



# Russian Aggression on Ukraine and International Law

## Context:

Russia launched an all-out invasion of Ukraine by land, air and sea, the biggest attack by one state against another in Europe since the Second World War and confirmation of the worst fears of the West.

**Ukraine rocked**  
Russia has launched an all-out invasion of Ukraine by land, air and sea in the biggest attack by one state against another in Europe since Second World War

**In grief:** A man sits outside his destroyed building after bombings in the eastern Ukraine town of Chugiv on Thursday. ■ AFP

**Explosions reported**    **Russian military incursions reported**

**RUSSIA**  
Kiev: Cruise and ballistic missiles reportedly hit Boryspil International Airport and military headquarters

**UKRAINE**  
Chernihiv  
Lviv  
Ivano-Frankivsk  
Kharkiv  
Kramatorsk  
Dnipro  
Odessa  
Kherson  
Donetsk region  
Luhansk region  
Luhansk  
Donetsk  
Held by pro-Russian separatists  
Troops landing by sea at Odessa and Mariupol  
Crimea: Annexed by Russia in 2014  
BLACK SEA

Sources: Reuters, AP, AFP, BBC    © GRAPHIC NEWS

## Relevance:

GS II- International Relations

## Dimensions of the Article:



1. Background:
2. How is Russia violating the UN Charter?
3. Principle of self-defence
4. Conclusion

## Background:

### Annexation of Crimea:

- The **annexation of Crimea in 2014 by Russia**, following the removal of Victor Yanukovich as the President, was the first major military flare-up in the Russo-Ukrainian relations.
  - The Crimean annexation by Russia was met with imposition of sanctions.
  - However, Russia is still in occupation of Crimea, and post 2014 its activities have centred around fomenting separatists in eastern Ukraine.

### Ukraine to join NATO:

- In January 2021, the Ukrainian President Volodymyr Zelensky appealed the U.S. to let it join NATO, following which Russia started amassing troops near the borders of **eastern Ukraine**.
- Tensions escalated quickly from December 2021 when Russia demanded NATO to give up its military activities in eastern Europe and Ukraine, followed by a Russian cyberattack on the Ukrainian government website.
- On 22 February, **Russia recognised the self-declared Donetsk and Luhansk** republics in the Donbass region of eastern Ukraine, and sent Russian troops to these territories.
- Finally, Russia launched a full-scale invasion on Ukraine.

## How is Russia violating the UN Charter?

### Principle of Non-intervention:



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- The **principle of non-intervention** in domestic affairs is the foundational principle on which existing international order is based.
  - It is enshrined in **article 2(4) of the UN Charter** requiring states to refrain from using force or threat of using force against territorial integrity or political independence of any state.
  - It prohibits any kind of forcible trespassing in the territory of another state, even if it is for temporary or limited operations such as an 'in and out' operation.
  - The Russian attack on Ukraine is **violative of the non-intervention principle**, and amounts to aggression under international law.
  - Russia's desire to keep **Ukraine out of NATO is a prime reason for its use of force against Ukraine**.
  - This is violative of **Ukraine's political independence** under article 2(4) as Ukraine being a sovereign state is free to decide which organisations it wants to join.
  - Also, by resorting to use of force, Russia has violated article 2(3) which requires the states to settle their dispute by peaceful means in order to preserve international peace and security.

#### The UN General Assembly Resolution 3314 (1974)

- It defines aggression as the use of armed force by a state **against the sovereignty, territorial integrity or political independence** of another state. Additionally, allowing one's territory to be used by another state for aggression against a third state, also qualifies as an act of aggression.
- Accordingly, Belarus can also be held responsible for aggression as it has allowed its territory to be used by Russia for attacking Ukraine.
- Aggression is also considered an **international crime** under customary international law and the Rome statute establishing the International Criminal Court.

#### Principle of self-defence

- In face of the use of force by Russia, Ukraine has the right to self-defence under international law.
  - The UN Charter under **article 51** authorises a state to resort to individual or collective self-defence, until the Security Council take steps to ensure international peace and security.
- In this case, it seems implausible for the UNSC to arrive at a decision as Russia is a permanent member and has veto power.
- However, Ukraine has a right under international law to request assistance from other states in form of military assistance, supply of weapons etc.



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**Russia's Claim:**

- Russia has also claimed that it is acting in self-defence. This claim is questionable, as there has been no use of force, or such threats against Russia by Ukraine.
- It has been claimed by Russia that Ukraine may acquire **nuclear weapons with the help of western allies.**
  - However, the **International Court of Justice (ICJ)** in the Legality of Threat of Nuclear Weapons case held that mere possession of nuclear weapons does not necessarily constitute a threat.

**Conclusion:**

- Thus, even if Ukraine has, or were to acquire nuclear weapons in the future, it does not become a ground for invoking self defence by Russia.
- Further, mere membership in a defence alliance such as NATO cannot necessarily be considered as a threat of aggression against Russia. Thus, here too Russia cannot invoke self-defence.
- Russia can also not invoke anticipatory self defence as such invocation according to the Caroline test would require that the necessity of self defence was instant, overwhelming, leaving no choice of means, and no moment for deliberation. However, this is not the case with Russia.

*-Source: The Hindu*