Moral And Leagl Implications Of Human Rights With Respect To Ukraine-Russia Conflict

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ABSTRACT:

The upcoming world is brimming with the Russian-Ukrainian conflict with this the major issue of human rights getting violated is also immerging, owing to which people are running to prevent their harassment from the authorities. The paper gives a purview from the bird's eye of the history of how the split of Soviet Union happen, how the border conflict originated, how the rights accorded by United Nations are being infringed due to ongoing crisis, concern for asylum. The paper also pours light on basic war principles and the accountability of the aggressor state. A brief discussion about the War crimes witnessed by history and accountability of aggressor with respect to protection of civilians and civilian objects, protection of media, hospitals and also about the various conventions and protocols that works as ombudsman with respect to the data updating and collection. And how besides an example of World War II still there is a lack of an effective organization to manage such situations and the need for stricter control to maintain the status quo are discussed in a short a crisp manner.

Keywords: Ukraine-Russia conflict, War-Crime, human rights violation, concern for asylum, Aggressor.

INTRODUCTION:

Former eight years sought hostilities between Russia and Ukraine. Russia took advantage of political backlog and situated its military control on southern region of Crimean peninsula sometimes referred to as Donbas, 2014. And the conflict in the Donbas area never sought to cease. Presently a full-scaled war was launched on subdued by aggressor. This article portrays the historic basis of the conflict and current situations prevailing, and responsibilities of the countries showing humanity on the pan world level and backing one another on the basis of the principles

laid by United Nations with respect to the behavior of countries towards each other during war crisis. It also discuss war crimes in a brief manner, principles of war, accountability of aggressor, concern for and of asylum seekers and how human rights are being infringed and gets infringed due to the conflict and situations like so.

RUSSIA AND UKRAINE WAR CONFLICT:-

A full scale war has been launched by aggressive state on the passive state.

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A Brief History:-

Massive buildup of forces along the Ukrainian border, by Russian forces was compared by Deputy Foreign Minister for Russia to 1962 Cuban missile crisis, between Soviet Union and United States (SU and US) on nuclear missiles. Ukraine had been surrounded by NATO nations in the northern region and Russia in the South. Russian authorities asked North Atlantic Treaty Organization (NATO) to not to expand further in the eastern region giving them an ultimatum. And Ukraine emerged as a buffer zone, but in 2014, it was believed Russia illegally occupied Crimean Peninsula, creating tensions, which it never admitted.

Pereyalslav Agreement of 1654:- Ukrainian Cossacks, protected Poland's southern steppe frontier against Turks and Tartars. The Hetman or the military leader, Bohdan Khmelnytsky headed a Cossack rebellion in 1648 making it major social and religious battle against Polish control, ending establishment of the Hetmante. Khmelnytsky under Treaty of Pereyalslav seek help of tsars for support over Poland. Later Russian actions resulted in Cossack lands incorporation, especially after failed effort of Hetman Mazepa to separate from Moscow in 1709.

Ems Act of 1876:- Hetmanate dissolved by Russian empress in 1764, eliminated remaining Ukrainian Independence. Cossack supporters by the Russian army were demolished, but were agreed to be given status equivalent to Russian aristocrats on having completed the necessary documentation, whereas Ukrainian peasants were robbed of their rights. Poland retained huge Ukrainian regions after 1654 during its divisions, which was acquired by Russian Empress in 18th century arising a feeling of discontent. This lead to the Ems Act, prohibiting publication of educational books in the Ukrainian language by the Russian authorities, causing displeasure among people.

Ukrainian Independence (1918):- Russian monarchy fell in 1917 as a consequence of war and political disharmony, provisional government was set by Ukraine under Russian umbrella. Bolsheviks invaded Ukraine to merge

into Soviet state, which was proclaimed by United Nations to have a complete drive of Independence in 1918. In March 1918, under the terms of treaty at Brest-Litovsk, Russian troops were forced to leave it with the help of Austria-Germany. Central powers were defeated in November forcing Germany and Austria to also withdraw. After the end of Russian civil war, Ukrainian sovereignty was rejected, forcing Bolsheviks to establish a Soviet Ukrainian Republic. In 1922 Soviet Ukrainian Republic became one of the constituents in the creation of Soviet Union along with its other founding members.

An enlarged Soviet Socialist Union Republic: 1945:-

Hitler and Stalin agreed among themselves to divide East-Central Europe among themselves. After which Joseph Stalin invaded Poland, absorbing it into the Ukrainian SSR. After fighting with the Bolsheviks in 1919, the Ukrainian regions of Poland were maintained by Ukrainian SSR, resulting in a deadlock, putting a stop to Lenin's Red cavalry goal of delivering revolution across Europe. It was agreed by Churchill and Roosevelt to let Stalin maintain these regions at Yalta Conference 1945. Under the leadership of Nikita Khrushchev (1894– an enlarged Ukrainian 1971), SSR incorporated practically all territories similar cultural Ukrainian majority. Khrushchev thus fulfilled a long-held goal of Ukrainian patriots: creating a united Ukraine.

Transfer of Crimean Peninsula: 1954:Connected to Ukraine with land, Crimea in 1921
autonomously became republic in Russia, owing
to region's strategic importance. 1920s, Crimean
Tatars culture was cultivated by the Soviets,
who lived in the peninsular region. The Russian
Empire acquired the Crimean Khanate in 1783.
Red Army reclaimed Crimea, Stalin ordered a
mass expulsion of Tatars widely denouncing as
genocide. Peninsular economy and cities got into
ruins after the war in order to commemorate the
300th anniversary of Pereyalslav. Khrushchev
organized the Crimean transfer to Ukrainian
SSR. It was further intended by him to appease
the Ukrainian bureaucrats.

Soviet Union Collapse: 1991:- Mikhail Gorbachev's idea to loosen up the harness on Eastern European countries encouraged a strength of democracy and independence. Boris Yeltsin's administration, advocated independent Russia making him natural ally to Ukraine's President Kravchuk, both repudiating the Soviet legacy. 1991 December sought Ukrainian referendum for effectively ending the Union, of Belarus, Russia and Ukraine. Russian politicians attempted on appealing to internal nationalists yearning for the Soviet empire, denouncing Ukrainian cultural programs and calling the Crimean transfer into doubt. In 1997, a comprehensive treaty signed between Russia and Ukraine, affirming the integrity of Ukraine's border with Russia and other Western nuclear powers, as guaranteed in the Budapest Memorandum of 1994, after Ukraine committed to hand over its Soviet-made nuclear weapons.

Donbas war and Crimea Annexation 2014:-Pro-Russian President Viktor Yanukovych was dethroned as a result of revolt, resulting into the installing of a pro-Western in authority –snap elections for parliament were declared- the chaotic situation acted like a trump card for military control over Crimea, by the Russian. Local Russian majorities projected peninsular regions to be absorbed into Russia. But the fake referendum on merging Russia generated unlikely outcomes; as they strongly criticized the annexation except for few such as Venezuela, Syria and North Korea. Russia authorities aggravated hatred, as a result of which Donbas region became pro-Russia and felt into the bait due to lingual similarity. Volunteers and army units to extend support to pro-Russian separatists were sent by Russian presidents. War's active phase lasted till 2015 unto the fall, with latest escalations clearly witnessed in 2017 and 2020.

An Ultimatum to the West and Russian troops build up as of Latest in 2020:- Donbas tensions never sought a common ground in reality. Minsk Protocol 2015 signed during the 'Normandy Format' chartered a path to the peaceful resolution left blocked due to unacceptability of Ukraine. NATO's Eastern expansion alarmed Russia and it also had reinstated its army and

built- up its troops on the border aggravated the tensions.

Military Conflict regulations between Russia and Ukraine with context to international law:-

Russia and Ukraine military forces are, action regulated under international humanitarian treaty law of Geneva Conventions that took place in the year 1949, with its Ist Protocol undertook in 1977. International humanitarian law and Hague Convention 1907also regulate and administer the fashion of warfare (Caddick-Adams, 2022).

HUMAN RIGHTS ACCORDED BY UN AND THEIR INFRINGEMENT DURING ONGOING CONFLICT:

The basic rights that define specific standards of human comportment are known as human rights. With respect to the United Nations, 30 basic human rights are acknowledged worldwide, in Palais de Chaillot in Paris, France. 48 votes in lenience, none against, eight abstentions, and two notas among the UN's 58 members. This comprised of 30 articles tending to affirm a person's rights. Some of which are:

Torture, inhuman or cruel treatment, or degrading treatment or punishment are prohibited. Article 5 of UDHR stated: a ban on torture and inhuman or cruel treatment on regional as well as international level contained under article 7 of UDHR ratified by approximately 153 countries for International Covenant on civil and political rights and the Convention against Torture or other cruel inhuman or Degrading Treatment or Punishment, ratified by about 136 countries, codifying Protection of Human Rights and Fundamental Freedoms Of the European Convention, and also to the African Charter on the Human and People's Rights, and the American Convention on Human Rights. Which could be seen to be revoked in Ukrainian/Russian conflict as a matter of fact the behavior of soldiers have been ruthless with the people as they are loitering there raping women, and killing the non-combat population.

The right to be recognized as a person, in the eyes of law everywhere. Every person has right of recognition as a person before law and every person enjoying the person's human rights without discrimination of any sort under section 15 of the 2019 Act on Human Rights. This guarantees equal protection of law entirely based on the ICCPR of 1860.

None shall be arbitrarily arrested, detained, or exiled. Protection from the arbitrary arrest and exile are enshrined under the list of human rights provided by United Nations, but as we know situation of armed conflict is itself an arbitrary cause so one can see its prohibition on large scale especially on Ukrainian territory as a result of Russian invasion.

Right to privacy, which means that he cannot be compelled to active intervention with his private life, family, home, or communications, as well as attacks on his honor and reputation, which seems to take a back-footing as war or armed conflicts tends to deprive a person of his basic enjoyments of his private life and one never knows when one has to leave the home or face separation from the family or might not be able to communicate with ones loved ones. Mobility and residency freedom, but only within each state's borders. All the people should have right to leave and retire to any country even their homeland.

Right to asylum: Everyone has the right to seek for asylum from persecution or fear of getting persecuted in another country. Asylums are important for the people who fled from their motherland in search of food shelter and clothing which are the fundamental rights of human existence, as occurred on the events such as that of holocausts. Asylum its implications and ongoing crisis with respect to it are further discussed in the paper.

The right to change one's nationality, which no one may be deprived of unfairly, but with war crisis this sometimes becomes a compulsion and not a choice.

The right to own items and property in one's own possession or jointly with others, which could not be infringed by any method whatsoever unilaterally.

Right to Arrange or Convene: Everyone has the right to peacefully assemble and form associations or peaceful gatherings, and they

shall not be forced to join any organization unless they will to do so. But armed conflict creates such a chaotic situation that these rights goes to an awry, for there is a fear of brainwashing of people and thereby compelling them to be a part of certain groups or organizations that may create disharmony or may be deprived of their freedom to gather or form associations of their own, making everything arbitrary.

Right or Entitlement to social security; as a member of society, everyone has the right to be secure and the achievement of economic rights, social rights, and cultural rights and political rights being necessary for his or her integrity. And for the free development of his individuality, via collective national movement and worldwide collaboration, and in line with each State's organization and resources. This right has been the reason leading to the situation in which the fists of Ukrainians had flown and resulting into the devastating condition due to the Russian attack.

Education: Right to receive an education. At least in primary stages, education must be free. Academic and scientific education must be made available to the general public and on the basis of merit, higher education shall be made accessible to all. But wars and conflicts sees no one and none's right to education too. One cannot unnoticed that even if the conflict stops now but what about the harm it had already done to the people and to the students and their education for that matter. The time that had gone into awry, the bombshells dropped on the schools and that on the libraries and the mental and emotional trauma that students and especially the little kids will go through. Furthermore the purpose of education was to teach to segregate from good and bad and peaceful co-existence which seems to be a utopic concept in practicality, while looking onto the prevailing conditions with a bird eye view or even by that of an ant.

Human rights cannot be revoked. This Declaration does not let any State to interpret it as to allow, any organization, or individual the power to engage in any action or act aimed at weakening of the rights or liberties contained herein (Ontaria Public Service Employees Union, 2018).

Instances of human rights being revoked in Ukraine:

These were some of the rights as portrayed by the General Assembly which must be maintained and preserved but wars and armed conflicts seeks to infringe it leading to torturous conditions of people and humiliation depriving them of their fundamental rights. Rapes, servitude, human trafficking, deprivation of children from knowledge and education, not having the freedom to gather or join groups of choice all leads to mental and emotional trauma. Though parties to conflict must maintain the dignified standards and treat civilians with a due manner but such chaotic conditions during armed conflict are beyond words to describe. The trauma of leaving home with a fear of not being able to come back or not being able to enjoy the way it had been becomes painful for people to digest. Numerous instances of armed forces violating the laws of war against civilians were collected and documented by Human Rights watch in occupied districts Ukraine. Hugh Williamson, Human Rights watch director that serves as ombudsman with respect to data collection of aggrieved with respect to war crimes said, horrific examples of premeditated cruelty and violence against Ukrainian citizens and shall be condemned and categorized in the category of War Crime.

Ukrainian cities witnessed the execution of civilians, people being killed when a smoke grenade was thrown into a basement had been registered. A lady spoke about being repeatedly raped by a armed personnel in a schoolhouse. But one must also keep in note about the human rights of soldiers with respect to their mental and physical health in conflict-full situations, who ought to become barbarous. Civilians being treated like animals ready to get slaughtered have been reported, some suggested that their body parts were cut into pieces. Examined by the human rights watch after looking at the before and after pictures of the victims, the conditions described as horrendous. Geneva Convention of 1949 bounds all the soldiers to abide by the norms giving regards to the customary law. Killing people willfully, raping women, performing various forms of sexual assault, or torturing people, and treating captured soldiers and civilians in prison brutally are all prohibited under international law.

Plundering and pillaging are also prohibited; anyone knowingly committing war crimes, or who aids and abets them, such activities are also prohibited. Commanders of soldiers who knew or had cause to know about such heinous activities but did nothing to stop them will also be held responsible and will be are legally accountable for war crimes (Human Right Watch., 2022).

Concern for Asylum:

1951 Convention and 1967 Protocol on Refugees forms the key legal document serving as the footing for international community to safeguard the interest of the Ukrainian Refugees. The bordering European Union Countries have allowed Ukrainian Refugees to Stay, Work and Study in any EU member country for a time period of approximately one year, under Temporary Protection Directive. In experiments conducted by the Immigration Policy Lab of Stanford University it was inferred that longer a person were to wait for the resolution of his or her case less likely were they to acquire permanent employment, even after getting approval, Loss of desire being one of the main reasons behind it. Ergo, speedy system to work for such crisis is very crucial also more of accommodations need to be facilitated. Owing to post pandemic economic recovery phase it will be a Herculean task (EXPRESS, 2022).

But it is fortunate of Ukrainian migrants won't be affected by structural flaws with Syrians and North Africans in the phase of 2014-15 with migration policy of Europe. 2014, the refugees of North Africa and Syria streamed into Greece, which at that time was not ready to be a host leading to frantic re-migration across Europe, with refugees facing continual dread of being returned.

Ukraine's western neighboring countries are extending warm hand of friendship and are working feverishly to sign up and undertake responsibility for this unparalleled influx in the initial stages, expecting another slot of about five million refugees from Ukraine. This could be

expected to pile up within a year after the Russian intervention, approximately five times the influx from Syria and North Africa. Even if we tend to ignore the fact that many Ukrainians are terrified, the country's asylum seekers or refugees will hopefully find a little better attitude of Europe of warm welcome in comparison to those who sought equivalent protection ten years ago down the line.

When it comes to responding to asylum requests, the EU is battling to preserve cohesiveness among member states. The Dublin Convention having divided opinion, making it particularly challenging for Italy and Greece to accept migrants arriving by sea.

Many European leaders believe they are being pressurized to reduce asylum applicants in their own countries. The European Commission has been exploring revisions to ensure responsibility sharing and the repeal of the Dublin Convention. Misconceptions hampered EU public policy and talks over Dublin Convention amendments. Leaders in the EU who are worried about migration have mostly focused on admissions from Africa, adopting strategies Researchers at dissuading these migrants. immigration policy lab evaluated survey data collected at transportation hubs in Western and Central African region and concluded that just a small fraction of migrants there wished to get to Europe. The Ukraine crisis may function as a wake-up call that immigration policies should be based on more rigorous data collection (witte, 2022).

BASIC WAR PRINCIPLES AND AGRESSOR'S ACCOUNTABILITY:

International and humanitarian laws seeks to protect non-combat population in lieu of which parties to conflict or clash must differentiate and shall not target civilians or unarmed.

Illegal act of Aggressor's invasion:

All Members should refrain from threatening or using coercion against the territorial sovereignty or political sovereignty of any State in their international dealings as in Article 2.4 of the UN Charter. Self-defense is an exception to the rules authorized by Security Council of United

Nations, but none such rules are applied in the case of the attack on Ukraine. Thereby making Russia accountable for its conduct illegal beneath the international law (United Nation Charter (Full Text), n.d.).

Obligation of Aggressor and wrongs done to humanity:

The International Law Commission's Articles on State Responsibility for Internationally Wrongful Acts, adopted in 2001, provide guidance in this area. According to Article 1 says that any globally wrongful act of a State carries that is State's international responsibility. The responsible State is required to stop the unlawful act ongoing on and providing assurance non repeater of unlawful acts, further making restitution for the damages occurred during such act (United Nation Charter (full text), n.d.).7 Prevention and Punishment of Crimes against Humanity in 2019 talks about genocide and torture codified in treaties and attained the status of customary international law, prohibition of which is already binding on all nations. Individuals can be held accountable for more types of crimes against humanity at the international level such as 1998 Rome Statute (United Nations Official Of Legal Affairs, 2010). Neither Russia nor Ukraine is parties to the Rome Statute, still it has started with its investigation on the crimes committed against humanity.

International Humanitarian Law:

1949 Geneva Conventions (I-IV) gives regulations in order to protect civilians, injured and shipwrecked fighters, binding all the parties to international military conflict as they were unanimously approved. Russia and Ukraine are also included under this convention. As Russia and Ukraine both are its members making hence its terms applied to the prevailing conflict. 1899 and 1907 Hague Convention regarding the customs and laws on warfare of the land governs its methodology, they got codified into treaties, and others evolved into Customary International Laws becoming 'opinio juris sive necessitatis' or necessary legal opinion.

Civilians as attack targets:

Targeting civilians is completely illegal, parties to an armed confrontation must exercise caution seeking targets; exception being a civilian becoming militant or appears to be aggressive. In case of unclarity with respect to the status of a person, he shall be treated as a civilian. To protect civilians, steps must be taken during an attack. Article 58(b) ensures that parties involved in the conflict does not aims at a densely populated area or its vicinity as military targets directing strikes or so under the statute laid down by International Criminal Court. As such actions amounts to war crime.

Media men as an object of attack:

As journalists and media workers are considered to be the civilians, they can't be clearly aimed during armed situations. Rule 34 of ICRC says that any civilian journalist who had been engrossed in missions of professional capacity must be respected and safeguarded, this being

Attack on medics and educational institutions in an armed conflict:

Hospitals and schools cannot be attacked in an armed conflict as they are civilian targets. Attacks on military and civilian hospitals and medical establishments are both forbidden. Attacks on armed forces medical personnel are likewise illegal because they are not considered combatants under IHL. Whereas United Nations Security Council in 2005 condemned six grave crimes against children during wartime, including the bombing of schools or medical facilities (United Nation Human Rights, 1977).

Cultural heritage as object of armed conflicts:

Customary International law provides special protection to the objects of cultural, historical 1954 Hague Convention on importance. Protection of Cultural Property in the Event of Armed Conflict says that parties to the convention needs to respect cultural property existing on their respective territories not subjecting them to destruction (Hague convention, Article 4.) Russia and Ukraine are both its signatories hence should try to maintain the status quo of the convention, thereby trying not to damage the cultural property at individual as well as international level.

WAR CRIMES WITNESSED BY HISTORY:

Slobodan Milosevic the key reason for the Bosnian wars who served as President of Federal Republic of Yugoslavia and also of Serbia was convicted of the crimes against humanity; these were the war crimes, genocides (counting of which extends to sixty six) in 1991 and 1999 of Bosnia, Kosovo, Croatia and Herzegovina, as per indictment, judicially affirmed in 2001. Numerous people became victims of these crimes across the former Yugoslavia. One cannot also forget about the most terrifying war criminal in the human history Adolf Hitler who was guilty of holocausts and World War II and of Herero and Namaqua genocides, due to which millions of Jews and Romani ruthlessly mercilessly slaughtered. As a result of German maltreatment, mistreatment, and intentional starvation practices during those two conflicts millions of civilians and the Prisoners of war lost their lives. Many pieces of evidence were purposefully obliterated by the culprits, such as in Sonderaktion 1005, in order to conceal the crimes. Resulting into addition of Hitler in the first ever list of UN War Crimes Commission's, but only after prolonged debate and formal allegations made by Czechoslovakia December 1944 and him being under UN indictment just before his death (Abtahi, 2016).

If the situation seems to not to get into control a fear of history getting repeated has cropped in the hearts of the people of 21st century, resulting into the complete loss of men and assets. And one has to then question who will be the questionable for such a loss.

CONCLUSION:

With all the paradigm of the events witnessed by the history and with the chronological order of the events happening currently the world is at a situation of doldrums and is facing the fear of history getting repeated, which in case have its seedlings would cause the mankind to be doomed completely. With more lethal weaponries chances of a more horrific aftermath could be easily contemplated with Russia topping the list in the

categories of owning and exporting the arms and Ukraine being backed by NATO nations and especially United States which is equivalent to Russia in its lethality and ownership of armory. We have seen the failure of League of Nations, which resulted into the IInd World War, failure of United Nations would not be easily handled by world and moreover mother Earth. People of the world are still processing the repercussion and aftershocks of World War II, which has not yet completed even a century, to bear a trauma of another one will be horrendous to even imagine. War is no solution only loss of money and men power is its outcome. The greed and ambition of people like Kaiser Wilhelm II, Hitler, Mussolini, or histories favorite Napoleon Bonaparte results into the destruction of families and depletion of resources. Hence it is very important to follow international customs of "pacta sunt servanda" and try to maintain a status quo, thereby not trying to barge into the territory of other country and using coercion or snatching tactics to fulfill the ill desires.

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