because it has generally

led to bloody civil wars, billions of dollars being poured into the arena of unnecessary wars, financial crises, weakening of sovereignty to the point of collapse, and the rise of terrorist elements in existing political and security vacuums. For Russia, the success of such developments in different regions means that US dominance and hegemony over the world system has disappeared, and therefore Washington is transitioning from "domination-based stability" to "controlled instability." " Is. Such a strategy intensifies geopolitical conflicts and deepens conflicts between countries and ethnic and religious groups. Therefore, if Russia remains within its borders, the United States will approach the territory of this country and its surrounding areas to create unrest. That is why Russia intends to send a message to the Americans that not only the periphery of this country but also other areas that have strategic aspects for the United States, can be the scene of confrontation. Russia's active role in the Middle East can be assessed in this regard, and Russia is trying to make it clear to the Americans that it can both challenge and harm American interests and consolidate its position as a world power. In this way, Russia, by providing a global definition of regional crises and linking the crisis between Ukraine and the Middle East, has solidified its strategic approach to undermining US global interests and moving the confrontation to a place far from its territory; Accordingly, the Russians are trying to implicitly threaten the West and prevent it from interfering in Ukraine by pursuing an active policy while harming US interests, especially in the Middle East. Overall, the Ukraine crisis has exacerbated the geopolitical rivalries between Russia and the United States in various parts of the world, including the two sides' Middle East policies. Russia has become more inclined to expand relations with countries such as Iran, Syria, Iraq, Egypt, as well as Lebanon's Hezbollah. This can also be seen in Latin America and the increase in Moscow's relations with countries in this area. Moscow has also supported the right and left in various ways in various European countries, which may change the European environment in favour of Russia in the future (Bahman, 2015: 78-43).

- 2- The inability to control and manage international crises becomes apparent

Since the beginning of the Ukraine crisis, the United States has sought in various ways to play a dominant role in hegemony. Regardless of its role in changing Ukraine's political system, the United States has in no way been able to control the situation in the face of Moscow's actions. Unlike Russia, which gained a geo-strategic peninsula by annexing Crimea, the United States only imposed sanctions on Moscow.

The main US strategy for Ukraine is to impose economic sanctions on Russia. In this regard, the United States used at least two tactics:

A) A blow to the Russian economy: This tactic has been adopted due to the imposition of import sanctions and lower energy prices, and to some extent has been able to shake the Russian economy and devalue the ruble against other international currencies.

B) Russia does not have access to Western technology: While Russia needs technology to modernize its industry and to develop drilling for its energy resources in the Arctic border areas, the United States is trying to convince its partners to technological cooperation with Russia. Avoid (Bahman, 2015: 78-43).

- 3- Russia's show of strength in the near sphere

Since the collapse of the Soviet Union, Russia has recognized the independent states of the communist union as "foreigners" in its foreign policy and has sought to maintain its traditional influence over these countries. The countries that became independent from the Soviet Union were defined in the first circle of Russia's vital interests, and the policy of maintaining influence and countering the influence and presence of the West in these countries became one of the main priorities of Russia's foreign policy. Although this policy has been somewhat shaken at times, such as the colour revolutions in some of these countries or their

cooperation with NATO and the United States, Moscow is still trying to keep these vital links under its influence.

Meanwhile, the Ukraine crisis had two major consequences abroad, which were also related to US interests in the region:

First; Russia annexed the Crimean Peninsula and destabilized eastern and southern Ukraine, sending a message to other Soviet-independent states that any move to move closer to the West could have damaging consequences, such as Ukraine. Such a message means that the leaders of these countries must be careful about their treatment of Russia and possible concessions to the West; Otherwise, they will face countless challenges such as disintegration, insecurity and instability.

Secondly; Russia, with its proximity to the outside world, sent a message to the West that it could do anything in its traditional interests, including the dismemberment of a country, without the United States and its allies being able to take any serious action. Do special. This means that Russia is the dominant power in the Eurasian region and the United States and European countries are not able to compete with Russia in this area.

4- Revival of Russian identity

The Russians felt humiliated after the collapse of the Soviet Union, but developments in Ukraine once again revived Russian identity. This can be seen not only in Russia but also in many countries where Russians live. Meanwhile, the revival of Russian identity affects Russian-American relations in two ways:

First; The revival of Russian identity may provoke Russians in Soviet-independent republics and encourage them to take anti-American action in their own countries. Undoubtedly, such a thing would jeopardize the interests of the United States in any of these countries.

Secondly; If the revival of Russian identity becomes Russia's expansionist empire, such an idea could threaten US interests throughout the

Eurasian region and even the world. What strengthens this idea is not only the policies of Vladimir Putin but also the views of the Russian people in this regard (Bahman, 2015: 78-43).

Russia, dissatisfied with its degraded position from a superpower to great power, has made the return as a superpower its long-term strategic goal, but since this goal is not achievable in the short term, it seeks to maintain its current structure and It is an attempt not to be degraded by using an aggressive realistic strategy in foreign policy. There is no doubt that Russia's confrontation over the Ukraine crisis, while escalating tensions between the two countries, has reached its highest level since the collapse of the Soviet Union. But these tensions have not fundamentally changed their relationship and have not brought them from the level of two great rival powers that follow the offensive pattern to the level of two enemies. As the leader of the theory of aggressive realism, Mearsheimer believes that the conflict between the two great powers will go so far that its costs do not lead to a substantial disruption of the status quo (the structure of the international system).

Conclusion

Although collective self-defence is considered an inherently customary right, it is the right of states, as stated in paragraph 139 of the International Court of Justice's Advisory Opinion on the Legal Consequences of Building a Barrier in Occupied Palestine (2004).

To assess whether the self-proclaimed republics of Donetsk and Luhansk constitute a "state", it is necessary to assess the legal legitimacy of their secession from Ukraine. Because unilateral segregation runs counter to the principles of territorial integrity and sovereignty of states, international law prescribes this situation in certain circumstances. In other words, the exercise of the right to self-determination and the formation of an independent state is accepted on the two assumptions of people under colonization and occupation.

Nevertheless, a doctrine called the means of separation recognizes the possibility of the

separation of peoples whose human rights are grossly and systematically violated by the ruling government; But there are still doubts as to whether this doctrine has been able to penetrate the body of international law. The actions taken by the Russian armed forces are not just aggressive crimes. Russia's war crimes include mass crimes, systematic killings of Ukrainian civilians, desecration of bodies, forced transfer of Ukrainian children, torture, bodily harm, psychological harm, and rape. Rather, their goal is the systematic and continuous destruction of the Ukrainian people, their identity and the deprivation of their right to self-determination and independent development. The United Nations has not recognized what is happening in Ukraine as genocide, as it depends on the final legal decision by the judiciary. Genocide occurs when the killing or infliction of physical or mental harm, exposure to unfavourable living conditions, the prevention of childbearing and the transfer of children to a national, ethnic or religious group, and is carried out to destroy all or part of that group.

Therefore, the group identity of the victims and their belonging to one of the four fixed groups mentioned in the definition of this crime is very important. Achieving this particular intention is fraught with difficulties, both for leaders and decision-makers and planners of genocide policy and for subordinates who have been the executors of that plan and policy. Both groups will try to deny the existence of such an intention to be in the position of a court defendant claiming universal criminal justice; To run away. The first group under the pretext that they were not aware of the criminal acts of their subordinates and these acts were beyond the legal orders issued and arbitrary, and the second group under the pretext that in the administrative or military hierarchy, they were forced to carry out superior orders or illegally They did not know whether the orders were issued.

Given what has been said, Russia's reasons for legitimizing a military attack on Ukraine are not only unjustified but can also be a barrage of interpretations in its favour and a broader understanding of the concepts that underlie the current international legal order. Undoubtedly, the continuation of this poisonous practise of

instrumentalizing international law by powerful countries will only increase chaos in the international community and weaken the power of the United Nations, and may one day lead it to the same fate as the United Nations.

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