

Chapter 13: Update on Russia's Invasion of Ukraine

You might remember from Chapter 3, Problem I, that, in 2014, Russia annexed a portion of Ukrainian territory known as Crimea. It also began fueling secessionist efforts in two regions in eastern Ukraine, Donetsk and Luhansk. In the summer of 2021, Russia again started saber-rattling about Ukraine. Russian President Vladimir Putin [publicly declared](#) that “Russians and Ukrainians were one people” and that “true sovereignty of Ukraine is possible only in partnership with Russia.” In the fall of 2021, Russia announced a “red line” against any NATO military presence in Ukraine and then said that such a presence already existed. There also was increasing evidence that Russia was preparing to invade Ukraine by, among other things, moving troops into position at the border.

In December 2021, Russia presented NATO and the United States with proposals to alter their security relationships. In essence, Russia demanded that NATO not expand further eastward, including into Ukraine, and not engage in any military activities in the former Soviet republics. NATO and U.S. officials declined to accept these demands, even as they—and particularly the United States—were actively working to defuse the tensions over Ukraine and talking regularly with Russia. The United States [underscored](#) that it would not compromise on certain core principles:

[A]ny negotiation/discussion that we have will have to be based on the core principles and foundational documents of European security and be done together with the Europeans. There will be no talks on European security without our European allies and partners participating, and we will not compromise on key principles on which European security is built, including, as the President has said repeatedly and as he said directly to President Putin, that all countries have the right to decide their own future and their own foreign policy free from outside interference. And that goes for Ukraine and it also goes for NATO Allies and the alliance itself with regard to how it provides a collective defense for its members.

Tensions continued into early 2022, with the United States eventually declassifying and releasing intelligence about the actions that it expected Russia to take in Ukraine, so as to complicate Russia's efforts to spin the narrative.

On February 21, 2022, Russia announced that it would recognize the independence of the Donetsk and Luhansk regions of Ukraine. On the evening of February 23, the UN Security Council held [an emergency meeting](#) in New York to try to resolve the crisis. During that meeting (which was already the morning of February 24 in Ukraine), Putin announced Russia's invasion of Ukraine. Putin gave a [lengthy speech](#) blaming “the expansion of the North Atlantic Treaty Organization (NATO) bloc to the east and the advance of its military infrastructure ever closer to Russia's borders,” and recalling the history of military interventions by NATO countries, especially the United States, in Kosovo, Iraq, Libya, and Syria. “In general,” Putin said, “it would appear that in many regions of the world, almost wherever the West comes to establish its order, it leaves bloody, open wounds and the sores of international terrorism and extremism.” In addition, Putin accused Ukrainian officials of committing in eastern Ukraine “a genocide against the millions of people living there who are pinning their hopes only on Russia.” And he announced that Russia's

“actions are self-defence against the threats posed to us and against an even greater calamity than what is happening today.”

Ukrainian President Zelenskyy immediately appealed to the international community for support and underlined his resolve to protect Ukrainian sovereignty and ensure the full withdrawal of Russian forces from Ukraine. Most states on the Security Council also condemned Russia’s actions as a blatant violation of the Charter. In addition, states widely denounced the invasion in other venues. For example, the leaders of the G7 issued a [statement](#) condemning Russia’s “unprovoked war of aggression against a sovereign country.” [NATO](#) and the [Organization of American States](#) issued similar statements. However, China and a few other states, especially longstanding adversaries of the United States, such as Iran and Venezuela, declined to criticize Russia for its aggression. In the February 23 Security Council meeting, China stated that “[t]he current situation in Ukraine is the result of several complex factors” and that “all parties concerned must exercise restraint and avoid any action that may fuel tensions.”

On February 25, the Security Council considered a [draft resolution](#), submitted by eighty-two countries, condemning Russia’s aggression and calling for an immediate ceasefire in Ukraine. As expected, the resolution failed on account of Russia’s veto. The vote was 11-1-3, with India, China, and the UAE abstaining. In light of that failure, the Security Council on February 27 called for an emergency special session of the General Assembly. The General Assembly met from February 28 to March 2 to discuss the Ukraine situation and, in the end, adopted a [resolution](#) by a vote of 141-5-35 that, among other things, “[d]eplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2(4) of the Charter.” The states that abstained on the General Assembly vote were overwhelmingly African and Asian states.

In the months following the invasion, the United States, Europe, and other states imposed extensive and increasingly more stringent economic sanctions on Russia and provided considerable military assistance to Ukraine. In addition, Ukraine looked to international institutions to address Russia’s aggression. Most notably, it initiated proceedings before the International Court of Justice (ICJ), claiming that Russia misapplied the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Russia’s refused to participate in the oral proceedings on preliminary measures but filed a letter contesting the ICJ’s jurisdiction. On March 16, the ICJ issued an [order](#) determining that “it is doubtful that the [Genocide] Convention authorizes a Contracting Party’s unilateral use of force in the territory of another State for the purpose of preventing or punishing an alleged genocide,” and directing Russia to “immediately suspend the military operations that it commenced on 24 February 2022 in the territory of Ukraine.”

The European Court of Human Rights separately ordered [interim measures](#) in a case that Ukraine filed before it, directing Russia “to refrain from military attacks against civilian and civilian objects . . . within the territory under attack or siege by Russian troops.” Moreover, the Council of Europe initiated action to suspend Russia from participating in the Organization, but before the Council adopted the [Opinion](#) deciding “that the Russian Federation can . . . no longer be a member State of the Organization,” Russia acted preemptively to announce its own withdrawal. As a result, Russia will no longer be a party to the European Convention on Human Rights, and victims will no longer be able to seek relief for its human rights abuses before the European Court of Human Rights, as of September 16, 2022. For developments concerning investigations of war crimes in Ukraine, please see the update to Chapter 9.

Notes and Questions:

- Do any of Russia's claims provide a legal justification for the use of force in Ukraine? When assessing the legality of the invasion, what weight, if any, should be put on the vetoed Security Council resolution and the General Assembly resolution?
- Do the military operations that the United States and other NATO countries have conducted in the past undercut the condemnation of Russia? In what ways is this invasion different in kind from the others that we have discussed in the casebook, and in what ways is it similar?
- Russia's invasion of Ukraine has caused enormous human suffering in Ukraine, with economic and other effects rippling throughout the world. How, if at all, do you think this incident has changed the *jus ad bellum*? In what ways does it reveal the continued salience and even strengthening of the *jus ad bellum*? And in what ways does it evince the further deterioration and even fecklessness of the *jus ad bellum*?
- For an excellent synthesis of the practice during the Ukraine crisis, see Kristen E. Eichensehr, *Contemporary Practice of the United States Relating to International Law*, 116 AM. J. INT'L L. 593 (2022).