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AGGRESSION AS A RESULT IGNORING THE BASIC PRINCIPLES OF INTERNATIONAL LAW

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INTRODUCTION

It has been 79 years since the end of World War II, for which humanity paid tens of millions of human lives. The bloodiest theater of war in this tragedy, as in the First World War, was Europe. After February 24, 2022, as a result of the large-scale aggression of the Russian Federation (hereinafter referred to as the RF) against Ukraine, the grief of the "Great War" returned to the European continent. As always, the greatest pain, misery and consequences of this savagery are felt by the people and country that are its victims. For 36 months, Ukrainians have been reaping their first "harvest of sorrow" in the 21st century. In the last century, such "harvests" for us were the loss of our statehood in 1921 as a result of the actual occupation of Ukrainian lands by the Russian Bolsheviks, three Holodomors of 1921–1923, 1932–1933 and 1946–1937, which killed at least 4 million Ukrainian peasants, and World War II, during which approximately 8 to 10 million Ukrainians lost their lives.

Yes, the fact that Ukraine once again became a victim of a dying empire, as in the last century, is our weakness, first of all, political, economic, and military weakness. However, we have been and remain a member of the international community, of numerous international organizations of various kinds (primarily security organizations such as the United Nations and the Organization for Security and Cooperation in Europe).

It is well known that relations between states should be regulated by international law, the content of which is formed by the relevant principles and other legal norms enshrined in the provisions of numerous binding international documents (acts, declarations, conventions, covenants, agreements, etc.).

In the system of international law, its principles play a primary, fundamental role, since these universally recognized legal principles should be used to form the norms (regulatory, procedural, protective) of various international acts, since it is unconditional compliance with these principles that largely guarantees the further proper implementation of the legal norms of international law derived from them (in particular, criminal law).

The significance of the principles of international law is most clearly manifested in the case of an openly brazen violation of the world order in the form of military aggression.

In view of the above, there is an urgent need to study issues related to military aggressions that are the direct consequences of ignoring the principles and other norms of international law.

It is the solution to this problem that is the overall goal of this paper. To achieve it, the following tasks need to be addressed: to consider the system and key characteristics of the basic principles of international law and aggression as a cause of their violation, as well as the experience of the international community's response to aggressions of the late 20th and early 21st centuries, and measures to restore the principles of international law in the field of peace and international security.

1. Aggression as a consequence of violation of basic principles of international law

The theory of international law in the issue of understanding the principle of law is based on the provisions of the general theory of law, but it also brings something of its own, which is due to the specifics of this branch of law. According to K.A. Zhebrovska, a principle of international law is a legally generalized rule of conduct of subjects of international law in a particular area of legal relations.

Principles of international law are rules that differ from other rules of international law only in that they are usually more general in nature and regulate the main issues of international relations, and there is no clear distinction between principles and rules.

The principles of international law constitute a hierarchical system headed by jus cogens norms, which most international law experts include: respect for territorial integrity, inviolability of sovereignty, inadmissibility of slavery, torture and genocide. In turn, these principles are part of a broader category of generally recognised norms and principles of international law. In addition, given the fragmentation of international law and the formation of branches of international law, the existence of branch-specific principles of international law should be recognised.

As for the classification of principles of international law, modern international law in its “classical” tradition knows two types of principles – conventional (treaty) and customary, which differ from treaty principles in that they were first formed in practice and only then were formulated and included in international treaties and agreements.

The principles of international law are characterized by the following features: the core of the legal essence of modern international law, which is

imperative in nature; the foundation of modern international law, its regulatory framework; a criterion for assessing the legality of actions of international law subjects in the international arena; the most vivid expression of the goals and objectives of modern international law; a specific legal regulator of international relations; a legal guideline in the development of foreign and national policy of each state; a cementing agent in the development and strengthening of international cooperation; a factor in the universality of the main provisions of modern international law; a reasoned expression of the specific content of modern international law[1].

Telipko V. E., Ovcharenko A. S. emphasize that principles perform important functions. They define the principles of interaction between subjects of international law in a specific way, enshrining the fundamental rights and obligations of States. Principles express and protect a set of universal values, which are based on such important achievements of the international community as peace and cooperation, human rights and freedoms and their guarantees. They serve as the ideological basis for the functioning and development of international law.

Principles are the foundation of the international legal order, they determine its political and legal status, and therefore are the main and determining criterion of international legality.

The role of principles in filling gaps in international law is significant.

Compliance with the principles of international law is strictly binding. A principle of international law can be abolished or its effect limited only by abolishing international practice, which is beyond the power of any individual state or even a group of states. Therefore, any state is obliged to respond promptly to any attempts or attempts to unilaterally "correct" international practice or change its direction. The inviolability and stability of the international legal order is based precisely on the recognition by all states and all subjects of international law and actors in international relations that in order to ensure long-term solutions to international problems, it is necessary to base these solutions on the universally recognized and generally accepted principles of international law, enshrined, in particular, in the UN Charter.

A characteristic feature of the principles of international law is their universality. This means that subjects of international law are obliged to strictly adhere to the principles, since any violation of them will certainly affect the legitimate interests of other participants in international relations. This also means that the principles of international law are a criterion for the legitimacy of the entire system of international legal norms. The principles

[1] Теорія міжнародного права: навчально-методичний посібник / За ред. О.В. Бігняка. Херсон: Видавництво «Гельветика», 2020. С. 67-68.

apply even to those spheres of subjects that are not regulated by specific norms for certain reasons.

Another characteristic feature of the principles is their interconnectedness. Only in interaction with each other can they fulfill their function. Given the high level of generalization, the content of the principles and the application of the provisions of each principle can only be achieved by comparing them with the content of the others. The importance of their interrelation was initially emphasized in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of December 24, 1970, "in their interpretation and application the principles set forth are interrelated and each principle must be considered in the context of all other principles".

There is no doubt that there is an inextricable link between law and foreign policy. That is why the general and universal international legal principles should serve as the guiding principles for each state's foreign policy in any sphere [2].

According to A. V. Votsikhovsky, a characteristic feature of international law is the presence of a set of basic principles. The principles of international law reflect the characteristic features and the main content of international law.

The fundamental principles of international law have a special political and moral force, which is why in diplomatic practice they are usually called the principles of international relations.

The basic principles of international law are historically determined. On the one hand, they are necessary for the functioning of the system of international relations and international law, and on the other hand, their existence and implementation can take place in these historical conditions.

The principles reflect the fundamental interests of states and the international community as a whole. On the subjective side, they reflect the level of states' awareness of the regularities of the system of international relations, their national and common interests.

A prerequisite for the emergence of the basic principles of international law was the need of the international community for peaceful coexistence after the Second World War. The realization of this factor led to the development of a kind of code, a constitution of international relations in international law, which are called the basic principles of international law.

Fundamental principles of international law are generally recognized norms of the highest order that form the foundation of international law and are intended to ensure the stable and effective functioning of the international

[2] Теліпко В. Е., Овчаренко А. С. Міжнародне публічне право : навчальний посібник / За ред. Теліпко В. Е. К. : Центр учбової літератури, 2010. С. 37-38.

system. They are called fundamental because they are principles of general international law and apply to all subjects of international law, unlike sectoral international legal principles.

Thus, the basic principles of international law are historically determined fundamental generally recognized norms that express the main content of international law, its characteristic features and have the highest, imperative legal force. These are the guiding rules of behavior of its subjects that arise as a result of social practice, legally enshrined principles of international law. They represent the most general expression and practice of established behavior and interaction of subjects in the international arena within the framework of international relations [3].

The classification of the basic principles of international law can be carried out according to their legal content, historical and political characteristics, methods of formation, time of origin, etc.: principles related to peace and international security; principles related to cooperation of states; principles related to the protection of human rights, peoples and nations. This and other types of classifications are quite conditional, since any basic principle of international law is aimed at ensuring various cooperation of states, including in the field of protection of human rights and freedoms, and their legal content is quite complex and has separate elements inherent in many basic principles at the same time [4].

In general, the basic principles of international law perform two important functions at the same time:

1) contribute to the stabilization of international relations by limiting them to certain normative frameworks;

2) contribute to the development of international relations by consolidating new aspects emerging in public practice.

Like all legal norms, the basic principles of international law have their own legal basis and, accordingly, are codified.

In particular, they are enshrined in: The UN Charter of 1945; the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of 1970; the Final Act of the Conference on Security and Cooperation in Europe of 1975.

The International Court of Justice has noted that some of the principles, primarily the principle of non-use of force or threat of force, existed as rules of customary international law before the adoption of the UN Charter.

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[3] Войціховський А. В. Міжнародне право: підручник. Харків : Харків. Нац. ун-т внутр. справ, 2020. С. 26-27.

[4] Теорія міжнародного права: навчально-методичний посібник / За ред. О.В. Бігняка. Херсон: Видавництво «Гельветика», 2020. С.70.

The basic principles of international law are enshrined in the UN Charter (Preamble, Articles 1 and 2). Article 2 of the UN Charter contains seven basic principles (sovereign equality of states, non-use of force or threat of force, equal rights and self-determination of peoples, peaceful settlement of international disputes, non-interference in internal affairs, cooperation, and good faith fulfillment of obligations under international law). The interpretation of the basic principles is given in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, adopted at the 25th session of the UN General Assembly in 1970. The Final Act of the Conference on Security and Cooperation in Europe, signed by the heads of 33 European and two North American states on August 1, 1975, contains a Declaration of Principles to guide the participating states in their mutual relations. This Declaration already contains ten principles of international law, not seven, as in Article 2 of the UN Charter (3 principles were added – inviolability of borders, territorial integrity, respect for human rights and fundamental freedoms). However, this list of basic principles of international law is not exhaustive. Today, the international community urgently needs to adopt the principle of environmental safety, but for various, mostly subjective reasons, this principle, unfortunately, has not yet been legally enshrined.

It should be noted that the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations emphasizes the need to take into account their interrelated nature and the need to consider them in the context of all other principles when interpreting and applying the basic principles of international law.

Thus, the International Court of Justice has pointed out the close connection between the principles of non-use of force or threat of force, non-interference in internal affairs and sovereign equality of states. There is no formal subordination between the principles, but their real meaning is not the same. Obviously, the principle of non-use of force or threat of force is of primary importance, as it plays a major role in ensuring peace. In its turn, the principle of peaceful settlement of international disputes is a kind of supplement to it. Particular importance is attached to the principle of respect for human rights and fundamental freedoms, etc.

A characteristic feature of the basic principles of international law is their universality. This means that they apply to all subjects of international law and are a criterion for the legitimacy of the entire system of international legal norms. The principles apply even to those areas of relations between subjects that for some reason are not regulated by specific norms. No subject of

international law can count on any benefits arising from international law without recognizing its basic principles.

The content of the basic principles of international law is stable, as they are not affected by certain local changes in interstate relations. At the same time, their content is characterized by dynamism – while consolidating what has been achieved, they are developing and to some extent are programmatic. An important function of the basic principles of international law is to ensure the priority of universal interests and values, primarily peace and security, life and health, international cooperation and other values of the international order of peaceful coexistence [5].

Given the subject matter of this paper, let us dwell in more detail on the principles relating to peace and international security.

An analysis of the content of the current basic principles of international law suggests that the above-mentioned group is directly reflected in the following principles: non-use of force or threat thereof, peaceful settlement of disputes, inviolability of borders and territorial integrity of states.

For the purpose of a more thorough study of their content, let us dwell on the content of each of these principles.

The principle of non-use of force or threat of force and peaceful settlement of conflicts. International law has long addressed the issues of war and peace. While the use of force in all its manifestations, including war, used to be a common way to resolve conflicts between states, international law gradually rejected it and outlawed war. This principle has found its normative consolidation in a huge number of international documents, ranging from the UN Charter (Article 2, paragraph 4) to various treaties between states.

An analysis of the provisions enshrined in the UN Charter, the 1970 Declaration on Principles of International Law, and the 1975 Final Act of the Conference on Security and Cooperation in Europe regarding this principle leads to the following conclusions: any action constituting a threat of force, direct or indirect use of force against another state is prohibited; reprisals with the use of armed forces are prohibited; organization, encouragement and other support of armed groups, mercenaries, etc. are prohibited; the use of force or threat of force to violate the existing borders of another state or to resolve territorial disputes is prohibited; organizing, providing any support or participation in acts of civil war or terrorism in other states or on one's own territory is prohibited; military occupation of the territory of other states is prohibited; acquisition of the territory of another state by threat or use of force is prohibited; violent acts depriving peoples of their right to self-determination, freedom and independence are prohibited.

[5] Войціховський А. В. Міжнародне право: підручник. Харків : Харків. Нац. ун-т внутр. справ, 2020. С.27-29.

At the same time, international law clearly defines the cases when the use of force is permitted, in particular: by a decision of the UN Security Council, in case of self-defense, in case of exercising the right to self-determination and in order to protect human rights.

The principle of peaceful settlement of disputes. The issue of peaceful conflict resolution has become the subject of numerous international agreements. For example, Article 2 paragraph 3 of the UN Charter stipulates that all members of the UN shall settle their international disputes by peaceful means in such a way as not to endanger international peace, security and justice. The Declaration on Principles of International Law of 1970 stipulates that every State has the duty to refrain from the threat or use of force... as a means of settling international disputes, including territorial disputes concerning frontiers. Thus, international law does not allow states to leave conflicts unresolved. This means, on the one hand, that states must resolve conflicts among themselves, and on the other hand, that states must seek ways to resolve them if the previous attempt did not lead to the desired results. States are obliged to refrain from any action that would make it difficult or impossible for them to reach an agreement. The state is obliged to settle its disputes on the basis of international law and justice in order to avoid threats to international peace and security. Article 33 of the UN Charter provides that states involved in any conflict should seek to resolve them by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, recourse to regional bodies or other peaceful means of their own choice [6].

The principle of inviolability of borders. This principle is enshrined in the Final Act of the 1975 Conference on Security and Cooperation in Europe, which states that the participating States regard as inviolable all the frontiers of each other and of all States in Europe, and will therefore refrain now and in the future from any encroachment upon these frontiers. They may accordingly refrain also from any demands or actions aimed at the seizure or usurpation of part or all of the territory of any participating State. The Declaration on Principles of International Law of 1970 only mentions the inviolability of borders in the context of the principle of non-use of force or threat of force [7].

Based on the content of the principle of inviolability of borders, the following obligations of subjects of international law can be identified: to recognize existing borders as legally established in accordance with international law; to recognize the inviolability of the borders of all states; to

[6] Громовенко К.В., Тицька Я.О. Принципи міжнародного права: концептуальні підходи до розуміння природи та класифікації. *Правова позиція* № 1 (38). 2023. С. 120-121.

[7] Громовенко К.В., Тицька Я.О. Принципи міжнародного права: концептуальні підходи до розуміння природи та класифікації. *Правова позиція* № 1 (38). 2023. С.122.

renounce any territorial claim or action aimed at usurping part or all of the territory of any state at the moment and to change their borders in the future only by mutual, voluntary consent of the respective states.

The principle of inviolability of borders is closely interrelated with the principle of territorial integrity. Borders are sacred and inviolable. Violation by force and unilateral changes to borders are unacceptable. This is the key to international peace and security [8].

The principle of the territorial integrity of a state was first enshrined in the Final Act of the 1975 Conference on Security and Cooperation in Europe. This document states that, first, all participating States will respect the territorial integrity of each participating State, and, second, they undertake to refrain from any action inconsistent with the UN Charter against the territorial integrity, political independence and unity of States, in particular from such actions involving the use or threat of force. The provisions of this document stipulate that the participating states will refrain from making the territories of countries the object of a military operation or otherwise using force, thereby violating international law. Chapter III of the Final Act of the 1975 Conference on Security and Cooperation in Europe enshrines two important points: 1) the participating States consider inviolable all the borders of the participating States, as well as the borders of all European States, and therefore they will refrain from any encroachment on these borders; 2) the participating States will refrain from any demands or actions aimed at usurping part or all of the territory of any participating State [9].

The principle of territorial integrity imposes on subjects of international law the obligation to refrain from any actions incompatible with the purposes and principles of the UN Charter, in relation to: territorial integrity; political independence; unity of any state; transformation of territory into an object of military occupation; threats of transformation of territory into an object of acquisition directly or indirectly, using force in violation of international law[10].

The most serious form of violation of the above principles is an aggressive war, which is considered a crime against peace.

In accordance with the Hague Convention on the Beginning of Hostilities of 1907, to which Ukraine is a party, states recognize that hostilities between them should not be initiated without prior and unequivocal warning, which will take the form of either a reasoned declaration of war or an ultimatum with

[8] Войціховський А. В. Міжнародне право: підручник. Харків : Харків. нац. ун-т внутр. справ, 2020. С. 44.

[9] Громовенко К.В., Тицька Я.О. Принципи міжнародного права: концептуальні підходи до розуміння природи та класифікації. *Правова позиція* № 1 (38). 2023. С.122.

[10] Войціховський А. В. Міжнародне право: підручник. Харків : Харків. нац. ун-т внутр. справ, 2020. С. 46.

a conditional declaration of war. Thus, international law requires a declaration of war. It can be carried out in various forms:

1) by appealing to one's own people;

2) by addressing the people or government of the enemy state

3) by addressing the international community.

A special way of declaring war is an ultimatum – a categorical demand, which does not allow any further disputes and objections, by the government of one state, which is presented to the government of another state along with a threat that if this demand is not fulfilled by a certain time, the government that issued the ultimatum will take appropriate measures. Thus, we are talking about the threat of war.

However, although these methods of declaring war are considered to be within the framework of international law, in accordance with Article II of the Convention on the Definition of Aggression of July 3, 1933, the very fact that a state is the first to declare war is considered aggression. According to Article III of the Hague Convention of 1907, the declaration of war does not make an aggressive war legal. According to Article 3 of the Definition of Aggression, adopted at the XXIX session of the UN General Assembly in 1974, the following acts of direct aggression are considered acts of aggression, regardless of the declaration of war:

1) an invasion or attack by the armed forces of a State on the territory of other States, or any military occupation, however temporary, resulting from such an invasion or attack, or any annexation by force of the territory of another State or part thereof;

2) bombing by the armed forces of a state of the territory of another state or the use of any weapon by a state against the territory of another state;

3) blockade of ports or coasts of a state by the armed forces of another state;

4) an attack by the armed forces of a state on the land, sea or air forces or navies and air fleets of another state;

5) the use of armed forces of one state located on the territory of another state with the consent of the receiving state in violation of the conditions stipulated in the agreement, or any extension of their stay on such territory after the termination of the agreement, etc.

Nowadays, armed conflicts occur almost without official recognition of the state of war. Not only is undeclared warfare, which will be considered as a qualifying circumstance in determining liability, not considered to be in line with international law, but also the so-called casus belli (cause for war) – a direct formal reason leading to a state of war between states. In the past, such a pretext was a legal basis for the outbreak of hostilities and served to justify war and conceal its true causes. For example, the pretext for the invasion of

Iraq by coalition forces in 2003 was the presence of chemical weapons in the hands of the authorities of that state, which were never found. [11].

Under the UN Charter, the Security Council has virtually unlimited powers to determine under what circumstances an act of aggression has occurred. The powers granted to the Security Council under Chapter VII, "Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression," of the UN Charter to choose the measures it wishes to take can be divided into two groups. The first is measures not related to the use of military force, namely: full or partial interruption of economic relations; rail, sea, air, postal, telegraph, radio or other means of communication, as well as severance of diplomatic relations (Article 41). Secondly, if measures not involving the use of military force prove insufficient, the Security Council is authorized to use air, sea or land forces to maintain or restore international peace and security. Such actions may include demonstration, blockade and other operations (Article 42). Thus, all these measures are coercive, and the powers, given the full discretion of the Security Council, are identical, regardless of whether they are caused by aggression, breach of peace or threat to peace and do not require a specific determination that aggression has been committed. Despite the UN's intentions to resolve the issue of defining an act of aggression and its qualification through Resolution 3314 (XXIX), it unfortunately leaves the final decision to the Security Council, which is virtually untouchable. The resolution also does not address the issue of personal criminal liability in international law.

So, the essence of aggression – according to Article 5 (2) of UN General Assembly Resolution 3314 (XXIX), the consensus definition of aggression, it can be understood that not every act of aggression is a crime against peace – only an aggressive war is a crime against peace.

The motive for the commission of aggression – Article 5 (1) of UN General Assembly Resolution 3314 (XXIX) emphasizes that in determining an act of aggression, it does not matter what the motivation of the aggressor state was, namely: no consideration of any kind, whether political, economic, military or otherwise, may be invoked as a justification for aggression. The intention (motive) to commit an act of aggression against another state usually follows from an action, i.e. a directly intentional act, and not vice versa.

The main characteristic element of aggression is the use of weapons [12].

Thus, while acknowledging the importance of states' unquestioning and unconditional compliance with the basic principles of international law

[11] Теліпко В. Е., Овчаренко А. С. Міжнародне публічне право : навчальний посібник / За ред. Теліпко В. Е. К. : Центр учбової літератури, 2010. С. 432-433.

[12] Філяніна Л.А. Визначення агресії у міжнародному праві. *Науковий вісник ДДУВС*. 2022. Спеціальний випуск № 2. С. 291-292.

(especially those related to peace and international security), it can be reiterated that aggression is a dangerous consequence of their disregard by the aggressor country.

2. The aggressions of the late 20th and early 21st centuries and measures to restore the basic principles of international law

The effectiveness of the response of the international community, represented by its key international organizations (primarily the UN) and world leaders (primarily the United States) to manifestations of military aggression may be uneven and not always in line with the principles and norms of international law, as can be seen by considering several typical examples.

The first one concerns the events of early August 1990, when Iraqi troops occupied Kuwait and subsequently declared it an Iraqi province. The crisis in the Persian Gulf, one of the most important economic and strategic regions in the world, became one of the most serious threats to international peace and security since World War II. This war is called the first war after the end of the Cold War. At the same time, the preconditions for the Kuwaiti crisis of 1990–1991 were formed during the Cold War, and it arose from old, not yet overcome trends in international life. The Kuwaiti crisis was a crisis of the existing system of international relations in the region, and at the same time a crisis of the entire system of international relations in the part of it that concerns the Persian Gulf.

The then Iraqi President Saddam Hussein planned to actively use the “oil factor” to achieve leadership in the Arab world. Having captured Kuwait, he was able to add to his own 10 % of the world's proven oil reserves another 10% of Kuwait, and to control another 25 % of the world's proven oil reserves belonging to Saudi Arabia.

On the eve of the capture of Kuwait, the Iraqi army was the fifth largest in the world, and it had experience in combat operations, which it had gained during the Iran-Iraq war in 1980-1988.

Among other regional conflicts, the Kuwaiti crisis was also distinguished by the number of countries involved, i.e., the degree of internationalization.

One of the most important reasons for the rapid military defeat of Iraq was that it was resisted by a coalition created in a short time.

Thirty-one countries sent their troops to the Persian Gulf. The total number of multinational forces was approximately 742 thousand military personnel, including 430 thousand US troops, about 100 thousand Turkish troops, and 118 thousand Saudi Arabian troops. Great Britain – 35 thousand, France – 10.5 thousand, Egypt – 19 thousand, Syria – 15 thousand, UAE – 40 thousand. Oman – 25.5 thousand, Morocco and Pakistan – 5 thousand troops each.

Turkey, a NATO member since 1951, decided to allow the opening of a second front against Iraq on its territory on January 21, 1991, and this is where the hostilities began, while Germany limited its participation in the conflict to financial assistance.

The USSR's persistent efforts to influence its traditional Iraqi partner to comply with the relevant UN Security Council resolutions were unsuccessful.

Since the beginning of the Iraqi aggression and before the fighting, the UN Security Council had adopted 12 resolutions on this issue. Already on August 2, 1990, Resolution 660 condemned the aggression and demanded that Iraq immediately withdraw from Kuwait, on August 6, Resolution 661 was approved on economic sanctions against Iraq, but the only response to this was Iraq's decision to annex Kuwait on August 8, 1990, and on August 28, to declare it its 19th province. The Security Council in its resolution No. 662 declared the annexation illegal and null and void.

On November 29, 1990, the UN Security Council adopted Resolution 678 by twelve votes to two against (Cuba, Yemen) and one abstention (China), which provided for the use of force if Iraq did not comply with previous resolutions by January 15, 1991.

On January 15, 1991, the UN ultimatum expired. The next day, the Allies began military operations against Iraq. At first, the war was mainly airborne. On February 24, a ground offensive began, and on February 28, 1991, Iraq unconditionally accepted all UN conditions [13].

The second example concerns the international community's reaction to the fact of the US military intervention in Iraq, which lasted from 2003 to 2011. The invasion by US and British troops began on 20 March 2003, as it was believed at the time, because of the presence of weapons of mass destruction in Iraq and Saddam Hussein's links to international terrorism (the Al Qaeda movement). The relevant coalition of 38 countries was led by the United States, and no UN mandate for the military operation was obtained. The war was opposed by Russia, Germany, France and China.

Shortly after the outbreak of the war, one of the most prominent German intellectuals, sociologist Jürgen Habermas, wrote in the Frankfurter Allgemeine Zeitung newspaper about one of the consequences of violating international law: “Let us not deceive ourselves: America's normative authority is in ruins.” The philosopher, in fact, predicted that by its actions against Iraq, the United States would “set a devastating example for future superpowers.”

To this day, a significant number of international experts have a negative attitude towards the US invasion of Iraq in 2003.

[13] Агресія Іраку проти Кувейту, наслідки. Київський національний університет. URL: http://www.kimo.univ.kiev.ua/MVZP/55.htm (дата звернення: 21.08.2024).

Thus, in an interview with DW, Harvard University political scientist Stephen Walt noted that ten years after the collapse of the USSR, the United States felt that it was at the peak of its power, and in the unipolar world that had developed, the White House did not see the need to be constrained by the provisions of the UN Charter..

And Kai Ambos, head of the Department of Criminal Law at the Georg-August-University of Göttingen, believes that the US actions against Iraq in 2003 have forced many states, from Brazil to South Africa to India, to distance themselves when it comes to condemning Russia's aggressive war against Ukraine or imposing sanctions on Moscow. They see obvious double standards in view of the war in Iraq, this expert is sure [14].

Given these words, and realizing that the American intervention in 2003 was a violation of the basic principles of international law and the relevant articles of the UN Charter. In my opinion, it is categorically impossible to compare the then Iraq, which occupied Kuwait in 1990 and was still subject to UN sanctions in 2003, with the current Ukraine, which has never occupied anyone or committed actions that would have led to the imposition of the above-mentioned sanctions. Therefore, the main reasons are not the so-called double standards, but the primitive misogyny of a large part of the world, which more than replaces both politics and morality.

The next, third example of a violation of the principles related to peace and international security and the reaction of the world community to it is related to the Russian war against Georgia in August 2008, during which the former, supporting Abkhazian and South Ossetian separatists, carried out aggression against the Georgian state, which resulted in the actual occupation of Abkhazia and South Ossetia by the Russian Federation and the recognition of their independence.

In this situation, the UN Security Council was helpless and did not know what to do next, as Russia is a permanent member of the Council and has a veto.

Fifteen years after the Russian-Georgian war, experts emphasize that the West has hardly learned any lessons from those events. According to Ukrainian political scientist Hryhoriy Perepelytsia, it was the weak reaction of the West during the Russian-Georgian war that caused the subsequent wars of the Russian Federation [15].

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[14] Маттіас фон Гайн. Війна в Іраку: брехня та порушення міжнародного права. Німецька хвиля (DW). 20 березня 2023. URL: https://www.dw.com/uk/vijna-v-iraku-brehna-ssa-ta-porusenna-miznarodnogo-prava/a-65048573 (дата звернення: 21.08.2024).

[15] Григорій Ерман. Війна Росії проти Грузії. Як реакція Заходу заохотила Путіна напасти на Україну. BBC Україна. 8 серпня 2023. URL: https://www.bbc.com/ukrainian/features-66422215 (дата звернення: 23.08.2024).

And as time has proved, the onset of these wars was not delayed, in the form of Russia's armed aggression against Ukraine, which should be considered in two formats.

The first (hybrid format), which lasted almost 8 years from February 20, 2014 to February 24, 2022 and was characterized by occupation of Crimea and holding of an illegal "referendum" on March 16, 2014 (not recognized by the UN General Assembly) with the subsequent annexation of the peninsula to the Russian Federation; organization of relevant ideological actions and street protests within the framework of the so-called "Russian Spring"; sabotage and terrorist activities of the aggressor country and seizure of administrative buildings and power in some regional centers and parts of Donetsk and Luhansk regions; the Ukrainian government's declaration of the ATO (anti-terrorist operation) and the military confrontation between Ukrainian armed forces and pro-Russian quasi-military units of the DPR, LPR and Russian army units that hardly hide their affiliation; the signing of the so-called "second Minsk agreement" on February 12, 2015, with the mediation of Germany and France, which was very controversial in its content; the conduct of a positional war, which was combined with confrontation in the diplomatic sphere, in the field of special services and periodic front-line fighting.

With regard to the events in eastern Ukraine, the UN Security Council convened its meetings at least four times in 2014, but no decisions were made for the well-known reason of Russia's veto. On March 27, 2014, the UN General Assembly adopted the resolution "Territorial integrity of Ukraine", which became the starting point for other international legal documents on this issue, but, as is known, the decisions of this UN body are not legally binding.

The second (the format of large-scale aggression) began at 4 a.m. on February 24, 2022, when the Russian armed forces crossed the Belarusian-Ukrainian and Russian-Ukrainian borders, which are more than 1,500 kilometers long, and launched a massive missile strike on military and civilian infrastructure facilities in Ukraine.

In March-April 2022, the UN General Assembly adopted three resolutions condemning Russia's aggression in Ukraine and demanding the complete withdrawal of its troops from Ukrainian sovereign territory. The UN body also suspended Russia's membership in the UN Human Rights Council due to the full-scale war in Ukraine.

However, despite the relevant appeals of the Verkhovna Rada of Ukraine, the UN structures (the Security Council or the International Court of Justice) have not yet been able to recognize Russia as an aggressor country under the current norms of international law.

Given the nature, degree of public danger, as well as the relevant criminal content of the actions of certain military units of this country, the European Union Parliament adopted a resolution on November 23, 2022, recognizing Russia as a state sponsor of terrorism. However, the EU lacks the necessary legal framework to regulate the adoption of sanctions against such countries.

As noted earlier, Article 2(4) of the UN Charter obliges states to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state. This Article and the provisions of UN General Assembly Resolution 3314 on the definition of aggression are enshrined in Article 8 bis of the Rome Statute of the International Criminal Court (hereinafter – the Rome Statute).

According to this article, the crime of aggression means the planning, preparation, initiation or commission by a person in a position to exercise effective control over or direct the political or military action of a State of an act of aggression which, by its nature, gravity and extent, constitutes a gross violation of the UN Charter.

A review of the chronology of the full-scale invasion allows us to emphasize that since its beginning, the Russian Federation has committed every act of aggression provided for in the Rome Statute, in particular: an invasion or attack by the armed forces of a State on the territory of another State or any military occupation, whether or not temporary, resulting from such an invasion or attack, or any annexation by force of arms of the territory of another State or part thereof; bombing by the armed forces of a State of the territory of another State or the use of any weapon by a State against the territory of another State; blockade of the ports or coasts of a State by the armed forces of another State; attack by the armed forces of a State on the land, sea or air forces or navies of another State; use of the armed forces of one State stationed on the territory of another State under an agreement with the host State in violation of the terms stipulated in the agreement, or any continuation of their stay on such territory after the termination of the agreement; action by a State that allows its territory, which it has made available to another State, to be used by that other State; sending by or on behalf of a state armed bands, groups and irregular forces or mercenaries who commit acts of armed force against another state that are of such a serious nature that they amount to the above acts or its substantial participation in them.

Also, we should not forget about the extremely dangerous nature of the Russian aggression, which is defined not only as aggressive and colonial, but also as genocidal, as evidenced by the forced removal and deportation of more than 20,000 Ukrainian children to Russian territory. It has illegally annexed part of the territory of Ukraine and is forcibly imposing a Russian identity on

those living under its occupation, pursuing a systematic policy of suppression and destruction of the Ukrainian language and culture [16].

As we can see, the inability of the world community and international security structures to ensure not only the declaration but also the effective implementation of the basic principles and key norms of international law derived from them, in the context of the ongoing third year of the war of attrition, may eventually lead not only to the disappearance of the state called Ukraine from the world map, but also to the destruction of the Ukrainian nation.

After such disappointing prospects, the indifference and false rationality and caution (and frankly, cowardice) of those who are actually contributing to the onset of such a tragedy will surely return to them as an unexpected but deadly boomerang in the form of a new hot world war.

In order to restore the real and effective functioning of the basic principles of international law (especially those that ensure peace and international security) it is necessary to:

1. The overwhelming majority of the 193 UN member states must realize the reality of the danger of non-compliance with these top priorities and the urgency of the need to restore their full effect as soon as possible and without exception;

1.1 Before doing so, it is necessary to familiarize ourselves with the course of more or less noticeable and significant aggressions that have taken place in the world since the end of the so-called Cold War (i.e., since the 1990s). First of all, this concerns the Arab-Palestinian-Israeli confrontation, which began in the second half of the last century and periodically erupts in the form of permanent wars, in recent years with the active participation of Iran through its proxies Hamas and Hezbollah.

Also, this includes Serbia's aggression against the former republics of Yugoslavia (primarily Bosnia and Herzegovina and Croatia) in the 1990s, the war in Kosovo in 1998-1999, and the NATO operation in Yugoslavia in 1999, which resulted in the formation of the new state of the Republic of Kosovo, which was recognized by more than 100 countries (Ukraine – not). In addition, this list should be supplemented by numerous conflicts and wars in the post-Soviet space that took place after the collapse of the USSR, which were instigated by the Russian Federation, the most famous of which are: two Russian-Chechen wars; the Transnistrian war; two Karabakh wars; two wars

[16] Геноцидна війна Росії в Україні: вплив на майбутні покоління. Дискусія у Лондоні. Опора. 14 лютого 2024. URL: https://www.oporaua.org/viyna/genocidna-viyna-rosiyi-v-ukrayini-vpliv-na-maybutni-pokolinnya-diskusiya-u-londoni-25104 (дата звернення: 23.08.2024).

in Abkhazia; the Russian-Georgian war; and the ongoing Russian-Ukrainian war since 2014;

1.2 Identify the key determinants of the emergence and spread of the above wars. These include the vulnerability and imperfection of the unipolar world model led by the United States, which actually took this country out of the state of competition, significantly lulled its vigilance, reduced the awareness and significance of its basic value principles, and in the 10s and 20s of this century expanded internal trends towards self-isolation, This inevitably nullified the responsibility for the untimely and ineffective response of this "superpower" to cases of gross violations of world order, during the performance of the US functions of "world policeman", which it almost flawlessly carried out in the 90s of the last century (first of all, the examples of Iraq in 1991 and the defense of independence by the former republics of Yugoslavia in the period 1991–2001). In addition, in the absence of confrontation between the United States and the defunct USSR, the European Union (primarily its leader Germany), relying on US dominance (economic, political and, most importantly, military), after the collapse of the Soviet Union, significantly reduced attention to its security component, and reduced the number of military equipment and army. They became more interested in trade with their "Russian partners," which was becoming more and more distant from reality, and was gradually replaced by primitive gendering and corruption of the political and business elite. Also, we should not forget about the gradual growth of revanchist and neo-imperialist first lamentations and then aggressive actions on the part of the Russian Federation, which were not long delayed after the famous Munich speech of the country's leader in 2007;

1.3 The unwillingness to objectively perceive world realities with their negative trends and existing threats and aggressions, which were primarily the result of ignoring the relevant principles and other norms of international law, was followed by the formal world leader and the most developed EU state taking steps to maintain a decorative partnership at the expense of democratic values and interests of smaller and weaker post-Soviet countries. First of all, this was done through the reset of relations between the US and Russia in 2009 and the construction of the Nord Stream1 in the early 10s and the Nord Stream2 in the early 20s of this century. Such reckless steps by the United States and its European partners created new illusions of improved relations with Russia, despite its aggression against Georgia in 2008 and Ukraine in 2014. In reality, they led to a significant energy dependence of most EU countries on Russia, significantly weakened the political and economic positions of the Ukrainian state, and actually stimulated the latter's aggressive appetites;

2. To identify the main reasons, features and likely consequences of Russia's large-scale aggression against Ukraine in 2022, which should be considered a kind of rubicon for the possibility of realizing the final chance to restore the basic principles of international law to ensure peace and international security, and by and large – to prevent a new world war;

2.1 The reasons for the new stage of Russia's war against Ukraine are not only the desire of the aggressor country to restore its dominance over a key component of the post-Soviet space. They are much more complicated and complex. In addition to the already mentioned aspect, there is another one that concerns a more cunning and insidious player – China. It wants to take advantage of the weakening influence of the only functioning superpower, the United States, over most important global processes to displace and take its place in order to further dominate the world. In the short term, this will contribute to the restoration of the confrontational format of the Cold War of the 50s and 80s of the last century. In this model, Russia will not play the role of a world leader, only a regional one, and then only as a Chinese satellite. Therefore, in the ongoing war against Ukraine, the Russian Federation is not only guaranteed to exsanguinate the victim, but also itself, trying to regain leadership in Eastern Europe (which is unlikely to happen), the aggressor destroys itself both politically and economically;

2.2 The above reasons for Russia's large-scale aggression can also be called its strategic features, which only confirms the high stakes of the behind-the-scenes potential beneficiaries of this shameful war. In addition to this feature, there are several other characteristic features that distinguish the ongoing Russian-Ukrainian war from others. These are: the largest and bloodiest war on the European continent since World War II; the colonial, genocidal, ecocidal and existential nature of this war; the victim country has virtually no allies, only partners who draw red lines for themselves and the victim and issue prohibitions-restrictions on Ukraine's use of their weapons, when no such restrictions existed and do not exist for the aggressor (for example, for the use of Iranian drones or North Korean ballistic missiles); the known possible consequences of a victory of the Russian Federation or Ukraine, but there is almost an undisguised desire to prevent them (let them bleed each other out more, but not win); the willingness of partners to sacrifice Ukraine and its people (especially at the beginning of the aggression) or give away part of its territory (now that the West is “very tired of this war”), i.e. to appease the aggressor at the expense of the victim; the surrender by the Ukrainian state in 1994 under incredible pressure (primarily from the Russian Federation and the United States) of the world's third largest nuclear weapons arsenal, under a memorandum that, as it turned out later, did not oblige anyone to anything, but in the event of Ukraine's defeat, the result of such a “deceptive

agreement" would be the unalterable opening of a new Pandora's box, which would necessarily lead humanity to a nuclear apocalypse; repeated use by the leadership of the aggressor country of nuclear threats and blackmail against its victim and its partner countries; the issuance on March 17, 2023, by the International Criminal Court of an arrest warrant for the current leader of the Russian Federation and his commissioner for children's affairs, who are suspected of committing a war crime – the illegal deportation and transfer of children from the occupied areas of Ukraine to the Russian Federation. And other features, the content and nature of which are clearly at odds with the repeatedly declared high humanitarian values of human coexistence in the 21st century;

2.3 The only correct and just outcome of this shameful, unjust war will be the defeat of the aggressor, which will mean achieving victory over it not only by military means, but also by financial and economic (primarily through various restrictions and sanctions) and political and diplomatic means. The defeat of the aggressor country will fully comply with all the basic principles and other norms of international law in the field of peace and international security. This victory will be not only a victory for Ukraine, but also a victory for all countries of the free and democratic world, and will guarantee the creation of reliable military and political obstacles to the possible emergence and spread of other aggressions dangerous to the world in the future, which should be regarded as an unacceptable and unacceptable negative precedent for the peoples of the world, and which should be countered in a timely and effective manner. The defeat of the aggressor country should mean that it will have to hold an appropriate court (tribunal) to consider the crime of aggression, war crimes and crimes against humanity. As a result of the relevant trials, the perpetrators should be fairly punished, and the aggressor country should be obliged to pay compensation for the damage caused (reparations and restitution), as well as to demilitarize and denuclearize. Variants of the so-called "peace plans", which are drawn up not on the basis of the principles and norms of international law, but with the help of the equilibristic fantasies of open or hidden sympathizers of the Russian Federation and whose content reveals an attempt to grant preferences to the aggressor country, cannot be considered. In addition, the defeat of the aggressor country in this shameful war will significantly slow down the further formation and strengthening of the countries of the modern "axis of evil" and spread their negative influence to the countries of the so-called "global south";

3. To develop an effective algorithm of actions to create efficient political and legal mechanisms to ensure full and timely implementation of the basic

principles and other norms of international law in the field of peace and international security;

3.1 To do this, the leadership of world powers must realize the danger of spreading international legal nihilism and the need to master the processes of reformatting the existing model of the unipolar world, which are increasingly becoming a confrontational format between democratic countries and the new world axis of authoritarian and totalitarian states. To develop and justify key criteria for countries (union of countries) claiming world leadership. These include high economic development, a value and ideological basis (based on basic human values and principles of international law) that is acceptable and permissible for the vast majority of states, generally recognized political weight and authority, and sufficient defense potential. The new model of the world order should in no way remain single-structured (multi-structured – yes), because monopoly is always the absence of healthy competition, gradual degradation and decline;

3.2 Using the international experience of resolving past aggressions and world wars, develop effective and efficient international legal mechanisms to prevent and stop aggressions at the local, regional and global levels. Given the high price that humanity pays for the consequences of aggression, introduce a mandatory principle (rule) of "non-benefit of aggression", the essence of which is the absence of any benefit from a gross violation of peaceful coexistence of states, since the price for the potential aggressor (aggressors) will be many times higher than the amount of benefit not received;

3.3 Formation of a fundamentally new paradigm of global security and law and order without preferences for any countries, even those recognized as world leaders. On the contrary, the more opportunities a state has, the more duties and responsibilities it has. Also, one of the main rules of functioning of this new model should be unconditional adherence to the basic principles of international law, which will exclude any aggression.

In addition, for a timely and effective response to the facts of aggression, it is necessary to accelerate the preparation of new international legal procedures for recognising the state that committed the act of aggression as the aggressor country. To do this, it is necessary to significantly simplify the relevant procedural algorithms of the International Court of Justice or its institutional successor.

CONCLUSIONS

Modern human history shows that underestimation of the importance, neglect and disregard of the basic principles of international law and the need for their effective implementation sooner or later leads to dangerous aggressions, one of which is likely to lead to a new world war.

Over the past 35 years, there has been only one example in international practice of a successful response by the international community to an act of armed aggression, the Gulf War, which lasted from early August 1990 to late February 1991 between Iraq and a coalition of nearly 30 countries led by the United States. After Iraq's occupation of Kuwait, the international coalition, on the basis of a UN decision, defeated Iraq militarily and restored Kuwait's sovereignty and territorial integrity.

Subsequent military aggressions, especially by the Russian Federation, did not and still do not have an adequate response from the world community and from such structures as the UN Security Council and the International Court of Justice.

In order to restore the proper functioning of the basic principles of international law, primarily those relating to peace and international security, it is proposed to take organisational and legal actions aimed at: creating among the majority of UN member states an understanding of the danger of ignoring these principles; to clarify the main determinants of the previous and ongoing large-scale aggression of the Russian Federation against Ukraine and the role of countries that are or claim to be leaders in the modern world in this war; to develop and implement a new model of international legal order, the functioning of which would guarantee the full and timely implementation of the basic principles and other norms of international law in the field of peace and international security, which would make it impossible to violate them with impunity and would make any aggression futile.

SUMMARY

The article is devoted to a topical issue – the emergence and spread of aggression caused by ignoring the basic principles of international law. In particular, the author notes that among the basic principles of international law, a special place is occupied by the principles relating to peace and international security, namely, non-use of force or threat thereof, peaceful settlement of disputes, inviolability of borders and territorial integrity of states. The most serious form of violation of the above principles is an aggressive war, which is considered a crime against peace. The effectiveness of the response of the international community, represented by its key international organisations (primarily the UN) and world leaders (primarily the United States) to acts of military aggression may vary and may not always be in line with the principles and norms of international law. An example that confirms this thesis is the Russian Federation's aggressive war against Ukraine, which has been going on since 2014. The author proposes a number of organisational and legal measures aimed at restoring the basic principles of international law in the field of security and world order. It is stated that

underestimation of the importance of the basic principles of international law and the need for their effective operation sooner or later leads to military aggressions, one of which may eventually lead to a new world war.

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