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The Ethics of Law: How US/UK Intervention in Iraq and Russia's Invasion of Ukraine Breach the Principle of Virtue and International Law

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The war in Iraq and the recent war in Ukraine symbolise the importance of resolving the crisis of international law and laws of war. In addition, the problematic aspect of these wars stems from the misconception of aggression or the composition of aggression. This falsity consists solely of the concept of aggression under international law, which has been abused, fragmented and confused. Therefore, this false idea of the concept of aggression under international law contributes to the development of modern conflicts. In an attempt to rationalise some of the fundamental failures in international law and the United Nations Security Council (hereinafter UNSC), this article seeks to examine whether the inclusion of ethics in the mechanism by which international law is implemented will be relatively useful. It explores whether ethical code can be incorporated into the mechanism by which international law is implemented, and if so, how can ethics enhance the existing rules and states' conduct? What role can ethics play in the justification of the use of force by the states, and what conclusion can be drawn from UNSC and states' practice? The article is divided into four sections. The first tries to explain the fundamental principles of ethics, while the second views international law in the conception of subject matter application and practice. The third section looks at Russia's invasion of Ukraine and the UK/US invasion of Iraq. And the final part presents a philosophical conclusion on the subject matter.

Keywords: *Laws of War; Russia, Ukraine, Iraq and Ethics*; *International Law;*

Introduction

Over the last decades, there has been much focus on applying international law and the laws of war to contemporary conflict. Laws, such as humanitarian rules, have also been subjected to much debate and diplomacy, as well as how these rules affect wars and military occupation, such as Afghanistan, Iraq, and Libya.[1] However, the issue is not the attention nor discourse; it is the demystification of international law and laws of war in the intersection of conflict or illegal wars. Likewise, over the years, international law and laws of war have become the law of the jungle, where the fittest survive. In terms of regulating wars, this animalist approach has led to an unequal implementation of international law and laws of

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[1]Rogers (2016).

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war.[2] Therefore the application of international law and laws of war can neither be nor be conceived as effective without the idea of the triangular concept. The triangular concept means effective implementation, prosecution and enforcement. This idea of triangular concept can neither be nor conceived unless all nations are held to the same standard. In this understanding, the effectiveness of international law and laws of war may be said to belong to the essence of the idea of the triangle, and there is nothing to be conceived from that. However, it may also be assumed that the precept of effective implementation of international law and laws of war may rest on the principle of ethics in the intersection of states' conduct. Henceforth, international law and laws of war in their current form may be a legal rule but just an ideological rule if the practical and equity issues are not addressed.

Furthermore, the fundamental principles of international law and national law are violated without effective legal justification. Terrible atrocities include the First Gulf War[3], Yugoslavia since 1991, Rwanda in 1994, Iraq in 2003 and Libya in 2010.[4] Fundamentally, Yugoslavia in 1991 and Rwanda in 1994 compelled the UNSC[5] to create an international tribunal to adjudicate the application of international law and restore the principle of international law. I will argue that this effort is nothing less or important than a flood flowing back into the ocean. This is partly because the equity issue in international law is neither addressed nor thought of through the lens of fairness and the good principle of virtue. Therefore, the effort of the United Nations (UN) and its related organisation is something that can be recognised but should not be commended for its failure to hold powerful states accountable to the same standard.[6] In this sense, implementation, enforcement, prosecution and accountability for the violations of international law and laws of war are one and the same. Therefore, the equity of international law and the principle of ethics are nothing beyond the implementation, enforcement, prosecution and accountability. The principle of international law and the specific doctrine of ethics are one and the same; therefore, international law and laws of war should be examined through the lens of equity and ethics. By approaching the argument of implementation, enforcement, prosecution and accountability this way, we thus removed the cause which is commonly assigned to the error of state practice. This also means our understanding of international law and laws of war cannot be explained by the doctrine of international law alone but must be examined according to the doctrine of virtue and moral conduct of the UNSC.

In an attempt to rationalise some of the fundamental failures in international law and the UNSC, this article seeks to examine:

1. Whether the inclusion of ethics in the mechanism by which international law is implemented will be relatively useful.
2. What ethical code can be incorporated into the mechanism by which international law is implemented?

[2]Roberts (1995).
[3]Lowry (2008).
[4]Engelbrekt, Mohlin & Wagnsson (2013).
[5]Lowe, Roberts, Welsh. & Zaum (2010).
[6]McKinney (2012).

3. How can ethics enhance the existing rules and states' conduct?
4. What role can ethics play in the justification of the use of force by the states?
5. What conclusion can be drawn from UNSC and states practice.
6. Can implementing a code of ethics be pursued as an underlying principle of international law and the UNSC principle of governance?

These questions are worth consideration because over the years competing needs and ideologies of states' conduct have created friction and conflict. Therefore, the issue of ethics and substantive code is needed to prevent serious violations of international law and war from occurring in the future.[7] For example, the war in Iraq and the recent war in Ukraine symbolise the importance of resolving the crisis of international law and laws of war. In addition, the problematic aspect of these wars stems from the misconception of aggression or the composition of aggression. This falsity consists solely of the concept of aggression under international law, which has been abused, fragmented and confused. Therefore, this false idea of the concept of aggression under international law contributes to the development of modern conflicts.[8]

For instance, the crime of aggression is one of the four foundations of international crime under the remit of the ICC, which encompasses individual responsibility for an illegal war.[9] Even though the Nuremberg Tribunal expressed aggression as 'the supreme international crime differing only from other war crimes in that, it contains within itself the accumulated evil of the whole',[10] there is a lack of agreement on the actual meaning of the constitution of the crime of aggression.[11] Even though the amendments of aggression came into force after 1 January 2017, the definition was hailed as a substantive development in international crime law. Nonetheless, the substantive issues do not pertain to the definition itself but state attitudes and the international community's ability to enforce international law and maintain peace. Therefore, the relevance of the definition of aggression for contemporary armed conflict is redundant in this sense. From this point of view, it should be assumed that the effectiveness of international law and laws of war should focus on state behaviour, individuals, and state officials with enough authority but not a simple connotation of words.

When we say the effectiveness of international law, we may assume that it acquiesces in what is deemed enforceable or acquiesces in what is the true reflection of international law in as much as there is no reason or justification for states or individuals to violate the law. Thus, although the definition of aggression may be assumed to be acquiescence in its interpretation, we can never say that it is effective. By effectiveness, we mean something positive, a positive obligation to act according to the principle of ethics. Therefore, the issue of Iraq, Libya and Russia's invasion of Ukraine raises legal, ethical and moral questions. In this

[7]Boas (2013).
[8]Tucker (1951).
[9]Weisbord (2009).
[10]Bachmann & Kemp (2012).
[11]Zuppi (2007).

understanding, the accurate distinction between the definition of aggression or the conceptual parameter of war and effective implementation, enforcement, prosecution and accountability under international law must be imagined through the lens of ethics. Thus, it is further necessary to distinguish between the connotation of words and legal principles that signify the deficiencies in states and human conduct.

Furthermore, Clausewitz believes that war is 'a mere continuation of state politics'.[12] If this opinion is to hold true value, then we may say war reflects the personality and characteristics of state leaders. Therefore, till one is guided by the internal principle of conduct (ethics), it is impossible to foresee the absolute end of wars in contemporary society. It is also obvious from this statement that war is conceived as a state's inherited right, which is problematic and gives rise to more wars.[13] War should not be conceived as an inherited right of a state; this is partly because war, in its fundamental history, is associated with the violation of human dignity and the destruction of the common peace. Therefore, assuming that war is necessary for a state right is premature. However, it is also important to note that the Peace Treaty of Versailles of 1919, which condemned aggressive war as 'a supreme offence against international morality and sanctity of treaties,' changed the inherited narrative of the state's right to conflict.[14] Whether this change is transposed into modern conduct remains to be seen in light of the recent conflict in the last decades.

Additionally, the Kellogg-Briand Pact of 1928 expands on this point by 'condemn[ing] recourse to war for the solution of international controversies, and renouncing] it, as an instrument of national policy in their relations with one another'.[15] Furthermore, the London Charter that established the Nuremberg Tribunal after World War II (WWII) made an offence to wage a war of aggression by including the 'crime against peace'.[16] The United Nations General Assembly (UNGA) acknowledge the Nuremberg Principles as international law. Likewise, the Nuremberg Principles were used as a model for the Tokyo judgement.[17] Though the development and implementation of the Nuremberg Principles may be questioned on ethics and moral grounds, there is no doubt that acknowledging the London Charter as international law, the UNGA is of the view that aggressive war is no longer seen as an inherent right of states. Therefore, this act could be recognised as an international crime under certain conditions.[18] While this approach and acknowledgement is something to celebrate, the current Ukraine conflict questions the London Charter's core validity. It also undermines the principal recognition of it as an international law. Therefore, the fundamental question here relates to states and individual attitudes toward international law. It may be assumed that state and individual attitude toward international law by, many scholars is either entirely confused or not distinguished with sufficient

[12]Clausewitz (2007).
[13]Bachmann & Kemp (2012).
[14]Desai & Desai (2020).
[15]Kellogg-Briand Pact at Art. 1.
[16] Kreß & Von Holtzendorff (2010).
[17]Lawrence (1988).
[18]United Nations General Assembly Resolution 3314 (XXIX).

accuracy of perception. Hence, states are generally ignorant of the role ethics could play in observing and respecting international law. As well as how absolutely necessary the knowledge of ethics in the doctrine of international law is, both for legal philosophy and for the ordering of international relations.

This confusion and gullible construction and deconstruction of international law and legal order may be found in scholars' analysis of both Russia's invasion of Ukraine and the US/UK invasion of Iraq. For instance, Brunk and Hakimi pointed out that Russia's invasion of Ukraine challenges the international legal order. They further claim that Russia's invasion of Ukraine has been a significant shift under international law since WW II. They seem to base this analysis on a rejection of 'the foundational principle of the post-World War II order', 'meaning that international boundaries may not be changed with force alone'.[19] They suggest that Russia's invasion of Ukraine lacks 'baked within it, a limiting condition to explain why the use of force might be justifiable here but not in other locations where people continue to harbour historical grievances about the internationally recognised borders that they have inherited'.[20] In terms of Putin's refusal to recognise Ukraine as an Independent state, they believed that this goes against international norms of the post-World War II international legal order. Their claim is biased and obscure and does not address the substantive issue of instances where Western nations have used force or invaded other countries, such as the United States (US) and the United Kingdom's (UK) invasion of Iraq in 2003 or the Iraq invasion of Kuwait in 1990.

To illustrate my point, Brunk and Haimi pointed out that military intervention is not geared toward changing international boundaries by force. Referring to Iraq's invasion of Kuwait in 1990.[21] This statement also correlates with the UNSC's condemnation of Iraq's invasion of Kuwait.[22] As the facts point out, the UNSC statement does not change anything significantly but rather affirms that Iraq's conduct is in 'material breach' of its duties under international law. Furthermore, Brunk and Hakimi's argument seems to endorse the US-led coalition's use of force under the 'limiting principle built into it'. This element can also be connected to the other controversial use of force, such as the North Atlantic Treaty Organisation (NATO) bombing of Serbia during the crisis in Kosovo (to stop the humanitarian crisis) and the US's airstrikes in Syria (which was justified on the use of chemical weapons by Syria forces). In reviewing these multiple so-called military operations, it is possible to assume they are in accordance with 'the core norm against forcible annexations of foreign territory'.[23]

On the contrary, Kotova and Tzouvala are of the view that Russia's invasion of Ukraine is observed by Western powers as illegible in accordance with their interpretation of the use of force.[24] This is partly because there is no significant difference between the Western power's use of force and Russia's invasion of

[19]Brunk & Hakimi (2022).
[20]*Ibid.*
[21]Greenwood (1992).
[22]Resolution 1441 (2002).
[23]Brunk & Hakimi (2022).
[24]Kotova & Tzouvala (2022).

Ukraine. Therefore, the fact that Western powers failed to recognise the connection between their action and interpretation of the use of force in accordance with Russia's invasion of Ukraine may stem from two argument points:

1. The general perception is that Russia's justification for invading Ukraine is to win support at home rather than to please an international audience. In this line of reason, it can be assumed that Russia's invasion of Ukraine is not substantively framed within the so-called international legal principles and doctrinal framework.
2. Western powers seem to frame the principle of international law to suit their idea of rules of law and political preference. In this understanding, it may be assumed that Russia's invasion of Ukraine is indifferent to the Western power's use of force during the 1990s and 2000s.

However, Western states failed to acknowledge this similarity because Russia's invasion of Ukraine undermined their imperial ideology. Therefore, whether we conceive Russian and Western power's conduct as contrary to international law, they both breach society's fundamental principles of ethics and morality. The endeavour to invade a country in the name of any other reason is a violation of ethics and morality. Hence, revengeful war in the quest to repay an injury done to someone should not be a legitimate course of action under international law. Based on the difference outlined here, this article seeks to underline the important roles ethics could play in interpreting the use of force in Iraq and Ukraine. It suggests using the principle of ethics as an important measure to guide against state conduct and the abuse of the use of force. The article is divided into four sections. The first tries to explain the fundamental principles of ethics, while the second one views international law in the conception of subject matter application and practice. The third section looks at Russia's invasion of Ukraine and US/UK invasion of Iraq. And the final part presents a philosophical conclusion on the subject matter.

Fundamental Principles of Ethics

The principle of ethics can be traced back to the ancient Greek 'ethos'.[25] The original meaning of the word is associated with a place of living, but also it encompasses habits, customs and conventions. Cicero translated the Greek term into the Latin 'mores', meaning ethos and customs. Through this, modern thoughts of morality came into existence.[26] Modern philosophers such as Kant categorised ethics as a principle to deal with the question 'What I should do'?[27] In the contemporary world, most people think of ethics in the form of normative ethics. For instance, they may contemplate it in the form of moral principles in psychology, an experiment involving human behaviour, or even ethnology.

[25]Sattler (1947).
[26]Galloway (2021).
[27]Walsh & Fuller (2007).

However, whether normative ethics is divided into its particles or forms, the basic objective of ethics has been the same ever since the term was first coined in the Greek 'ethos'.

In line with the Greek concept of ethics, their philosophy focused on virtue as a way of life. By approaching the philosophy of ethics this way, they were able to explain patterns of behaviour or attribute dispositions to certain conducts as they emerged, whether right or wrong. In this way, the Greeks saw virtue as rightful conduct; therefore, a man who lived by virtue was deemed fair and just. The transformation of the Greek 'virtue' to the principle of ethics in the modern world is one that requires careful attention.[28] Other authors have tried to deconstruct ethics into a form of utilitarianism or into the technicalities of metaethics.[29] However, none has arrived at a tangible conclusion. All facts point to the foundation of the Greek theories, and only by referring to these classical theories, we are able to offer a better understanding of ethics in its ancient and contemporary meanings.

Observing the Greek approach to ethics, three distinctive points emerge. The first is that Greek philosophers were concerned with living the virtue, and what it is meant to be a good person. This is what they referred to as *eudaimonia* (a state of the mind), as opposed to what was right or wrong in its narrow sense. The second is broader in scope and covers the issue of motives for morality or the fundamental reasons behind a person's quest to do good. This question proved problematic for Kantians and the utilitarians to solve. It is problematic in the sense that observing people's behaviours is different from actions that are based on conduct or other characteristics. One cannot try to understand someone's action, even though one can speculate as to why this course of action occurred.[30] Similarly, one cannot examine these actions without paying attention to the motives of the person. Therefore, one could draw a conclusion by saying the motive was connected with the person's character more than the theoretical proves in modern society. In these distinctive characteristics, ethics could only be beneficial if seen as an independent element of morality. Perhaps this is the point Aristotle was trying to make in his discourse on this topic.

According to the Greeks then, there were three kinds of disposition in a person, and two of them complemented each other. The first two became what they called 'excess' and 'deficiency', and the last was what they referred to as 'virtue'.[31] The Greeks saw all these dispositions as a compound element of the whole, but they all opposed each other at the same time. The upper state contradicted the middle, and in the end, they all conflicted with each other. What does this mean in the modern term? All dispositions are equal to one, and at the same time, they are relatively less to the greater parts. So, when we take the middle part as excessive relative to the deficiency, the deficiency will be relative to the action, and both may become a passion and an action. For example, for a brave person who acts in a cowardly manner, their cowardice will be relative to

[28]Striker (1987).
[29]Brandt (1992).
[30]Miller (2014).
[31]Ross (1956).

their passion and actions. This disposition formulates the cause-and-effect approach in our understanding of ethics in ancient Greece and the modern world.

Moving on, for contemporary thinkers and scholars to conceptualise this idea requires closer attention to the development of the Greek concept of ethics. In essence, the assessment of the ancient Greek theories on ethics goes beyond the classic views of Plato and Aristotle. Moving past Plato and Aristotle will help to demystify how the principle of ethics informs the conduct of ancient Greece and modern society. It will also help us to draw a clear distinction between what needs to be understood or learned to advance legal knowledge in the modern world.[32] For the modern scholar, it is vital to understand the way ancient Greeks viewed ethics as fundamental to their process of constructing laws as a guiding rule for all persons. It will lead them to the inevitable question of moral justification or the basis of all moral rules in society.

Therefore, asking the philosophical question of international law and laws of war should be the starting point for all thinkers and scholars who seek an explanation for the obedience of the law from different perspectives. They must resort to the question, what is virtue? What does it mean to live a good life or what is a life of the good? While asking this question might not necessarily lead to the ultimate answers, it is a starting point. It will help them to complete the puzzle or to understand where the central problem of international law and the laws of war is. The contention here is that one should pay close attention to the examination of the objectivity or the relativity of morality and compliance in the international community. In relation to the points I have made thus far, when we observe the concept of ethics, there is a clear correlation between the modern approach to ethics and the classical approach to good life. However, complexities exist in the development and historical understanding of what ethics means in the law and compliance. Therefore, trying to bridge this complication in the historical development of ethics might help build a good connection between ethics and the concept of the law and compliance in modern civilisation.

The language in the Greek ethical discourse focuses on the concept of life, such as at the beginning of Socrates' discussion in Gorgias (472C-D).[33] Socrates' discourse is about happiness, and how can we live happily? This discourse ignited the good life concept in ancient Greece. Every Greek philosopher who came after Socrates became of the view that happiness was a state of living, which was the object desire of every person. This view can be arbitrary in its theory and practice. Partly this is because it is difficult to predict the happiness of every person, let alone determine the contentment of their life. This means the person does not wish for another life except the one which has been granted to them by their environment. However, these great thinkers saw happiness as the ultimate goal of action for every person. Therefore, everything else became insignificant in this sense.

I will concur with the Greek philosophers that happiness could be the main goal of every person, but what happiness could mean to everyone may differ. This might explain the main reason why modern writers have struggled to contemplate

[32]Vasiliou (2008).
[33]Hardy & Rudebusch (2014).

the Greek concept of ethics in modern writing. Life for the modern person encompasses a variety of things, not just living to satisfy happiness. The modern person might live with a desire to achieve their goals or a desire to be successful. So, in these simplistic terms, happiness in a modern person could be explained by a quest to achieve consistent desire in all adventures. Without contemplating the object of desire, how can one be morally or ethically sound in this adventure? This is a tragedy for the modern thinker and scholar. I shall in this endeavour say that it is difficult to conceptualise the Greek concept of happiness as the ultimate goal of every person. It is difficult to see how the actions of a person in ancient Greece could affect their life and how they should live meaningfully as the Stoics advocated.[34]

One cannot contemplate everything for the sake of happiness. However, if this should be the case, then is like telling every single person on this planet to become whatever they want. This is the same as saying if you want to be happy, you should be happy. Now, this is hardly a point that I can reconcile in this article. However, what I can say is that if happiness is the ultimate goal according to the Greeks, then it must encompass all things. This means happiness must be a pattern of life or must be seen as a life to live. Perhaps this might be the reason why the Greeks saw happiness as the good life and happiness as the attainment of the good. Therefore, when it is said that happiness is the main objective of all conduct, what is essentially being said is that happiness is: '(a) that there is a general answer to the question 'What sort of life can count as a good life for humans?' (b) that every human desires to live a good life, and (c) that we do or should plan all our actions in such a way that they lead or contribute to such a life.'[35]

If we can conceptualise this, we can say ethics could be the desire of every person in society. Hence, a good life becomes the desire of everyone. In this interpretation, we could assume that everyone should be taught and should know what is meant by the good life. If this knowledge is attributed to the average person, then we can say everyone knows what is a good life, thus, this good life becomes the ultimate defining purpose of his or her conduct in society. For the ancient Greeks, this knowledge element is important. Its significance can be observed as the ultimate aim of ethics, the defining rule of society.[36] Will this hold water, though? The answer to this question requires careful observation. For instance, it is possible that the average person in society does not desire the good life. Let' us also look at people who engage in a stream forms of other practices. These people may not desire what the ordinary person may want or even they may not contemplate the good life. If we attempt to answer this question in the orthodox path of this theory, we could say such a person is deluded, and may have wrong desires or ideas of what is acceptable in society. How can this be true though, when perhaps these individuals' ethics is not an important aspect of their life.

[34]White (1979).
[35]Striker (1987).
[36]Rist (2002).

To be specific, Socrates, Epicurus, and the Stoics saw the good life as the ultimate goal and achievement in human conduct.[37] Therefore, whether this is in the contemplation of the person or not, it is important to know this principle so that the person can understand the composition of happiness or the consequence of living an unhappy life. In this sense, the observation of the good life rests on the distinction between right and wrong perception. According to these philosophers, if a person lives a life contrary to the good life, the person suffers a disposition. Perhaps the underlying thoughts of Socrates, Epicurus, and the Stoics may pose a difficult question for the modern philosopher to comprehend. However, if this is the case, then they may have to engage themselves in Greek philosophy on the path of Aristotle. Following this path allow them to adopt the restricted interpretation of the good life, as suggested by Aristotle.[38] Regardless of whichever way we aim to balance this argument, there is a reputable presumption that there is an end to every desire and conduct.[39] This means there is an end to what is called happiness or the good life. If the end call for everything to be neutral and none exists, then the biggest task for ethics is to find what this end is and what happiness encompasses and how we reach this path in terms of law and the application of policy.

Therefore, the point I strongly wish to emphasise here is that the good life gave birth to virtue, and virtue and morality gave birth to ethics. In this conception, ethics should be originally understood in Greek methodology, partly because it explains the various aspects of our contemporary thoughts on ethics and even the continued developments and explanations of the many aspects of our moral principles in the present day. This could be observed as the truth of the matter, and I could add that understanding and correlating ethics to present-day conduct will enable society to be conscious of their conduct and the modes of expressing the action in the face of legal rules and obligations. Therefore, to light the expression of ethics in the contemporary world to dogma is to misunderstand the principal methods and procedures of humans' thoughts and obedience to international law and laws of war.[40]

International Law in the Conception of Subject Matter Application and Practice

Apart from the philosophies of virtue and politics, we also have other forms of philosophy, one of which is the philosophy of law. Though these forms of philosophy can be said to be interconnected and interdependent, the only distinction here is that the philosophy of law is said to belong to the realm of practical reason. Therefore, practical reason has been an important element of many natural law theories for the past centuries because it helps deduce an adequate explanation of the concept of law. Aquinas wrote of ‘an ordinance of

[37]Long (2006).
[38]Sellars (2018).
[39]Nartey (2023a).
[40]Nartey (2023b).

reason for the common good, promulgated by him who has the care of the community.'[41] While Cicero observed: 'the highest reason, implanted in nature, which commands what ought to be done and forbids the opposite. This reason when firmly fixed and fully developed in the human mind is Law.'[42] Hooker was of the view that 'a law therefore generally taken, is a directive rule unto goodness of operation. The rule of voluntary agents on earth is the sentence that reason giveth concerning the goodness of those things which they are to do.'[43] Vico, on the other hand, was of the view that natural law was based on the concept of human reason as 'human jurisprudence, which looks to the facts themselves and benignly bends the law to all the requirements of the equity of the cause.'[44] Finnis, a modern theorist of natural law, observed in his work, Natural Law and Natural Rights (1982), that the real meaning of the law was 'reflectively constructed by tracing the implications of certain requirements of practical reason, given certain basic values and certain empirical features and persons and their communities.'[45] Perhaps what all these authors have in common is where natural law and practical reason meet as one; for where we are yet to know the effect and the course that produced an outcome in society, a practical methodology must be adopted. Natural law may be commanded by the process of practical reason; this is partly because that which is contemplated in practice acts as the cause in the operation rules.

Consequently, for us to understand the true patterns of practical reason in the indication above, we must first examine the cognitive level of activity in a person. This cognitive structuring of action is what we may call practical reasoning. In this sense, the concept of natural law is closely connected to practical reasoning.[46] In this observation, it is legitimate to point out that Finnis' work seems to be taking a contrary position to natural law theories. This approach or contention creates difficulties as well as opportunities to rethink the concept of practical reasoning as the foundation of natural law.[47] However, it is also reasonable to assume that practical reason becomes the philosophy of practical reasoning. The main idea behind this conceptual statement is that the practical reason is concerned with the demystification of problems in their full universality. Therefore, when practical reason is used to deduce the characteristics of phenomena, the method is composed of a reasonable dialogue and decision-making by the person.[48] However, this dialogue and decision-making are shaped by the person's free will or freedom to take a particular course of action, which shapes their views and commitment to society.

Nevertheless, approaching the philosophy of law as a sole method in its own nature is liable to abstraction and gives only a little substance to the reality of things which must observe the law. I will observe that to resolve the nature of the practical reason into a universal purpose of the philosophy of law is to go further

[41]Luizzi (1982).
[42]*Ibid.*
[43]*Ibid.*
[44]Vico (2015).
[45]Finnis (2011).
[46]Fitzgerald (1982).
[47]Crowe (2011).
[48]Raz (2009).

into the nature and purpose of the law.[49] In this sense, the concept of practical reason becomes less important. This is partly because of the universal purpose of the philosophy of law, as the form and substance become the object of attention. This approach might help us to conceptualise and change concepts, and deduce simple actions to methodological terms. When we move practical reason to the law of dynamics or the law of movement, forms and substances are the figments of the philosophy of law unless we agree practical reason is the sole methodological explanation of the universality of the philosophy of law. This agreement in itself is problematic because in order for this to hold true we must first find out the most important elements of practical reason, which can effectively provide an explanation for the closeness of substance to the reality of things which must observe the law.

Let us take a close re-examination of Finnis' point. According to his observation, there are some basic elements of good in human nature.[50] Therefore, it is possible to assume from Finnis' point of view that the basic elements of good in human nature bring forth the basic principles set in natural law, and both the elements of good and the principles can be noted in practical reason. A point of caution to be noted here is that the basic elements of good in human nature, according to Finnis, are problematic. The reason is the absoluteness of his point on the basic elements of good in human nature in practical reason is ambiguous, and it does not explain exactly how these elements are either achieved or inform the processes of practical reasoning.[51] What is fundamentally important for Finnis to have noted is that there are and can only be two ways of searching into and discovering the true nature of the philosophy of law. This is derived from the nature of a person's mental conduct and the particularities that lead to general decision-making. The mental conduct and general decision-making are also informed by the elements of good in human nature, the ethics by which it abides by, and the social dynamics which influence personal judgement and the ability to discover the true nature of laws or legal principles in societies. In this way, we can say the philosophy of law is fashionable. If this fashionability is deduced, we can say the philosophy of law derives practical reasoning from ethics and the substance of the law, rising gradually and unbroken through the generations. Therefore, we may arrive at the absoluteness of all theories of law. That is the true understanding of the relationship between law and conduct.

Therefore, instead of seeking to explain international law and laws of war in some abstract language, it needs to be studied and understood from a historical, ethical and integrity perspective rather than through the lens of liberal political discourse.[52] From this point of view, the modern discourse and approach to international law and laws of war theory have not resolved the fundamental issues concerning powerful individuals, state relations and multinational corporations' operations in the international arena. Likewise, liberal political theory has failed to explain how autonomous and independent entities can come together to support

[49]DCL & George (2013).
[50]Bix (2010).
[51]Finnis (2007).
[52]Johnston (1996).

the common good of humanity, in other words, to ensure the respect of international law and human rights in all spectrums of life.[53]

Furthermore, the question is not autonomous and independent of the state; it is rather the collective responsibility to realise the common goal of peace and security.[54] It may be assumed that international law and laws of war can be realised through collective responsibility and the realisation of the universality of human dignity by all nations. It is the lack of collective responsibility that the nature of international law and laws of war fails because the parties to its principles are deficient in its rational nature. The state is naturally the principle of its conduct and actions, its obligation and will. This means the full realisation of international law and laws of wars must also be seen through this metaphor. International law and laws of war cannot be abstract from its application because the definition depends on the whole. When observing international law and laws of war, the whole (which includes moral principles and states) consists of components that make the realisation of international law possible. Such components include ethics and social structures, without which the realisation of international law and laws of war becomes difficult. Thus, it is conceivable that patterns of change in international law and laws of war, belong to two concepts. The first is what is causing the changes, and the second is what is changed by it. In this view, we may assume international law and laws of war itself is one thing that is abstracted from different perspectives, whereas states' actions and behaviours may differ because they include different considerations and motivations.

Grotius, based his theory on a system of positive law, rather than universal moral principles or natural law principles.[55] From this point of view, he argued that his approach to the system of law was justified by its universal application. Regardless of God's precept as the Divine existence, his system of law holds. He put forward this argument in *De Jure Belli ac Pacis* (1625: para. XI). This argument is not plausible in its conception, as law cannot exist without effective application. This means that the intersection of all laws rests on the Natural Order of all things, which is the natural state of all laws. Therefore, knowledge of law does not only concern the social structures and human conduct; thus, nothing can be known, save what is in natural law. For all law is inspired by Divine Order, because it teaches society how to live, it corrects conduct, and it instructs justice.

Now, if the law is Divinely inspired, then international law is part of natural law, which is also built from human reasoning. In this conceptual understanding, it is useful to assume that besides the so-called positive law, there should be another element of the law of which we should be aware. This is what I shall call Divinely inspired law, in other words, the principles of ethics and integrity through the lens of natural law. It, therefore, is premature for Grotius to have assumed or contemplated the exclusion of natural principles in law. This exclusion means his theory has overlooked ethics as components of international law and laws of war. This is also premature because ethics define the relations of law or the human relations between law and conduct. This is partly because human behaviours and

[53]Carty (1991).
[54]Thakur (2016).
[55]Ortiz & Medina (2022).

conduct, as good or bad in the absolute sense, are defined by the principles of ethics and morality. In this conception, international law and laws of war must distinguish from a relative or an abstract theoretical concept and the sense of that which is good and that which is not good. As space cannot exist without solid matter, so the law cannot exist without ethics. Likewise, as light cannot exist without darkness, so can be said for the relationship between international law and ethics and states.

On second thought, Grotius's theory created the universal concept of international law, which is separate from Christian beliefs, thus, making his theory more inclusive.[56] As a result of his theory, many leading scholars were able to make contributions to the doctrine of international law, including Pufendorf,[57] Kant,[58] Hegel,[59] and Bentham.[60] The two leading scholars in the 20th century, Kelsen[61] and Hart[62], dedicated much of their attention to studying international law, as did Bernstorff.[63] Nonetheless, it is possible to assume that the study of international law over the years has been overlooked by Anglophone legal and political scholars and the crucial study of international law philosophers who might be able to make an important contribution to the philosophical discourse has also been limited. In addition, the rapid expansion of globalisation has led to a search for a new system of governance that might have the ability to oversee states' activities and conducts over a diverse spectrum of governmental matters. Globalisation and the diverse spectrum of governance matters led to the development of treaties and conventions on the issue of states' relationship with each other and human rights issues.[64]

In essence, it is possible to assume that from this development international law has been extended to cover new subject matter, including states' relationships with each other, individuals and the states, multinational corporations, migration, human rights, environment, climate change and sustainability, and economic and workers' rights, etc. Therefore, we can reach the conclusion that the new international legal order may be conceived as an 'international rule-based order'. However, this 'international rule-based order' has also given rise to the transposition and the imposition of powerful states' ideas onto the Global South. Nonetheless, this action should not be encouraged or elevated as a principle that must be accepted as a rising norm. An assumption may be reached that the populist forces in Western Society are hostile to international law, specifically when it comes to the totality of international law and the universality of human rights in all states.[65] Also, the expansion of international law may be seen by others as a threat to the liberal foundation of national sovereignty. I am of the view

[56]Nussbaum (2019).
[57]Von Pufendorf (1991).
[58]Teson (2018).
[59]Kadelbach et al (2017).
[60]Janis (1984).
[61]Kelsen (2003).
[62]Hart & Green (2012).
[63]Von Bernstorff (2010).
[64]Berman (2004).
[65]Alston (2017).

that international law as a Divine order, driven by natural law and informed by ethics, is neither threat nor hostile to the sovereign rights of the people. What are a threat and hostile is the transposition and imposition of an abstract view on law and the governance of nations. Law as Divine or natural is never diluted or compensated, meaning the law serves the people and serves its purpose.

For the true purpose of the law, one must observe its naturalness and its universality without discrimination as to what is fit and what interests. That this means the realisation of international law must not be subject to the interpretation of powers states but should be subject to the confirmative of Divine principles. Therefore, anything that is contrary to the naturalness of international law is not founded on the absolute or the universality of ethics. I will conceive that international law has twofold nature: ethics and integrity. Since, it is through the operation and the manifestation of this that states accomplish or attain good conduct. Hence, it is possible to assume that in the present day (21st century) more states are inclined to follow international law than those that follow it because international law in its form lacks ethics and integrity. Resulting in discrimination and unequal treatment of the inferior state. Therefore, whatever the deficit in international law, it is unnatural for populist forces in Western society to seek to redesign an international legal order that fits their agenda. To resolve this issue, international law needs to be compared to the order of human reasoning and human dignity, as the parameter for interpretation of the philosophy of international law in ethics and integrity.

Having said that, the current study of international law seeks to address some of the vast and difficult questions. These questions can be respectively grouped into categories of two, but the conceptual boundaries between them are not big. The first theoretical question is whether international is an aspect of the law, in other words, if it is indeed law and, if it is, how is it connected with national law and individual states; there is also the theoretical question of the discourse of international law and how key ideological principles are implemented in the international spectrum, whether this ideological principle is general, for example, the principle sovereignty of state or legitimacy of international law or theory of international legal doctrines and sources such as customary international law, *jus cogens*, and the principle of human dignity. The second question relates to the aims and objectives of international law or the conceptual parameters of international human rights law,[66] international environmental law,[67] and international criminal law.[68] Should these laws be advanced and realised or is there an effective mechanism to realise these laws? The other aspect relates to the legitimacy of international law, how is it accessed, and whether is it equally applied and observed by all states. However, the underlining issue of both questions is to what extent the principle of ethics and integrity is fashioned to examine national law and politics, for instance, the doctrine of democracy, the rule of law and how legitimacy is applied to international law.[69] Nonetheless, the

[66]De Schutter (2019).
[67]Shelton (2021).
[68]Cryer, Robinson & Vasiliev (2019).
[69]Buchanan (2008).

philosophy of international has neglected the role that ethics play in its nature and forming. By neglecting the role of ethics and integrity in the philosophy of international law, we are rejecting the exact norm that instructs or tells states' conscience what good conduct is, and which is not good conduct. Regardless, international law is not just about a concept that expresses the doctrine of ethics, for example, a principle that encompasses the question of the absolute doctrine of moral duty. So, ethics are also specific to the question of transparency and equality in international law. Therefore, from this point of view, international law is that of command because what is absolute about it is first of all its possibility to be effective or to oblige states to act in a certain way.

To further complicate matters, scholars and thinkers have observed two key characteristics of international law that create a fundamental gap in its application, the first is the lack of a centralised system of enforcement and the second is the consent of the state in the formation of rules of international law.[70] However, some scholars seem to acknowledge that despite this fundamental gap, international law has features and characteristics of law, therefore, all disputes understand that international law follows a genuine legal principle and order.[71] I am of the view that regardless of the centralisation of the system of international law and the consent of the state in the formation of rules of international law, if the issue of ethics is not addressed, regardless of the answers to these questions international law may not serve its fundamental purpose. To put it very concisely, ethics illustrates our knowledge of the natural order of international law as created or form by the universal good of humanity. Therefore, the formal object is what makes the natural order of international law absolutely relevant with respect to the universal good of humanity. I used the word absolute relevant with respect to the principle of virtue as the latter formed ethics. With respect to ethics and integrity, every element of international law is important in an absolute sense, however, it is also more or less important in regard to the hierarchical order of its observation and implementation. In essence, it is clear that the modern approach to international law so far is yet sufficient. This is partly because we do not have the fundamental principles to ensure its effectiveness or the perfect autonomy, so that its realisation can be known by all states. In this understanding, we may assume that scholars and thinkers are still observing international law from an extrinsic point of view.

This can also be true about politics at the international level. For politics at the international level to serve its purpose, it too must originate from the recognition of ethics. Ethics may underline the unique encounter of states' relationship with each other. It derives from a primordial and original consent that has its composition in the constitutive and developmental aspect of virtues, which the universal value of international law and its authority depend on. In the modern world, the primordial consent of international law may be given by specific kinds of constitutional agreement that may be derived from customs, norms and the universal good of humanity. As the outcome of individual human dignity and rights that approved them. This conception of customs, norms and the universal good of humanity itself too are unique and individual from the start of our

[70]Nartey (2021).
[71]Hart & Green (2012).

understanding of international law and cannot be understood outside the context that depends on them and gives the law its truthful meaning. From this point of view, the understanding of ethics concerning international law is certainly an important point to consider in the contemporary world. Therefore, as a matter of fact, the true meaning of international law remains inseparable from the ethics that produced them.

International law is the composition of doctrines, rules and customs that can regulate the conduct of States and international organisations in their relationship with each other in the international spectrum. Therefore, the principal objective of international law may be seen as the doctrine of governance, meaning a system of rules that regulate conduct between all groups, private individuals and multinational corporations.[72] However, the contemporary study of international law views it as a system of rules that regulate certain particularities, and historical events that have happened across a vast spectrum of time, such as the First World War and the Second World War.[73] In essence, this point of view may seem to illustrate that international law is the result of the transposition of basic political ideas and theory into hard and soft law. While there is an element of truth in this conception, it is not adequate to claim that international law is the emergence of political ideas or theories, as the modern study of international law claims.[74] Perhaps, this view from modern legal scholars might be accepted if we seek to steer the discourse of international law into the field of international relations. However, if this is not the case, then international law remains the composition of fundamental rules and principles of society, and that means going back to examine the rules and principles prior to the compound nature of modern dialectical theory between positivism and the natural conception of international law.[75] In this understanding, it must be noted, if the study of the law according to its precept does not encompass effective application and retribution, it is not competent for us to expound on its usefulness, and that which is not useful to society is neither effective in implementation nor enforcement. Therefore, for international law to hold its value, states must not have the power to dispense with the laws. In essence, it seems to me that international law must obtain the absolute force of law and should abolish conducts that are contrary to cooperation and human dignity.

Therefore, just as international law is not distinct from political theory, and political theory is not distinct from international law, ethics is not distinct from international law and political theory. Notably, there is a causation between international law, political theory, ethics and integrity. This is partly because it can be assumed that all these concepts may have their natural characteristics in the principle of virtue. The concept of international law has this characteristic in its nature, in as much as it flows from the first principle, which is morality or virtue. Although international law in itself, has yet to direct all conduct in the international arena, it has the capacity to rule by the first precept (virtue), thus its force is contained under ethics. In this conceptual understanding, the question is whether

[72]Wallace & Martin-Ortega (2020).
[73]Lesaffer (2004).
[74]Carty (1991).
[75]Carty (2017).

general customary law has the primary force to impose obligatory consensus among states, or does the states have the ability to circumvent their obligation under international law.[76] This is a puzzling question that is yet to be addressed by many, and what I mean by many is that the practicality of international law is slowly diminishing in the contemporary world. This is partly because globalisation has set the quest for economic maximisation and exploitation, which have led to incoherent and fragmentation of the governing principle of the new world order. In addition, the gradual loss of the dominance of world powerful nations has created insecurity and competition, which is leading toward proxy wars and dismissing of international law. However, the custom of international law cannot be changed either in its nature or in its natural form, as a composition of natural law. Similarly, compositions of bad action or conduct do not make one good. However, the person who initially violate the law broke the law. Hence, by trebling such conduct, nothing good comes out of it. It may be assumed that international law is something good since it is a rule of state conduct. Therefore, the custom of international law cannot be changed or abolished by states, so the custom of international must obtain the force of law.

Russia's Invasion of Ukraine

Those, who throw contempt on the customs of a people, disobey the international law or rules governing international relations. For illustrative purposes, the behaviour of some Western countries, such as with the invasion of Iraq[77] and Russia's invasion of Ukraine may be contempt of international law and laws of war.[78] According to the late Kofi Annan, the Iraq invasion 'was not in conformity with the UN Charter. From our point of view and from the Charter point of view, it was illegal.'[79] In regard to this statement, observing the legal position of Kofi Annan's statement concerning the Iraq invasion. There remains the legal question of whether the invasion of Iraq and the stationing of the foreign troops in Iraq was lawful, as well as questions on the violations of international humanitarian law by both Iraqi and foreign forces.[80] This can also be said about the 2022 Russia's invasion of Ukraine.

To put it another way, Kotova and Tzouvala[81] believe that both Russia's evasion of Ukraine and Western country's application of the use of force constitute an 'imperialist logic', according to Chehtman.[82] If we adopt a comparative analysis here, it may be assumed that this claim correlates with Russia's evasion of Ukraine and Western application of the use of force. In this sense, we can conclude that the authors believed that 'the international legal order will have to be

[76]Tunkin (1993).
[77]Yoo (2003).
[78]Cecire (2014).
[79]MacAskill & Borger (2004).
[80]Patel (2004).
[81]Kotova & Tzouvala (2022).
[82]Chehtman (2023).

anti-imperialist, or it will not be at all'.[83] This argument is not plausible and does not adequately examine the comparative factors underlining Russia's and Western application of the use of force. It is also flawed because even though Russia's invasion of Ukraine and the US/UK invasion of Iraq may constitute a violation of international laws, both conducts should be examined from a different perspective. Therefore, the idea of imperialism may not suffice, but what should be fundamentally examined is the cause and effect of both wars. From a legal point of view, this will mean the extent and the gravity of the harm and the result of the suffering as the result of wrongful conduct. This is not to say imperialist doctrine and conduct may not cause harm to humanity; its harm may be derived from the extensive use of force and the extent of the application of the force to achieve one's aim. Therefore, in order to arrive at the conclusion of discourse on Russia and Western use of force, there is a need to consider the different spectrums and the interplay of wrongful conduct.

To demonstrate one's point, the principle of ethics, which concerns the compound nature of a person's conduct without exceptions. Ethics in the compound nature of a person's conduct is significant to their decision-making and choices (action or inaction). It can also be assumed that ethics in this instance affect the person's behaviour, shaping their conduct and the world.[84] Kotova and Tzouvala[85] assume the state of affairs without absorbing the true nature of the application of force by Russia and Western nations. It does not consider the issue nor confront each problem precisely in so far as the conduct of both nations are concerned.

To address this query, it is important to answer the question of whether military intervention in Iraq was legal. This requires one to go back to the Charter of the United Nations (UN), to study the general prohibition of the use of force in international disputes or relations in Article 2 (4).[86] Likewise, the Nuremberg War Crimes Tribunal established in 1946, stated categorically that '[a]ggression is the supreme international crime'.[87] In addition, the spirit of the UN Charter stress solving the dispute in a peaceful and cooperative means.[88] Specifically, the preamble of the UN Charter also stated that there is a need to 'save succeeding generations from the scourge of war'.[89] Furthermore, there are also other norms outside the UN Charter in customary international that prohibit intervention and the use of unauthorised force in the dispute.[90] However, not only the UN Charter

[83]Brunk & Hakimi (2022).
[84]Gössling (2003).
[85]Kotova & Tzouvala (2022).
[86]Article 2(4) states that '[a]ll Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State'.
[87]International Military Tribunal, Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, vol 1, 186.
[88]UN Charter Arts 2(3), 33.
[89]*Military and Paramilitary Activities in and against Nicaragua (Nicaragua v US (Merits)* [1986] ICJ Rep 14.
[90]*Legality of Use of Force (Yugoslavia v Belgium) (Provisional Measures)* [1999] ICJ Rep 124; *(Yugoslavia v Canada) (Provisional Measures)* [1999] ICJ Rep 259; *(Yugoslavia v France) (Provisional Measures)* [1999] ICJ Rep 363; *(Yugoslavia v Germany)(Provisional Measures)* [1999] ICJ Rep 422; *(Yugoslavia v Italy) (Provisional Measures)* [1999] ICJ Rep 481*; (Yugoslavia*

or other norms prohibit intervention and the use of authorised force in dispute resolution, the International Court of Justice in its decision on *Nicaragua* also affirmed this position,[91] as well as years of state practice.[92]

In this point of view, it is possible to conceptualise that international law proceeds from reason and customs of society, of which ethics inform its obedience. Ethics and integrity drive international law, and this regulates state compliance and conduct. Now just as ethics, in practical conception, may manifest in obedience to the law, they may also be known and recognised through state conduct. Since the state's conduct is driven by its ability to choose between good and bad conduct, in this understanding, the US, UK and Russia's conduct does not proceed from customs or international law; they failed the test of its principles. However, the same reason remains, in which the law is useful; if this is the case, then it is not the custom that prevails against the conduct, but it is the law that overcomes the custom unless perhaps the only reason is for the international law to seemingly be redundant. Therefore, it seems to me that the US, UK and Russia cannot dispense from international law or customs. This is because international law is established for the common good. In this sense, the common good cannot be set aside for individual objectives or private gain.

In regard to Russia's invasion of Ukraine, the fundamental question that most scholars have failed to answer is the nature of the rule breached, for instance, the acquisition of another country by force. This same question may be applied to the US/UK invasion of Iraq.[93] In comparison, it may be argued that the breaches of both wars are the same, but the substantive output may differ at the intention level. However, it is also vital to point out that, as the law demands, substantive limitation is not ingrained in justifying the use of force. This failure is one of the substantive factors that give rise to the use of force by the states. Therefore, it may also give rise to unjustified use of force by the state in the future. It may be pointed out that an ethics code is required for the use of force by states. This ethical code may give effective meaning and virtue to the use of force by states. For instance, could the issue with the forcible annexation of Crimea[94], Libya and Iraq

v Netherlands) (Provisional Measures) [1999] ICJ Rep 542; *(Yugoslavia v Portugal) (Provisional Measures)* [1999] ICJ Rep 656; *(Yugoslavia v Spain) (Provisional Measures)* [1999] ICJ Rep 761; (*Yugoslavia v UK*) (Provisional Measures) [1999] ICJ Rep 826; (Yugoslavia v US (Provisional Measures) [1999] ICJ Rep 91.

[91]*Ibid.*

[92]Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, GA Res 2131, UN GAOR, 1st Comm, 20th sess, 1408th plen mtg, UN Doc A/RES/2131 (21 December 1965); Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the United Nations, GA Res 2625, UN GAOR, 6th Comm, 25th sess, 1883rd plen mtg, UN Doc A/RES/2625 (24 October 1970); Resolution on the Definition of Aggression, GA Res 3314, UN GAOR, 6th Comm, 29th sess, 2319th plen mtg, UN Doc A/RES/3314 (14 December 1974); International Law Commission, Draft Code of Crimes against the Peace and Security of Mankind, as contained in Report of the International Law Commission on the Work of its 48th Session, 6 May – 26 July 1996, UN Doc A/51/10 (1996).

[93]Tuathail (2003).

[94]Saluschev (2014).

intervention be justified under ethical code? Perhaps this is an argument that requires further consideration.

However, in regard to the forcible annexation of Crimea, there are two possible implications in relation to the focal point of international legal order. The least credible justification is the rule regarding the rights of states to protect their territorial borders. Nonetheless, this may not suffice in Russia or the US/UK case. However, if we examine the states right to protect its borders, deficiencies become apparent. This is partly because states' justification is based on unethical and illogical values and historical processes, which may involve colonialist, discrimination projects and imperialist propaganda. In this sense, it is possible to assume that the rights of states to protect their territorial borders is not the most important justification for these wars but an interest that is derived from the values, rights and ambition of their leaders. This is an illogical and illegal utilisation of the use of force. Thus, the appropriate justification is a decision that is derived from the fundamental rights of humanity and the universal interest of the citizens. From this perspective, it is possible to argue that the precept of international law does not allow illogical and illegal justification for the use of force as a defence for existing international borders for the sake of US, UK or Russia.

Having said that, there are also two or three possible exceptions to the general rule of using force in dispute resolution. The first is that states can use force in self-defence, the second force can be used when the UNSC authorises it, and the third is about the use of force to protect vulnerable foreign populations from systematic and gross human rights violations, which may be justified on humanitarian ground, such as humanitarian intervention in the case of Rwanda and Kosovo.[95] However, it is important also to point out that humanitarian intervention without authorisation from the UNSC may amount to an unlawful use of force. Nonetheless, a plausible argument arises regarding the legitimacy of this authorisation, and the basis of the UNSC decision-making should be questioned in fact and law.

In effect, the disparities in the UNSC authorisation of the use of force or the disregard of the fundamental principle of international law by the world's powerful nations may unleash additional conflict in future. Therefore, we should be concerned about states' justification for using force, legally or illegally; war due to territorial disputes should not be tolerated under international law. While the effect of Russia’s invasion of Ukraine is yet to be realised, it may be assumed that this act, in conjunction with the US/UK breach of the *jus ad bellum* in Iraq, may lead to further wars in future if the current approaches and states attitude toward the use of force is not reviewed. Therefore, if the international community is serious about preventing wars, international law should have equal application and condemnation. In particular, the US/UK invasion of Iraq received insufficient condemnation in contrast to the substantial sanctions and isolation that Russia received. Russia’s invasion of Ukraine is similar to the US/UK invasion of Iraq,[96] therefore, both should be strongly condemned in law and ethics.

[95]Simpson (2005).
[96]Kramer & Michalowski (2005).

It is also obvious that the US/UK invasion of Iraq has played a significant role in state abuse of the use of force, which may have paved the way for the invasion of Ukraine.[97] Therefore, it is possible to assume that the lack of criticism and coordinated response to the US/UK invasion of Iraq may have weakened the foundation of *jus contra bellum* norm in a similar manner compared to Russia's absurd, banal and illegitimate justification of the use of force against Ukraine. This is a rather unfortunate, disgraceful and disrespectful way of using international law or customs to fulfil one absurd, banal and illegitimate aim. Therefore, none of the exceptions or the arguments put forward to justify the war on Iraq and Ukraine is valid or merits consideration. It also violates legal norms established by international doctrines and customs over the years.

Likewise, the UK Attorney General declined to support the argument put forward by the US as the basis for military intervention in Iraq, which is basically a statement that creates a foundation for pre-emptive self-defence.[98] This is also absurd, banal and illegitimate justification of the use of force against the Iraqi people. In this understanding, international law, as it contains general precepts, may not fail, hence, does not allow dispensations. In other conceptions, however, we may draw a conclusion of the general precepts, meaning a dispensation may something be granted, for instance, in self-defence or something similar. Nonetheless, in international law, each state stands as a private person to the public law to which they are subject. Therefore, just as no one can dispense from public law, except the principles from whom the law derives its authority, so in the precepts, international law is absolute, and no state can be dispensed.

In this observation, it seems to me that international law in its current form is not common law for all nations. This is partly because it will seem that not every conduct of states is derived from international law. At the outset, this may be because states, for various reasons, may intentionally violate international law or unintentionally breach the general principle of international law, either for political or economic reasons. Therefore, international law may only be called common law for all nations if the legal justification for state action is that which fundamentally is a matter of indifference. Thus, the conduct that arises from state action should not be a matter of indifference to international law. Therefore, states' conduct and action should be derived from international law and customs. That is to say, the conduct and actions that flow as the conclusion from the general principles of international law belong to obedience to the law, thus, encompassing ethics. Hence, that which is established by international law or customs must be respected by all states, in order to give it meaning. In this understanding, any argument for military intervention must be a mode of derivation found in international law, customs and doctrine. Therefore, that which should be derived from the first instance should contain the totality of international law and customs not emanating from the exclusive power of some so-called world superpower and must also have the force of international law. However, the conduct and action which are derived in the secondary matter, have no other force than the principle of ethics. On this

[97]Krisch (2022).

[98]UK, Parliamentary Debates, House of Lords, 21 April 2004, vol 660, pt 70, columns 369–76 (Lord Goldsmith, Attorney-General).

observation, I will argue that the Iraq invasion was illegal and there was no legal basis for such a decision in law. I will also observe that the decision violates the common principle of ethics and, therefore, lacks virtue.

The 2022 Russia's invasion of Ukraine breaches Article 2(4) of the UN Charter, which 'prohibits the threat or use of force and calls on all Members to respect the sovereignty, territorial integrity and political independence of other States.'[99] Likewise, Russia's Permanent Representative to the UN advised the UN Secretary-General that the military action taken against Ukraine is 'taken in accordance with Article 51 of the UN Charter in the exercise of the right of self-defence.'[100] In justification of Russia's action, he explains Putin's speech to the Russian population before the invasion.[101] After the speech, he transferred the notification to the UNSC (UN Doc. S/2022/154), which led to an 11-1 vote to condemn Russia, with China, India, and the Arab Emirates abstaining. Russia notifying the UNSC complies with the requirement of reporting action under the principle of self-defence. Thus, the fundamental issue here is whether Russia's military action is a lawful exercise of self-defence under the principle of customary international law.

To establish the lawfulness of Russia's action, two key criteria need to be satisfied; the first, the necessary condition that gives rise to the conduct of self-defence is an 'armed attack'. The second is the use of force in response to the armed attack, which could be individual or collective. The latter could be exercised in collaboration with the injured state or on behalf of the entire state. Furthermore, international law recognises that states need not suffer an attack before taking lawful action to defend themselves against forces that pose an imminent danger of attack. Legal scholars and international jurists also believe that a visible mobilisation of armies, navies, and air force preparation to attack may trigger self-defence. In critical observation of these points of view, it is clear that Russia's action does not satisfy any of these requirements.

Therefore, the claim by President Vladimir Putin and other Russian officials that military intervention in Ukraine is justified under Article 51 of the UN Charter has no tooth or support in fact or law.[102] It also demonstrates an obscured, banal and cagey approach to the interpretation of Article 51 of the UN Charter and the justification of military intervention in the 21st century. The general principle of international law cannot and must not be used as a justification for bloodshed, regardless of how states may or may not feel about each other's conduct and action.[103] War has no virtue, nor morality and human dignity cannot be observed under military intervention. Consequently, I may argue that if we are to truly observe international law, we may reach the conclusion that the general principles of international may not permit war or acts that may lead to the destruction of social structures and human dignity. It may only be possible if ethics no longer become the substance of international law. Even in this conception, we may, thus,

[99]Article 2(4).
[100]Schmitt (2022).
[101]Putin (2022).
[102]Chachko & Linos (2022).
[103]Kelsen (2003).

say international law has lost its validity, as it cannot obtain its true value without ethics.

In this conceptual understanding, the general principle of international (in this instance, I am referring to the UN Charter) law cannot be applied to all military interventions or wars in the same way on account of the great varieties of state military operations. Simply, because war violates human dignity, it breaches the principle of ethics. Hence, international law must not be a tool for war except in some exemptional circumstances where there is a risk of gross human suffering or an imminent attack on a state or civilians. This is because it serves to preserve the relationship between states and maintain the respect of human dignity. International law is to be understood as rules that determine the extent of cooperation and respect of human dignity, on which determination must be judged against ethics and integrity, which is based on moral principles. It thus, seems to me that international law should be a frame not for a justification for military action, but rather for cooperation and protection of human dignity. Based on this understanding, I will argue that both wars were wrong and violated the basic principles of international law.

Furthermore, Article 51 provides 'nothing in the present charter shall impair the inherent right of individual or collective self-defence, if an armed attack occurs against a member of the United Nations.'[104] In relation to Article 51 and Russia's invasion, under no circumstance may we conceive Ukraine committing or threatening the security of the Russian state or, as a matter of fact, any of the other UN member states. Therefore, Russia's claim of self-defence is an illusion and false interpretation of Article 51.[105] Likewise, it is possible to assume that Article 51 is framed as a rule or measure of state conduct. Hence, the only conclusion one may draw from Russia's action is due to its interior behaviour or disposition, since the same thing is not possible for a person who has no virtue or has not had a virtuous habit, as this is possible for another person to have it. So, it can also be said about the US and UK invasion of Iraq on 10th March 2003.[106] Therefore, international law aims to lead the state to collective responsibility and virtue, not suddenly but gradually. While international law does not lay upon the majority of states the burden of those who are already virtuous, it definitively seeks nations to abstain from unvirtuous conduct. Otherwise, less powerful states may not be able to bear the precepts, and they in turn, may break out into greater conducts that are contrary to the good or the spirit of the Rule of Law. Thus, the law which is framed for nations must be allowed and must not leave unpunished all conducts that are punishable under international law and customs. In this understanding, if the general principle of international law does not attempt to address the issue of cooperation and respect for human dignity, then this is the reason why it should be blamed for what it does not do.[107] For the true form and substance of international law, must prohibit and forbid everything that violates the principle of cooperation and human dignity, without the endorsement of military intervention.

[104]Article 51 of the UN Charter.
[105]Grossman (2022).
[106]Lowe (2003).
[107]Degan (1997).

Additionally, even if Russia could demonstrate that Ukraine had violated international law or planned to attack the Ukrainian regions of Donetsk and Luhansk, Article 51 may not cover such action in the principle of collective self-defence. Likewise, Putin's claim that Ukraine has committed genocide against Russians in Donetsk and Luhansk will not suffice under the Genocide Convention.[108] Again this illusion and misinterpretation of international law, therefore, a possible conclusion here is that Russia seeks to justify its invasion of Ukraine by using the word "genocide" as a means of violating international law. However, even though the approach used by Russia may differ, the fundamental principle is similar to the US and UK justification for military action in Iraq in 2003. Both are legally and morally wrong. International law in these circumstances does not prescribe acts that violate cooperation and human dignity. However, states do not prohibit conduct that violates the principle of cooperation and human dignity. Therefore, neither states prescribe all conduct that a deem compatible with the principles of cooperation and human dignity. In this conceptual understanding, it seems to me that international law in its present state and form does not bind states in conscience. For inferior states has no jurisdiction in a state of a higher power. However, the higher power state, which frames international law is not beneath the principle of the Rule of Law, ethics and integrity. therefore, powerful states cannot impose their precept on international law.

By way of illustration, Convention on the Prevention and Punishment of the Crime of Genocide states under Article II that

> 'G*enocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:*
>
> *a. Killing members of the group;*
> *b. Causing serious bodily or mental harm to members of the group;*
> *c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*
> *d. Imposing measures intended to prevent births within the group;*
> *e. Forcibly transferring children of the group to another group.'*[109]

Examining Article II against Russia's claim shows there is no evidence that Ukraine has engaged in such conduct or crimes defined under the Convention. Likewise, there is no evidence to show Ukraine intended to destroy the entirety, or any part, of Eastern Ukraine, as alluded to by Putin. However, if the government of Ukraine had committed human rights violations against the Russian people in Eastern Ukraine, these human rights abuses may not amount to a crime as defined by the Convention or the violation of UN Charter, which may permit member state to take military action to remedy the genocide or serious breaches of human rights if the UNSC authorises it. Therefore, Russia's intervention violates the principle of

[108]Quigley (2016).
[109]Article II Convention on the Prevention and Punishment of the Crime of Genocide.

ethics in international law, but so can be said about the US and UK's intervention in Iraq. This argument is true for conducts that are contrary to the general principle of international law, which goes beyond the power of states. Hence, in such a matter, international law should be respected and obeyed. This argument is also true for the conduct that inflicts unjust harm on its subjects. Likewise, the 21st-century approach to international law may help one to assume that not all states are subject to the principle of the Rule of Law. Therefore, international law has created bias or partiality, whereby only a few are subject to the law for whom the law is made. However, I will argue that the law is not made for only the smaller states, but made for all in its totality. It is therefore evident that, as regards the general principle of international law, whether speculative or of practical reasoning, truth or virtue, it is the same for all, and it is equally known and applied by all.[110]

Now, this is not true for the majority of cases in the contemporary world, when it comes to the respect of international law and human rights. Consequently, we must assume that international law as a general principle is flawed and requires improvement. However, as to the issue of respect and application, we can say the general principle of international law is the same for a majority of cases. However, international law may fail to exhibit itself due to the nature and manner in which it is constructed. Therefore, where the law indeed is absolute, it can be said the law is fair and just as it is applied without exceptions. Without a doubt, it is possible to assume that international law is good. For just as its precept has been demonstrated to be good by the fact that it accords with the right reason, likewise, customs are also in accord with reason. Consequently, it is evident that it is a good law. However, it must also be noted that good has various degrees, thus, there is a concept of perfect good and the notion of imperfect good. In essence, things that are said to be perfect goodness in their end mean it has attained perfect goodness when such a thing is sufficient in itself to produce a good end.

Whiles, we may contemplate imperfect goodness to be things that help to achieve some objective means but are not sufficient for the realisation of the totality of the thing. For instance medicine for an illness is perfectly good, if it helps a sick person to be healthy, but it is imperfect if it helps in curing the sick person, without helping him/her get back to where he/she was before the illness. This is the spirit of international law and customs; the end is different from national law. The end of international law is cooperation, harmony and respect for fundamental human rights, which effect by directing external actions, as regards disturbing peace and security. Consequently, that which suffice for the perfection of international law prohibits conduct that violates the enjoyment of peace and security. Therefore, it is the requisite of international law to make sure that all state action and conduct fit the everlasting peace and security of all or the common good.

[110]Bassiouni (1989).

Conclusion

From this point of view then, it would seem that the current approach, implementation and enforcement of international law precepts are not suitable in regards to the relationship between powerful individuals, states and multinational organisations. This is partly because it is impossible to realise total peace among powerful individuals, states and multinational organisations, if one powerful individual, state or multinational corporation can take what belongs to another. However, the doctrine of international law seems to indirectly approve this by justifying self-defence under the use of force. Therefore, in this conception, international law did not make suitable provisions for the totality of peace in the world.

Hence, the US, UK and Russia and its allies are able to invade other countries. In addition, one of the fundamental threats to peace and security in the world is states' ability to violate the territorial integrity belonging to one another. This principle makes it unsuitable for the international community to protect the welfare of all people. To resolve this difference, a distinction needs to be drawn between application and practice. By this means, the characteristic of international law must be focused on practice and enforcement, rather than as a means to some other activity. This distinction should be the practical aims and objectives of international law. The practical aims and objectives imply the understanding of international relations and conduct and a better understanding of states' actions. Therefore, since the subject matter must match its aims and objectives, the subject matter of application and practice of international law has to encompass things we can do to improve international law, which involves questioning the foundation of international law. Therefore, the subject matter of international law has to do with things affecting its application and practice. This should be the new branch for studying international law and states' obligations.

In conclusion, the purpose of this article is to highlight modern problems with international law and laws of war. It may also highlighten the importance of protecting human dignity and respect for international law in relation to the use of force. It has explored the inadequacy of international law and argues for including ethical principles in the use of force doctrine. It is thus recommended that the international community develop a new code of ethics for the use of force and future military intervention, new guidelines for the use of force in contemporary war and an independent tribunal to adjudicate the use of force.

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