

## MAINTENANCE OF INTERNATIONAL PEACE AND SECURITY AND GREAT POWER HYPOCRISY: INSIGHTS FROM THE IRAQI AND UKRANIAN INVASIONS

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### Abstract

*The creation of the international system was made possible through a network of legal norms that regulates the activities of States. It is upon this array of international norms that peace loving States have depended on to interact, relate, and transact for the benefit of their citizens at home and abroad, in an atmosphere of peace, cooperation and friendliness. However, activities of the great powers (like the United States and Russia) have posed considerable threats to the regulating effects of these norms. More importantly, the great powers have acted in ways (unilaterally) that have weakened international legal norms, to the point of making it redundant on some occasions (like in the invasions of Iraq and Ukraine). It is against this background that the paper interrogates the maintenance of international peace and security and great power hypocrisy. By adopting documentary method of data collection and political realism, the paper finds that the pursuit of national interests by the great powers at the expense of other members of the international system led to the undermining of the international legal order, thereby, posing a threat to international peace and security, which they pledged to protect and maintain. The article also finds that the great powers adopt a selective justice technique in the pursuit of their interest. The paper therefore concludes and recommends that universal justice through multilateralism must be a desideratum for States' relations in the international system.*

**Keywords:** Great Powers, Invasions, International Peace, Global Security, Iraq, Ukraine.

### Introduction/Problem antique

The United Nations (UN) Charter in both its preamble and Article 1, expressly advocated for the maintenance of international peace and security. In fact, the positioning and entrenchment

of the wordings regarding this in the opening pages of the Charter, demonstrates its centrality and high priority in the UN system. Notably, the United Nations Security Council (UNSC) has been given the mandate in (Art. 39 of the Charter) to guarantee this globally. With the benefit of hindsight, it is manifestly clear that the failure of the great powers to guarantee this, led to the demise of the League of Nations (LON), following the outbreak of world war II. This failure, among others, was a product of the great powers ‘justice selectivity’, which has also made its way to the UN system. Selectivity of justice and acquiescence to international legal norms has also been a defining feature of the great powers post world war II relations. In practice it refers to the actions of the great powers regarding which international law rules or policies of the UN Charter to adopt and which to be silent on. This can be vertical or horizontal (Thakur, 2016; Kaleck, 2015; Einsiedel, Malone, Ugarte, 2015).

By horizontal selectivity, and with regard to the prosecution of some international crimes that occurred within a given period of time, and neglecting similar ones committed within the same period, on grounds of the personality involved, politics and national interests. In the realm of States, the practice remains the same as there are States who are not sanctioned in the international system even though their acts are as illegal as those of others who have been sanctioned (Gerlach, 2011). Vertical selectivity on the other hand, looks at the decision as to which individuals or States involved in the commission of an international crime or in the violation of international law rules, will be singled out for prosecution and sanction. Perpetrators who hold high offices often manage to escape prosecution. While those who are of the lower rank of office or authority are selected to serve as scapegoats in the international system (Gerlach, 2011; Einsiedel, Malone, Ugarte, 2015). This is also similar for States in the international system. Regardless of the one at play, it however, undermines justice and the international legal order to the point of disrupting international peace and security. Some illustration of selectivity of justice will be available in later in the article.

Notably, maintenance of international peace and security has several planks on which it could be upheld and guaranteed. For instance, the guarantee of the right to self determination of peoples and general protection of human rights principles, non-intervention in the internal affairs of States, etc. are very crucial to the preservation and maintenance of international peace and security as provided for in articles 1 & 2 of the UN Charter. Further to this, is the universalistic institutionalisation and application of a just international legal order as a precondition for the maintenance of international peace and security globally. But the great powers have not done much to ensure the sanctity of the foregoing principles. Beginning with international criminal law application post world war II, the Nuremberg and Tokyo Trials that followed have been labelled by critics as a Victor’s Justice (Kaleck, 2015). The tribunal mainly focused on war crime trials of States’ individuals who were defeated or vanquished, while ostensibly ignoring similar crimes of war perpetrated by the victor States of the Allied Forces. The constitution of the Judges of the Tribunals was drawn mainly from the victor States to prosecute essentially, individuals from the vanquished States (Kaleck, 2015).

Throughout the proceedings of the Trials, accused persons from the vanquished States always projects the *tu quoque* (you too) doctrine and objections towards the victor States, with regard to all the crimes they were charged with (Schmitt, 1991). According to the German lawyer Carl Schmitt, who observed first hand the Nuremberg Trials presided over by the Allied Forces, documents in his diary thus: “There are crimes against and crimes for humanity. The crimes

against humanity are committed by Germans. The crimes for humanity are committed against Germans” (Schmitt, 1991, p. 282).

Similarly, during the period of decolonialisation in Africa, Asia and Latin America, and just after the Nuremberg and Tokyo Trials (where individuals were tried for committing war crimes, crimes against human, genocide and crime of aggression), the great powers and their allies, committed similar acts of atrocities that greatly undermined the human rights of the peoples of the colonies who sought liberation by asserting their right to self-determination (Mutua, 2008). This, according to Klose (2009) is referred to as “contested decolonialisation”. These atrocities were punishable under international laws following the signing of the UN Charter in 1945, Universal Declaration of Human Rights of 10<sup>th</sup> December, 1948 and the Four Geneva Conventions of 12<sup>th</sup> August, 1949.

To vividly describe the great powers highhandedness in a bid to thwart their independence moves, Kaleck captures the various atrocities committed by them this way:

The colonial powers met these independence movements with tactics of counter-insurgency and colonial rule, including the bombing of civilian populations, forced displacement of parts of the population and mass imprisonment and torture. Many of these acts qualified as war crimes; various also constituted crimes against humanity... despite the fact that attacks on civilian populations and the abuse and torture of detainees represented a violation of international humanitarian law, at the very latest by the conclusion of the Geneva Conventions in 1949 and the establishment of a minimum standard applicable to all armed conflicts in Article 3 common to the four conventions. Virtually no international court proceedings were ever initiated in relation to these colonial crimes (Kaleck, 2015, p. 27).

The above hypocrisy by the great powers stokes the flames of discontents and breeds bad blood amongst other States and non-State actors in the international system. This largely has negative ramifications for international justice, peace and security. It further begs the question: how best can international peace and security be maintained by the great powers? For the great powers, a tentative answer to this have been given in light of the Theory of Political Realism or the concept of *Real Politik* as espoused by Hans Morgenthau in his book “Politics Amongst Nations” (1975). Essentially, what constitute international peace, justice and security lies in the definition advanced by the great powers. Consequently, international laws and its application are to a very great extent observed either in breach or in compliance, only when it aligns with the interests and values of a great power.

Beyond this, and as at the time of writing this article, the international legal order and international peace and security have been fractured once again by the activities of the great powers. This time, it was ostensibly undermined, by a great power from the East – Russia – without regard to international law provisions (art. 2[4] of the UN Charter), which canvasses restraint on the use of force when interacting with other States in the international system. To be sure, the Russian invasion of Ukraine cannot be said to be unprovoked. The activities of the United States and the North Atlantic Alliance around Russia’s sphere of influence, are to a great extent, a catalytic factor that has led to the invasion of Ukraine. Prior to this time, the

United States, in concert with Britain in 2003, violated same international law rules when they invaded Iraq. Just like in the Russian case, all plea for them not to do so by the UNSC, went unheeded and the ensuing actions greatly breached international peace and security.

Without a doubt, the contravention of article 2(4) of the UN Charter and the non-approval of the UNSC to the use of force, made the Russian invasion illegal. It further flouted the just war theory, which among other things, advocated for the use of force in international relations as a last resort, in self-defence, and more importantly, for the restoration of international peace and security (Waltzer, 2004; Ramsbotham et al, 2011). However, it remains to be seen how this invasion will restore international peace and security. Expectedly, the West has reacted angrily by raining sanctions of varying degrees and proportions on Russia in a bid to dissuade Moscow from continuing the war. In response, and identically too, Moscow has opposed and condemned Washington and London for condemning its invasion of Ukraine, when in effect, they did same in Iraq in 2003.

In light of the foregoing, it is abundantly clear that the great powers have a practice of exceptionalism when it comes to the observation of international law rules. International laws are however interpreted from their lenses and in conformity with their interests. The wordings “maintenance” or “protection” of “international peace and security” in the UN Charter, appears to be mere rhetoric and of little importance to the great powers when it comes to using force to achieve their interest anywhere in the world. Of more concern is the tramping of weak or small States to achieve this interest. It has been observed that questions of right and justice are solely interpreted by great powers in their relations with non-great powers in the international system (Allison, 2015). Moralists and ethics purveyors across the world have criticised Moscow for its unethical and immoral war in Ukraine. But scholars like Allison who popularised Thucydides view on war and morality comments that power, more often than not trumps ethics when dealing with small and weak States. According to him, justice applies only to relations amongst equals in power (Allison, 2015).

Against this background, this article focuses on the great power invasions in Iraq (2003) and Ukraine (2022) and how these invasions have fractured international peace and security, thereby exposing their hypocrisy regarding its maintenance. The article further delineates the similarities in rationale behind the invasions, and particularly, how the pursuit of their interests undermined international legal order and its set of rules. By employing a documentary method of data collection from secondary sources, and qualitative analysis, the article draws insights political realism to unearth the philosophical foundations of States relations, which hinges on the pursuits and preservation of its national interests, at the expense of other actors and extant international law rules.

### **Theoretical Framework**

The article adopts political realism as its theoretical framework of analysis. There are several proponents of the school, which include Niccolo Machiavelli (1532) Hans Morgenthau (1948), Carr (1964), Kenneth Waltz (1979). The foremost assumption of realists is that States are the major actors in international system. Although, they accept that there are other actors in the international system, like individuals and international organisations, but their powers are limited in comparison to that of the State. The great powers action in the international system of asserting themselves through excessive show of force, with blatant disregard of other non-

state actors justifies this assumption. This is to the extent that non-state actors lacked the power, if any, to stop the great power predatory and rampaging behaviour in the international system. The US invasion of Iraq happened in plain sight of the UN. In fact, the then US president remarked that the UN Charter is dead and the US is not bound by international law (London Observer, 2002, cited in Islam, 2022). Following this statement, the US carried out a unilateral invasion of Iraq. In similar fashion, Russia disregarded the pleas and warnings of potential sanctions from the UN and other international organisations should it go through with its planned invasion of Ukraine (International Crisis Group, 2022).

Secondly, States usually act unilaterally especially when its national interest is at stake or in times of war. This is evident with both invasions of Iraq and Ukraine. The invasion of Iraq by US and Britain in 2003 was a case of unilateral action. The US had alleged that Iraq has a weapon of mass destruction (WMDs), thus going against international law rules set out in the Non-proliferation Treaty, Chemical Weapons Convention, Biological Weapons Convention and other relevant international law. In fact, the then British Prime Minister, Tony Blair, with his Foreign Minister, accused Iraq of being in possession of concealed WMDs, including biological and germ weapons that were capable of being launched within 45 minutes (McWhinney, 2003). Sadly, investigation reports revealed that those allegations by London and Washington against Iraq were baseless and unfounded (Bellinger, 2022). This report was somewhat belated as the US and Britain had already invasion Iraq unilaterally outside UN's approval.

Thirdly, State leaders act based on rationality, thereby leading them to act in ways that is best for the attainment and preservation of their national interest. Consequently, taking actions that will run contra to a State's national interest will be deemed irrational. Following this, it is against Moscow's interest for Ukraine to be a part of North Atlantic Treaty Organisation (NATO), considering the fact that there will be a military outpost of the North Atlantic Alliance in Russia's backyard and corridor (International Crisis Group, 2022). This, the Kremlin sees as a huge security threat to its existence. Although assurances were made by NATO that Ukraine will not be incorporated into its military alliance. Russia considers and dismisses the statement mere rhetoric. During the diplomatic moves to avert the imminence and likelihood of war, Russia wanted the West to sign a binding treaty, pledging that it will not expand its Atlantic Alliance Eastward along its borders (International Crisis Group, 2022).

Lastly, political realists view the international system as being anarchic in nature. According to them, no one runs the international system, neither is anyone in control. This has led States to act in ways that pleases them. In the domestic realm, there is the presence of the police, the military, courts and so on. These institutions within a State, under the leadership of the President, run or are in charge of law and order. In an emergency, these institutions can swing into action to save the day. But this is not the case in the international system as there is no one to rely on, neither is there an established hierarchy. To this end, States only rely on themselves to what is best for them (Antunnes&Camisao, 2018). The anarchic nature of the international system has been variously laid bare by the great powers who act on national impulses at the expense of international law and order, as well as other actors in the international system.

Classical political realist like Niccolo Machiavelli, asserts that a leader's primary concern is national security of the State put in his care. To accomplish this daunting task, a leader must act as a lion, as well as a fox. To be a lion means to be powerful and to be a fox, means to be deceptive. The various claims of the great powers (US and Russia for instance), in their invasion of small or weak states on the pretext of self-defence, clearly demonstrates this. In the ongoing invasion of Ukraine by Russia, the Kremlin was swift to cite article 51 of the UN Charter as providing the legal licence for its invasion. In 2003, the US was also complicit of this aggressive behaviour when it invaded Iraq. George Bush, then president of the US dubbed it "a pre-emptive" strike. Furthermore, Machiavelli avers that power and deception are the two most vital tools of achieving foreign policy objectives. He also distinguishes between "ethics of responsibility" and "religious morality". Members of the international community have described the ongoing war in Ukraine as immoral. Whereas Moscow sees it as its ethical responsibility to protect Russians in Luhansk and Donetsk respectively. Also, it considers it a greater responsibility to keep the territorial integrity of Russia sacrosanct and immune from external threat and aggression.

Ethical responsibility is what State leaders must live by to guard their actions with other States. Whereas moral responsibility guides the conduct of average citizens. This according to him, entails that States should be good when they can, and also should be willing to use force to guarantee its survival (Machiavelli, 1532). Similarly, and in contemporary times, Morgenthau stresses that State's conduct of international politics must be predicated on power rather than morality. All actions in the international system are geared towards increasing, keeping and demonstrating power. For him, politics predicated on morality is perceived as weakness and can lead to a State's destruction or domination by other States (Morgenthau, 1948)

### **The Great Powers and the Hypocrisy of International Peace and Security Maintenance**

The drafters and framers of the UN Charter, which of course were the victorious powers (now great powers) of the second world war, clearly dogmatised in the preamble and opening article of the Charter, the maintenance, as well as the elimination of threats to international peace and security. The rationale behind this, stems from the horrid experiences of previous wars which left Europe and other parts of the world, devastated and in ruin. Beyond the preamble and article 1 of the Charter, several other provisions thereof, set normative standards of relations and exchanges amongst States in the international system, including frameworks for peaceful settlement of dispute without recourse to the use of force. But it would appear that norms and prescriptions of the Charter has been observed mostly in breach than in compliance, especially by the great powers. The indiscriminate use of the veto, superior military might, economic strength, imperialistic tendencies, etc., largely account for the behavioural contraventions of the Charter. In the following sections, the paper focuses on the great power hypocrisy regarding decolonisation, sovereignty, and sovereign equality of States in the international system.

### **Decolonialisation and great power hypocrisy**

The concept of the right to self-determination is crucial to the maintenance of international peace and security. Just like the maintenance of international peace and security, the right to self-determination is also well acknowledged and recognised in both the preamble and the opening article of the UN Charter. Beyond the UN Charter, there are other bodies of laws,

midwifed by the great powers, that protects the right to self-determination of a people, among others. These are the Universal Declaration of Human Rights (UDHR) of 10<sup>th</sup> December, 1948 and the Four Geneva Conventions of 12<sup>th</sup> August, 1949. According to Fabian Klose (2009), the struggles that characterised the decolonisation processes and efforts of colonial territories in Asia, Africa and Latin America, against the great powers of France and Britain, is regarded as contested decolonisation. According to him, the independence and decolonisation movements were met with great force of counter-insurgency, that included bombing of civilian populations, mass torture, forced displacements and imprisonments. These acts can be rightly adjudged to be war crimes and crimes against humanity which the four Geneva Conventions and the UDHR, strongly criminalises and frowns at. These acts largely fractured and destabilised world peace and security, and yet, none of the great powers were put on trial to answer for their crimes.

For the purpose illustration, some examples will be appropriate. Immediately after the second world war, the 300 enlisted Senegalese soldiers who fought for France were brutally massacred in Thiaroye, Senegal, by French soldiers when they demanded payment of their salaries, discharge allowances and settlements owed them (Kaleck, 2015; Klose, 2009). Relatedly, on 18<sup>th</sup> November, 1949, irate superior European Police Officers in company of other local vigilantes unleashed a horrible attack and opened fire at striking miners in Iva Valley of Enugu, Nigeria. The brutal assault led to the death of at least 21 miners, with 51 others severely injured. This was part of large plot aimed at crushing Labour Liberation Movements in the territories now known as Nigeria (Agwu, 1965; Jaja, 1989; Ocheoha, 2017). In another development, the British Army quelling of the Malayan Liberation Army destroyed entire villages, engaged in mass shootings and widespread use of torture, between 1945 – 1960 (Klose, 2009). The Mau Mau uprising (1952 – 1960) in Kenya is another key example. During the episode, the British Army led a campaign of destruction and depopulation of the Kikuyu people in their land. The settlers have instituted a feudal regime of forced labour, reservation systems and surveillance. In response, the Land and Freedom Army's attempt to resist the regime, led to the infamous Mau Mau uprising, which saw the British colonial government mobilisation of 50,000 counterinsurgency troops to quash the uprising. Several night raids were conducted to fish out members of the insurgent groups, led to the arrest of about 50, 000 Kenyans, out of which 150,000 were kept in confinement camps, facing various forms of abuses. Chief of which was torture and large number of others hanged (Klose, 2009; Blackpast, 2009). During the course of the conflict, 167 British soldiers lost their lives, along with 1,819 other Africans who fought on their side. Among the Mau Mau people, there were about 20,000 to 100,000 Kikuyu deaths (Kaleck, 2015). In Indonesia, a bloody war (1945 - 1947) was waged by the Dutch Army in an attempt to scuttle Indonesian independence declared on 17<sup>th</sup> August, 1945. During this period, between 80,000 – 100,000 Indonesians lost their lives (Klose, 2009). The list of atrocities committed by the great powers, after the sanctimonious and laudable declarations of the Charter and that of the above-mentioned international laws, are legion. It will be somewhat impossible to exhaust them in single article.

It is rather unfortunate and more so, hypocritical that these atrocities happened after the great powers flowery commitment to not allow the horrendous events of both world wars repeat itself again. In fact, art 1 and the text of the preamble of the UN reads in part:

we the people of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small ... and for these ends, to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security (UN preamble, 1945). To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace (Art. 1[2] of the UN Charter)

While it is quite commendable to have the above aspirations and wishes for the international system, the deficit of a careful and religious observance and compliance of not just the above provision of the Charter, but the entire legal framework, greatly weakens any chance at accomplishing those lofty goals.

### **Invasions of Iraq and Ukraine: Maintenance or Fracturing of International Peace and Security?**

Both great powers involved in the invasions have boldly stated that their actions are in accordance with the provisions of the UN Charter and that they are geared towards the maintenance of international peace and security. However, a close examination of this statement will reveal the veracity or otherwise of their claims.

For the **United States**, its rationale behind the invasion of Iraq, was premised on the allegation that the latter had WMDs it was stockpiling with the intent to use it on the former, was reminiscent of the terrorist attacks of the twin towers on US soil on 9/11. To determine the veracity of US claims concerning Iraq, the UN deployed a fact-finding mission of experts (the UN International Atomic Energy Agency [IAEA] and UN Monitoring, Verification and Inspection Committee [UNMOVIC]) to Baghdad, for inspection (McWhinney, 2003). When the US realised that the investigation report by the expert mission is not likely to corroborate its claims, it pushed for a speedy authorisation of the UNSC to use force militarily to intervene in Iraq, since Baghdad failed to comply with UNSC resolution 1441, requiring it to embark on total disarmament. The initial call for total disarmament has been made by UNSC resolution 687 in 1991, after US ouster of Iraq from Kuwait during the first Gulf war (1990 – 1991). Saddam Hussein's failure to comply with the disarmament programme led to resolution 1441 of 8<sup>th</sup> November, 2002, which warned of "serious consequences" if Baghdad fails to comply. While keeping faith with the UN and its expert mission sent to Iraq, France, Russia and China suggested that the US should be patient until the fact-finding mission of UN expert returns with a report. They warned that absent the report of the mission of experts, any resolution presented by the US, asking for authorisation to use force against Iraq, will be vetoed (Congressional Research Service, 2003; McWhinney, 2003). Notably, while France, Russia and China agreed that Iraq has failed to comply with the UNSC resolutions, they however, oppose a military action. Amongst the 5 permanent members, only Britain was in total support of US actions and decisions regarding Iraq. Realising this fact, the US in concert with Britain, decided to invade Iraq on 19<sup>th</sup> March, 2003, without authorisation from the UNSC. The rationale for invasion, as said earlier, was self-defence as contained in art. 51 of the UN



Charter, and of enforcing previous resolutions (687 of 1991; 1441 of 2002) of the UNSC (Congressional Research Service, 2003). Another variant of self-defence was the pre-emptive strike principle expressed by president Bush. According to his State of the Union Address in January 2002, the president justified the reason to use military force in Iraq, absent authorisation of the UNSC. According to him, terrorists have made Iraq a safe haven, from which they could launch an attack that could target the US or its allies anywhere in the world. He comments:

States like these, and their terrorist allies, constitute an axis of evil, arming to threaten the peace of the world. By seeking weapons of mass destruction, these regimes pose a grave and growing danger. They could provide these arms to terrorists, giving them the means to match their hatred. They could attack our allies or attempt to blackmail the United States. In any of these cases, the price of indifference would be catastrophic (Bush, 2002)

Similarly, the preamble of the US Congress resolution on authorisation of the President to use military force against Iraq reads in part: “the risk that the current Iraqi regime will ... employ those weapons [of mass destruction] to launch a surprise attack against the US”. Hence, the need for the US to strike first. All these, perhaps, will have justified the US position on Iraq had the report of the expert mission corroborated Washington’s claims of WMDs in Iraq. However, regardless of whether Iraq had WMDs or not, Iraq posed no direct threat to the US at that time, nor was Iraq attacking the US militarily, in any way (Simpson, 2004). According to the UK Parliament, ‘Saddam Hussein was not considered a current or imminent threat’ (UK Parliament Intelligence and Security Committee, 2003). This clearly suggests that the argument of self-defence was a mere pretext to invade and secure US national interest of preserving the free flow of oil supplies, which was been threatened by the regime of Saddam Hussein. Thus, the catastrophic episode occasioned by the unilateral invasion of the US undermined and fractured international peace, rather than maintain it. In fact, US and British invasion of Iraq, is categorised as one of the four crimes of international concern – the crime of aggression – which the International Criminal Court has jurisdiction over. Thus, President Bush and Prime Minister Blair ought not to be walking free, but should be standing trial at the Hague.

First, instead of instilling any form of deterrence or fear in current and would be terrorist groups, it rather have embolden them to intensify their acts, as they now see the US and the West, as perpetual enemies of the Arab world. The invasion also created widespread anti-American sentiments around the world. But more in particular, in the Middle East and Arab world. President Bush designation of Arab countries (Iraq and Iran) with North Korea as the “axis of evil” further cements this thought. It has also sent a dangerous signal to other great powers, like Russia, that they can act *ultra vires* with utter disregard for the UN in pursuing whatever agenda they claim at the expense of other actors in the international system. This, perhaps, led to the brazen invasion of Ukraine, leading to the annexation of Crimea in 2014 and now a full-blown invasion to affect a regime change in Ukraine. As at the time of writing, it is unclear whether Russia will be successful in this regard.

On the part of **Russia**, its invasion of Ukraine, one might say, is totally analogous to that of US in Iraq. Even though, its reason might sound a bit persuasive, it nevertheless has semblance with that of the US, and hence, does no good to keeping or maintaining international peace. As it was with US invasion of Iraq, Russia's rationale for invading Ukraine was also predicated on the principle of self-defence enshrined in art. 51 of the UN Charter. But this is clearly unfounded, given the fact that Ukraine, posed no substantial threat to Russia, neither was Russia under any armed attack from Ukraine (Whimhurst, 2022; O'Meara, 2022). More so, Ukraine never threatened an armed attack against Russia nor any member of the UN. Another angle of Russia's self-defence claim against Ukraine was the alleged genocide or attack of her civilian population in the Donbas Region – comprising mainly of Donetsk and Luhansk - by Ukraine. Art. 51 refers to this as collective self-defence. This will have been appropriate only if both regions are members of the UN, and are defending themselves against a threat or actual armed attack against them. Although Russia has recognised both regions following their declaration of independence a week earlier, it doesn't still give them the garb of Statehood. The recognition of the regions through force of arms by Russia, amounts to *ade facto* or limited recognition, as against *de jure* recognition which is done in accordance with due process of law. However, it remains to be seen whether they qualify for remedial secession, if claims of genocidal attack in Donetsk and Luhansk regions are substantiated.

In president Putin's speech, he stressed the need for the discontinuation of NATO's expansion eastward which it began since 1997. NATO's incorporation of new members involves the practice of having military base in the new member State. Fourteen countries have joined the North Atlantic Alliance, which were part of the defunct Union of Soviet Socialist Republic (USSR), bringing its membership to 30. Out of which 28 are European States and 2 are from North America States of US and Canada. Moscow believes the West have reneged on its promise to not expand an inch Eastward, following the disintegration of the former USSR in 1990 (Kirby, 2022). This is part of the reason the Kremlin is engaging in this war. More importantly, it abhors a further expansion around its borders and sphere of influence, especially in Ukraine, which Moscow has referred to as Russia's historic city (Putin, 2022). This in fact, informed his stern warning of NATO to refrain from wooing Ukraine to join them, as this will constitute a threat to Russia's territorial integrity, given the fact that NATO stations its forces in member States territory, should they join the North Atlantic Alliance. This according to Putin will threaten Russia's historic future (Putin, 2022). In order to prevent that, he borrowed a leaf from America's playbook of preventative or pre-emptive strike, garnished by art. 51 of the UN Charter.

It must be clearly noted that activities of recent Russia's aggression militarily might have been influenced by US "exceptionalist" mindset and activities in Iraq and elsewhere like Afghanistan, Serbia-Kosovo crisis, Libya, Syria, etc. The brazen military intervention of the US and its allies in those areas may have emboldened Russia's recent military aggression in Georgia, Crimea (Ukraine) and now in the whole of Ukraine. Activities of this kind strengthens the political realist theory and its assumption that the international system is anarchic in nature. That power is deployed for the pursuit of national interest to the detriment of other actors in the international. That States are the major actors in the international system, with non-State actors being marginal or fringe members of the international system. This is so because, international organisations, especially the UN have been muscled out to the point of inaction and obscurity during these aggressions by great powers.

### **The Great Powers and the Blatant Contravention of International Law Rules**

Selectivity of justice is at the centre of great power hypocrisy and contravention of international law rules. As mentioned earlier, selectivity refers to the actions of the great powers regarding which international laws rule to adopt and which to be silent on. This can be vertical or horizontal (Thakur, 2016; Kaleck, 2015; Einsiedel, Malone, Ugarte, 2015) as was earlier established.

It is important to state here that the great powers have prided and perpetuated themselves as benevolent leaders in standard setting and international rule making, which have been selectively implemented to advance their national interest through a melange of economic, political, military possessions, and of veto power invested in them by the UN Charter (Islam, 2022).

For the sake of illustration, few examples are expedient. The US invasion of Iraq on the allegation of development and stockpiling of WMDs comes off as not only being hypocritical but highly selective. This is because, the greatest ally of the US in the Middle East – Israel – has developed and are in possession of nuclear warheads (Federation of American Scientist, 2022). This, has considerably tilted the balance of power in favour of Israel. Again, the constant suppression of Iran from also doing so further strengthens the hypocrisy and selectivity of justice hypothesis. The international law rule on the development and possession of WMDs are very clear. It gave only the great powers – five permanent members of the UNSC – the right to possess such weapons, as they are those that have tested their warheads prior to 1<sup>st</sup> January, 1967 (Art 9 of NPT, cited in Atomic Archive, 2020). Thus, picking on those who are not their allies for sanctions and invasions underscores this point. Although, not being a party to Nuclear Non-proliferation Treaty, India, another US ally has not been sanctioned nor invaded for violating a customary international law rule. It is the same selective justice that has put North Korea in line of economic sanctions and potential aggression from the US and its allies.

Furthermore, the US sees itself as an exceptional State in the international system, where certain rules of international law do not apply to them, but to other States. In fact, the US have incessantly persuaded other States to abide by international law rules, which it will not subject itself to (Koh, 2003; Ignatief, 2005; Bradford & Posner, 2011; Islam, 2022). The US was the driving force behind major international law rules and the subsequent institutions created after them, including those bordering on human rights (Bradford & Posner, 2011). For instance, it was highly instrumental in drafting of the Rome Statute and the setting up of the International Criminal Court (ICC), but failed to accede to the treaty nor submit to the court's jurisdiction. Following the invasion of Iraq, president Bush administration has been fingered to have committed a crime of aggression against Iraq in March, 2003, since what it accused Baghdad of was unfounded (Islam, 2022). Knowing this, the Bush administration took critical steps to insulate itself and the American State from any form of prosecution by international law standards. In 2002, president Bush enacted the American Service Members Protection Act, 2002. The Act prohibited US cooperation with the ICC and further empowered the US president to use all necessary means to release any US national in ICC custody for prosecution purposes (Congressional Research Service, 2003). It also reached agreements with weak States, not to submit to the ICC, US nationals guilty of ICC crimes, resident in their countries (Congressional Research Service, 2006; Islam, 2022). In 2020, US officials refused entry into the

US, ICC officials who want to investigate possible war crimes during their nearly 20-year war-on-terror campaign in Afghanistan. Earlier in 2019, the Trump administration revoked the entry visa of the Chief Prosecutor of the ICC, Fatou Bensouda, effectively barring her from entering the US, and warning that other officials of the ICC will suffer similar fate if they continue with the war crime probe against US nationals. In the words of the then US secretary of state, Mike Pompeo,

If you're responsible for the proposed ICC investigation of US personnel in connection with the situation in Afghanistan, you should not assume that you will still have or get a visa, or that you will be permitted to enter the United States ... We're prepared to take additional steps, including economic sanctions if the ICC does not change its course (Mike Pompeo cited in Premium Times, 2020)

These actions by the US greatly destabilises the international legal order, which is highly relied on by other peace-loving States in the international system for effective interaction, transaction and exchanges. More so, this act will undoubtedly send the wrong signal to rogue States and other great powers, like Russia and China. To drive home this hypothesis, Canada's Senate Committee, while referring to the Kosovo experience in 1999, expressed similar concerns

The lack of U.N. authorization also set an unfortunate precedent. NATO's action in Kosovo could be seen as implying that it can disregard international law when it so chooses. Or, it might lead some to conclude more generally that both individual states and regional organizations, may act unilaterally when it serves their purpose (Canada Senate Committee, cited in McWhinney, 2003, p. 576).

If all States were to act unilaterally without respecting the extant international legal order, the international system will be an anarchic one, just like the political realist have espoused. More so, even when a great power's activity has been frustrated through the UN veto system, it can approach the UN General Assembly to circumvent the veto through the invocation of *Uniting for Peace* Resolution 377 once adopted by the General Assembly in 1950 during a veto impasse in the Korean crisis.

Just like the US, Russia also sees itself as an exceptional State. On its part, it has been selective with her observance and compliance of international law rules. It's military intervention of Afghanistan, Georgia, Crimea, and now Ukraine, were all against international law provisions as set out in the UN Charter. With reference to its invasion of Ukraine, there are certain bilateral agreements that it contravened for the purpose of pursuing its interest of incorporating part of Ukraine into Russian federation (International Crisis Group, 2022). Just like the US invasion of Iraq, the first international rule violated by the Kremlin is Art 2(4) of the UN Charter that emphasises on the non-use of force by States in their international relations with other States. Rather they should adopt peaceful settlement of dispute (art. 33 of the UN Charter). Its invasion of Ukraine, is undoubtedly an act of aggression, which grossly undermines the provision of Art. 1(1) of the UN Charter on the promotion of international peace and security. Resolution 2202 (2015) of the UNSC in which all parties and members

agree to protect the sovereignty, independence, and territorial integrity of Ukraine, was blatantly violated by Russia. In the Minsk Agreement of 2015, which was signed after the 2014 Crimean war between Ukraine and Russia, the Russian federation pledged to remove all 'armed formations, military equipment, as well as mercenaries from the territory of Ukraine'. This has been contravened on account of the build-up and subsequent invasion of Ukraine.

Another international law sidestepped is the 1994 Budapest Memorandum on Security Assurances. The Agreement was concluded and signed by the Russian federation, Ukraine, United States of America and United Kingdom. Under the Budapest Agreement, Ukrainian government agreed to give up all of its nuclear stockpiles in exchange for Assurances from the great powers that no armed attack of aggression or the use of force will be exerted against its territory (O'Meara, 2022). The Budapest Memorandum has been breached twice by Moscow. First was in 2014, following its annexation of Crimea, and second, in February, 2022 with the invasion of Ukraine. With such Security Assurances breached by Russia, there is largely a fundamental breakdown of international peace and security (O'Meara, 2022).

Notably, during Putin's address to Russians regarding the impending war, there were a lot of "you too" rhetoric – that referred to the US and the West – in his war declaration speech title: "no other option". When lamenting the manner the US and its allies have conducted international relations with a sense of exceptionality, superiority and absolutism, and with no form of restraint coming from the UN, Putin illustrated with these comments:

You don't have to look far for examples. First, without any sanction from the UN Security Council, they carried out a bloody military operation against Belgrade, using aircraft and missiles right in the very centre of Europe. Several weeks of continuous bombing of civilian cities, on life-supporting infrastructure. We have to remind these facts, otherwise some Western colleagues do not like to remember those events, and when we talk about it, they prefer to point not to the norms of international law, but to the circumstances that they interpret as they see fit. Then came the turn of Iraq, Libya, Syria. The illegitimate use of military force against Libya, the perversion of all decisions of the UN Security Council on the Libyan issue led to the complete destruction of the state, to the emergence of a huge hotbed of international terrorism, to the fact that the country plunged into a humanitarian catastrophe that has not stopped for many years. civil war. The tragedy, which doomed hundreds of thousands, millions of people not only in Libya, but throughout this region, gave rise to a massive migration exodus from North Africa and the Middle East to Europe (Excerpts from Putin Declaration of War Speech, 24<sup>th</sup> February, 2022).

The above, implicitly and tacitly suggest that if the West and its allies can sidestep international law rules and provisions in pursuit of its interests, Moscow might as well join the party. The speech also shows that Russia overtly admits that its intending action of invasion of Ukraine is an act of aggression and indiscriminate show of force that will at best further weaken the already fragile international legal order. That notwithstanding, it will still go ahead with its planned invasion in the name of national interest.

## Conclusion

The paper examined the great power hypocrisy regarding observation and compliance of International law rules. From the foregoing, it is apparent that the great powers have acted unilaterally in pursuit of their various interest, absent authorisation from the UN. It was established that these behavioural tendencies of the great powers are capable of sending the wrong signals to rogue States in the international system, and to further embolden other great powers to follow suit when in pursuit of their interest. It will undoubtedly add to the barrage of negative precedents in international relations.

## Recommendations

The protection and maintenance of international peace and security can only be feasible when international law rules that created the international system are revered. Absent this respect and compliance, anarchy will reign supreme. Most peaceful loving States in the international system depends on a functional international legal order to operate, interact, transact and make exchanges of various kinds for the promotion of the wellbeing of its citizens. Thus, all forms of unilateral behaviours of States should be replaced with multilateral ones. Unilateralism underscores the reason for both world wars. Under the league, States acted unilaterally at various instances. This effectively triggered off the second world war. Unilateralism must be eschewed in all its forms and manifestations. In its place, entronement of multilateralism through the UN General Assembly must be promoted. Also, the veto power should be eliminated from the UN system as it creates and gives an undue advantage to a select few in the UN. It also creates a contradiction in the UN system. In one breadth it proclaims the sovereign equality of States. And in another, it creates an infinitesimal few who are seen to be more sovereign than the others, by gifting them a veto. This contradiction must be expunged through a proper democratisation of the UN system, especially the UNSC.

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