


*Joanna Połatyńska** <https://orcid.org/0000-0002-4522-7204>

**THE ALABAMA REVISITED:
SOME OBSERVATIONS ON THE EVOLUTION
OF RIGHTS AND DUTIES OF NEUTRAL STATES
IN ARMED CONFLICTS UNDER INTERNATIONAL LAW**

Abstract. The paper discusses the concept of neutrality in contemporary international law. The traditional notion of neutrality, stemmed from states' practice since the 17th century, means the particular status, defined by international law, of a state that is not party to an armed conflict. The basic premise of this notion is, in short, quite straightforward: on the one hand, the neutral state has the right to remain apart from, and not to be adversely affected by, the conflict. On the other hand, the neutral state is under the obligation of non-participation and impartiality. In the 20th and 21st centuries, however, following several treaties and modifications of states' practice on that matter, the law of neutrality underwent changes and introduced new concepts, e.g. qualified neutrality or non-belligerency. This change, however, has produced only modifications of specific rules of the law of neutrality, not a general abolition of this whole body of law.

Keywords: aggression, armed conflict, neutrality, use of force, rights and duties of States

**AKTUALNOŚĆ ORZECZENIA W SPRAWIE STATKU ALABAMA:
WNIOSKI CO DO EWOLUCJI PRAW I OBOWIĄZKÓW PAŃSTW
NEUTRALNYCH W ŚWIETLE PRAWA MIĘDZYNARODOWEGO**

Streszczenie. Celem artykułu jest zbadanie instytucji państwa neutralnego we współczesnym prawie międzynarodowym. Tradycyjne ujęcie neutralności, wypracowane w praktyce państw od XVII wieku zakłada, że państwo nie będące stroną w konflikcie nabywa na podstawie prawa międzynarodowego szczególny status, który można w skrócie przedstawić następująco: państwo neutralne ma prawo nie odczuwania negatywnych skutków istniejącego konfliktu zbrojnego. Z drugiej strony, państwo takie ma obowiązek pozostawania bezstronnym i nieudzielania pomocy stronom wojującym. Jednak w praktyce XX i XXI wieku można wskazać wiele przypadków pomocy udzielanej stronom konfliktu przez państwa nie biorące w nim udziału. Koncepcja neutralności (określanej również prawem neutralności) podlegała, podobnie jak całe prawo międzynarodowe, wielu przemianom w XX wieku, wykształcając m.in., pojęcia „kwalifikowanej neutralności” oraz

* University of Lodz, jpolatynska@wpia.uni.lodz.pl

„nieuczestniczenia w działaniach zbrojnych”. Zmiany te jednak nie podważyły istoty neutralności, która wciąż stanowi część prawa międzynarodowego.

Słowa kluczowe: agresja, konflikt zbrojny, neutralność, użycie siły, prawa i obowiązki państw

“I am certain that the day will come again when no nation will have the effrontery and the cynicism to demand that, while it itself scoffs at and disregards every principle of law and order, its intended victims must adhere rigidly to all such principles – until the very moment when its armed forces have crossed their frontiers.”

Cordell Hull, US Secretary of State

1. INTRODUCTION

The European Union, the United States, and others have supplied many forms of assistance to Ukraine in months following the Russian aggression in February 2022. From welcoming refugees to deploying humanitarian aid, from supplying military equipment to sharing intelligence data, from intergovernmental loans to private donations, governments and private entities alike shared the need to demonstrate their condemnation to that blatant violation of international peace and security.

This rare manifestation of international solidarity in the face of the biggest attack on a European state since World War II (D’Anieri 2023, 1) invokes several questions from the international law perspective. While the Russian invasion is undoubtedly perceived as a clear violation of both Article 2.4 of the UN Charter of 1945 and the norm of customary international law prohibiting aggression¹ with the subsequent hostilities qualified as ‘war’ even in the absence of formal declaration thereof (Oppenheim, Lauterpacht 1955, 965), the international aid to Ukraine is of such magnitude that it gives rise to the questions on its legality under international law.

Moreover, legal considerations are strengthened by various political concerns, including the potential escalation of the global conflict with Russia. Similar

¹ Although the search for a consensual definition of aggression was lengthy and difficult (with states on one side in favour of a definition limited to the military intervention of a state on the territory of another, and states on the other side in favour of a broader definition that would reflect different forms of interference and violation of State sovereignty), there has been agreed that states should condemn recourse to war for the solution of international controversies and renounce it as an instrument of national policy in their relations (see eg.: Article I of General Treaty for Renunciation of War as an Instrument of National Policy of 1928). It was only in 1974 that the UN adopted a definition of the act of aggression. Before the General Assembly’s Declaration 3314 (XXIX), the concept of aggression had also been clarified and developed in several decisions of the International Court of Justice, e.g. the Barcelona Traction case, where the ICJ instanced “the outlawing of acts of aggression” as one of the obligations *erga omnes* (Barcelona Traction 1964, p. 32, para. 34).

questions are reiterated by lawyers, politicians, and journalists on both sides on every occasion when the new shipment of support is to be deployed to Ukraine or new sanctions are to be imposed on the Russian Federation and its authorities. Without any doubt, Russia and Ukraine are engaged in an international armed conflict and thus are belligerents, but in the case of states not participating in this conflict, the case is not as clear. In particular, many commentators invoke the law of neutrality as a set of rules governing the legal relationship between states that are not taking part in an international armed conflict (neutral states) and belligerents. The law of neutrality stems from the 17th and 18th centuries state practice and in that time, it was a system of reciprocal rights and obligations for neutral states and belligerents.² However, it must be borne in mind that since the 18th century, international law has undergone quite a profound metamorphosis and, therefore, any simple recall of its origins must be perceived as faulty.

Under these circumstances, it is of utmost importance to analyse the contemporary meaning of neutrality in an armed conflict in order to formulate the rights and duties of states that are not taking part in an international armed conflict.³

2. THE ALABAMA STANDARD OF NEUTRALITY – 1860–1945

As it has been stated above, it is universally acknowledged that the first cohesive notion of neutrality was expressed by the arbitral tribunal established to settle the so-called “Alabama claims”.⁴ On 14th September, 1872, the Tribunal established by Article I of the Treaty of Washington⁵ rendered its award concluding the diplomatic dispute between the United States and Great Britain that arose out of the US Civil War.

² For example, neutral states had a duty not to participate in hostilities and to be impartial in their conduct towards belligerents. In return, belligerents were obligated to respect neutral states’ territory, and neutrals were permitted to trade with all sides of the conflict if they did so in an impartial way. Cf. Mulligan (2022, 2).

³ For the purpose of the analysis, the notions of permanent neutrality, legal neutralisation, and neutrality policy stay outside the scope of this paper.

⁴ The Alabama Claims is a common name for several demands for damages claimed by the government of the United States from the United Kingdom in 1869, for the attacks upon Union merchant ships by Confederate Navy commerce raiders built in British privately owned shipyards during the American Civil War (1861–1865).

⁵ On 8th May, 1871, the United States and Great Britain signed the Treaty of Washington, which, by establishing four separate arbitrations, afforded the most ambitious arbitral undertaking the world had experienced up to that time. The peaceful resolution of that dispute seven years after the war ended set an important precedent for solving serious international disputes through arbitration and laid the foundation for greatly improved relations between Great Britain and the United States.

At the outset of the war, a Federal blockade of Southern ports and coasts automatically extended belligerent status to the Confederacy. To protect its own interests, Great Britain took the lead among European countries in proclaiming its neutrality (14th May, 1861). The Confederacy immediately set about building a navy to engage the Union's naval power and to destroy its merchant marine. Along with several other ships, the Alabama was built or fitted out privately on the British territory and put to sea despite the belated intervention of the British government. After the war, the United States demanded compensation from Great Britain for the damage wrought by the British-built, Southern-operated commerce raiders, based upon the argument that the British Government, by aiding the creation of a Confederate Navy, had inadequately followed its own neutrality laws.

Due to the scope of the claims presented in the *Compromis*, the Tribunal only decided upon wartime maritime obligations of neutral states with reference to international law and rules agreed by parties. Under Article VI of the Treaty of Washington, accordingly, the neutral Government is bound (i) to use due diligence to prevent the fitting out, arming or equipping, within its jurisdiction, of any vessel which it has reasonable ground to believe is intended to cruise or to carry on war against a state with which it is at peace; and also to use like diligence to prevent the departure from its jurisdiction of any vessel intended to cruise or carry on war as above, such vessel having been specially adapted, in whole or in part, within such jurisdiction, to warlike use; (ii) not to permit or suffer either belligerent to make use of its ports or waters as the base of naval operations against the other, or for the purpose of the renewal or augmentation of military supplies or arms, within such jurisdiction, to warlike use; and (iii) to exercise due diligence in its own ports and waters, and, as to all persons within its jurisdiction, to prevent any violation of the foregoing obligations and duties (Treaty of Washington, 1871, Article VI).

On this basis, however, the Tribunal established the standard of compliance for neutral states with the aforementioned obligations. The Tribunal observed that (1) due diligence ought to be exercised by neutral governments in exact proportion to the risks to which either of the belligerents may be exposed, from a failure to fulfil the obligations of neutrality on their part; (2) the effects of a violation of neutrality committed by means of the construction, equipment, and armament of a vessel are not done away with by any commission which the Government of the belligerent power benefited by the violation of neutrality may afterwards have granted to that vessel; and (3) the principle of extritoriality has been admitted into the laws of nations, not as an absolute right, but solely as a proceeding founded on the principle of courtesy and mutual deference between different nations, and, therefore, can never be appealed to for the protection of acts done in violation of neutrality (Alabama claims Arbitral Award 1872, 130–131).

These so-called rules of Washington (Moore 1898) were later included in two treaties adopted at the 1907 Peace Conference, namely the Hague Convention (V) Respecting the Rights and Duties of Neutral Powers and Persons in Case of War

on Land (hereinafter: Hague V) and the Hague Convention (XIII) Respecting the Rights and Duties of Neutral Powers in Naval War (hereinafter: Hague XIII).⁶

Under Hague XIII and Hague V, neutral states cannot provide “ammunition, or war material of any kind whatever” to belligerents (Article 14 of Hague XIII, Article 7 of Hague V). Both treaties exempt humanitarian assistance from this prohibition (Article 6 of Hague XIII, Article 14 of Hague V), and they do not require neutral states to prevent private companies from selling munitions and war material (Article 7 of Hague XIII, Article 7 of Hague V). Neutral states also have an obligation to prevent belligerents from committing certain hostile acts on neutral states’ territory (Article 8 of Hague XIII, Article 2 of Hague V), and Hague V and XIII require neutrals to intern and detain belligerent forces found in their territory (Article 24 and Article 12, respectively). As part of their corresponding set of duties, belligerents must treat neutral states’ territory as inviolable (Article 1 of Hague XIII, Article 1 of Hague V). Belligerents may not move troops, munitions, or supplies across neutral territory, and they may not set up communication apparatuses or recruit combatants, among other things, on neutral territory (Article 5 of Hague XIII, Article 2 of Hague V).

Even perfunctory analysis of Hague V and Hague XIII leaves no doubt that the conduct of states in the Russo-Ukrainian war is inconsistent with the rules of Washington and stipulations of both treaties, and may confirm the aforementioned concerns expressed by many international commentators. On the other hand, some commentators also underline that the current circumstances are quite different from the times the treaties were drafted and, therefore, the Hague rules of war are not fit to govern the modern world. Again, both these positions are formulated without regard to the further development of international law which took place in the 20th century.

3. THE UNITED NATIONS CHARTER OF 1945 – A TURNING POINT FOR NEUTRALITY

In the early and mid-20th century, the gradual suppression of the *ius ad bellum*⁷ restricted the right to use armed force to cases of self-defence against aggression. In 1945, the Charter of the Nuremberg Tribunal relied on the principles of international law to institute the act of planning, preparing, initiating, or waging a war of aggression as a crime against peace (Article 6.a of the Charter), engaging the criminal responsibility of perpetrators.

⁶ Although Hague V and Hague XIII each have fewer than 35 (34 and 30 respectively) state parties, it is worth noting that the United States, Ukraine, and Russia have ratified both treaties.

⁷ As in Article 10 of the Covenant of the League of Nations (1919) and Article 1 of the General Treaty for Renunciation of War as an Instrument of National Policy of 1928.

The United Nations Charter (hereinafter: UN Charter), signed on 26th June, 1945, creates modern framework for the recourse to force in the relations between states. Article 2.4 of the UN Charter prohibits the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations set out in Article 1 of the UN Charter.⁸ Therefore, as a general rule, the UN Member State is not allowed to use not only the force but also mere threat to use force against any other state except, as stipulated in Article 51 of the UN Charter, in the case of self-defence if an armed attack occurs against said state.

The rationale for such radical suppression of the legal possibility to use force is quite simple: the UN Charter creates a system of collective security under the primary responsibility of the Security Council. The UN Security Council's (hereinafter: UNSC) mandate is structured around the wider notion of threat to international peace and security, and the UNSC is competent to take appropriate measures in such cases, including the recourse to collective force as may be necessary to maintain or restore international peace and security (Article 42 of the UN Charter). It should be noted that although the UNSC is authorised to determine the existence of any threat to the peace, breach of the peace, or act of aggression, the UN Charter does not contain a clear definition of either of these terms. Under these circumstances, it is a prerogative of the UNSC to assess the magnitude of a potential violation of international peace and security, and to act accordingly.

The traditional concept of neutrality has been substantially modified after the UN Charter had come to force. When called upon by the UNSC to do so, Member States are obligated to provide assistance to the UN, or a state or coalition of states implementing a Security Council enforcement action, in any action it takes and to refrain from aiding any state against whom such action is directed (Articles 2.5, 25, 43 & 49 of the UN Charter). Consequently, Member States may be obliged to support a United Nations' action with elements of their armed forces, a result incompatible with the abstention requirement of neutral status (Articles 43 & 45 of the UN Charter). Similarly, a Member State may be called upon to provide assistance to the United Nations in an enforcement action not involving its armed forces and thereby assume a partisan posture inconsistent with the impartiality required by the traditional law of neutrality (Articles 41 & 49 of the UN Charter). Moreover, Article 103 of the UN Charter leaves no room for any deliberation stipulating that, in the event of a conflict between the obligations of the members of the United Nations under the UN Charter (i.e. the UNSC resolution under Chapter VII of the UN Charter) and their obligations under any other international agreement (e.g. Hague V or Hague XIII), their obligations under the UN Charter

⁸ The purposes of the United Nations encompass, *inter alia*, the maintenance of international peace and security, and to that end: taking effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace.

shall prevail. *A contrario*, only should the UNSC determine not to institute an enforcement action, each United Nations member remains free to assert its neutral status.

It is of utmost importance to remember that general prohibition of the use of force as provided in Article 2.4 of the UN Charter diametrically changes the possible consequences of the violation by neutral state of its rights and obligations. The violation of the law of neutrality does not implicate that a non-neutral state automatically becomes a belligerent state. On the contrary, any military response to the violation of rights and duties of a neutral state falls under scrutiny of the legitimate exceptions to the prohibition of the use of force. For example, current military assistance to Ukraine would not permit Russia to use force in response to a neutrality violation unless Russia could satisfy an exception to the UN Charter's prohibition on use of force. Nor would a violation of neutrality, on its own accord, make the EU, the USA, and other states co-belligerents or parties to the conflict fighting alongside Ukraine (Mulligan 2022).

4. FURTHER DEVELOPMENT – FROM 1945 TILL TODAY

The system of the UN Charter was put to its first crash test almost five years later, on 25th June, 1950, when North Korea invaded the Republic of Korea following years of hostilities between the two states. On the same day, the UNSC unanimously condemned the North Korean invasion of South Korea with its Resolution 82. Two days later, the UNSC determined that North Korea's aggression constituted a "breach of peace", recommended that member states "furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack", recommended that such forces and assistance be made available to a "unified commander under the United States", and authorised the unified command to use the UN Flag "in the course of operations against North Korean forces" (UNSC Resolution 83/1950). These Resolutions were adopted during the Soviet Union's self-imposed absence from the UNSC proceedings. Upon the USSR's return, its veto prevented the UNSC from taking further action (Malkasian 2001, 16). Under those circumstances, the General Assembly of the UN (hereinafter: UNGA), having determined that the UNSC was unable, due to the threat of a Soviet veto, to "discharge its responsibilities on behalf of all the Member States", adopted on 3rd November, 1950, the "Uniting for Peace Resolution" (UNGA Resolution 377(V), 1950).

According to the wording of the 'Uniting for Peace' Resolution, the UNGA may, in the event of a breach of the peace and the inability of the UNSC to act due to a veto, make "appropriate recommendations to members for collective measures, including (...) the use of armed force when necessary." It must be noted that, in contrast to a binding UNSC decision, resolutions of the UNGA do not

constitute legal obligations for the Member States and as such UN members may or may not comply with them without exposing themselves to the international responsibility. Consequently, as it has been mentioned above in the case of inaction of the UNSC, in case of the UNGA's recommendations, neutrality remains a distinct possibility (Schindler 1991, 372; Ronzitti 1998, 211).

Despite the best intentions of the creators of the United Nations, the Korean war conundrum was first of many cases when the UNSC was not able to undertake any measures to restore international peace and security, the most recent being the UNSC Resolution 2623 of 27th February, 2022. The UNSC openly admits that "the lack of unanimity of its permanent members at the 8979th meeting has prevented it from exercising its primary responsibility for the maintenance of international peace and security" and decides "to call an emergency special session of the General Assembly to examine the question contained in document S/Agenda/8979" (UNSC Resolution 2623/2022).⁹

Although not provided for in the UN Charter, that tacit agreement of the international community, UNGA Resolution 377, was supported by at least three reasons. Firstly, the memory of WWI atrocities and of WWII carnage was still fresh. Secondly, the bipolarisation of the world politics and a threat of a nuclear conflict on the horizon alerted the states that in case of "new" (i.e. nuclear) conflict, any legal status would be of no consequences when the whole continent might turn out to be a collateral damage. And thirdly, the classical notion of just war gave philosophical and moral justification for assistance provided for the victim of aggression. As a result, the international community has recognised some kind of moral responsibility for maintaining international peace and security both in cooperation with the UNSC under Chapter VII of the UN Charter and under the auspices of the UNGA in compliance with customary international law.

This notion of very vague yet present obligation to maintain international peace and security may be tracked down in several subsequent cases of states' practice. For example, some states, including the United States, have adopted the doctrine of qualified neutrality. Under this doctrine, states can undertake non-neutral acts when supporting the victim of an unlawful war or aggression.¹⁰ Moreover, in cases of collective self-defence both under Article 51 of the

⁹ The question on which the UNGA was to debate had been contained in the Letter dated 28th February, 2014, from the Permanent Representative of Ukraine to the United Nations addressed to the President of the Security Council. It was a request for an urgent meeting of the Security Council in accordance with Articles 34 and 35 of the Charter of the United Nations, concerning the Russian annexation of Crimea. Thus far, the UNSC Resolution 2623 was the 13th case when the UNGA Resolution 337(V), 1950 was invoked and the 8th time the UNSC invoked it.

¹⁰ The United States considered itself as a non-belligerent before entering World War II, but not as neutral, because it supported the United Kingdom in a way that was incompatible with the duty of non-participation under the law of neutrality. More recently, during the 2003 US-British intervention in Iraq, some European States (e.g. Germany) gave assistance to the intervening states, which was incompatible with the law of neutrality without becoming parties to the conflict.

UN Charter or under customary international law, this collective action is nothing other than assistance provided for the victim of aggression by states originally not involved in the conflict. Some authors (Schmitt 2023) also claim that although not obligatory, states may help the victim of aggression without violating their neutrality obligations, because self-defence is accepted as a treaty-based and customary law “circumstance precluding wrongfulness”, as enshrined in Article 21 of the Articles on Responsibility of States for the Internationally Wrongful Acts (hereinafter: ARSIWA 2001).

A very interesting and important shift in discussion on the law of neutrality has been fuelled by the adoption of the aforementioned ARSIWA by the UNGA in 2001. During the works of the International Law Commission (hereinafter: ILC), it has been noted that the emergence of peremptory norms of international law and their consequences for, e.g., international treaties¹¹ imposes the responsibility for “serious breaches of obligations under peremptory norms of general international law” (ARSIWA, 2001, Chapter III). Article 41 of the ARSIWA deals with particular consequences of a serious breach of a *jus cogens* norm. According to this provision, states shall cooperate to bring to an end through lawful means any serious breach of such an obligation. Moreover, no state can recognise as lawful a situation created by a serious breach of obligations under peremptory norms of general international law, nor render aid or assistance in maintaining that situation.

In the context of neutrality, that distinction requires some deeper analysis. First of all, in order to determine a “serious breach of obligation under a peremptory norm of general international law”, two criteria must be met. The first criterion relates to the character of the obligation breached. In order to give rise to the application of this chapter, a breach must concern an obligation arising under a peremptory norm of general international law. Notwithstanding the debate on precise catalogue of peremptory norms of international law, there is no doubt that prohibition of aggression is one of such *jus cogens* norms.¹²

The second criterion serves as a further limitation of the causes for this ‘qualified’ responsibility, i.e. the breach itself should have been “serious”. A “serious” breach is defined in paragraph 2 of Article 41 as one which involves “a gross or systematic failure by the responsible State to fulfil the obligation” in question. Consequently, the word “serious” signifies that a certain order of

¹¹ Cf. Articles 53 and 64 of the 1969 Vienna Convention on the Law of Treaties (hereinafter: VCLT).

¹² This is supported, e.g., by the ILC’s commentary to what was to become article 53 of the VCLT, uncontradicted statements by Governments in the course of the Vienna Conference on the Law of Treaties or the submissions of both parties in the Military and Paramilitary Activities in and against Nicaragua case and the ICJ’s own position in that case, Cf. Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America), Merits, Judgment, ICJ Reports 1986, para. 190.

magnitude of violation is necessary. As explained in the ILC's Commentary to the ARSIWA, factors which may establish the seriousness of a violation would include the intent to violate the norm; the scope and number of individual violations; and the gravity of their consequences for the victims (ARSIWA Commentary, 2001, p. 113).¹³

These remarks of general nature indicate that in the present case of Russo-Ukrainian war, the conclusion of existence of 'serious breach of obligations under peremptory norms of general international law' is correct and well-founded. Whether in 2014 or in 2022, the Russian invasion on Ukrainian territory has constituted a clear breach of the peremptory norm of general international law. There is also no place to question the serious character of said breach – the Russian action was intentional¹⁴ and of vast gravity for the victim state. Under these circumstances, the international community's response of condemnation and offered assistance to Ukraine seems in compliance with obligations stated in Article 41 of the ARSIWA. States have not recognised as lawful a situation created by a serious breach of obligations under peremptory norms of general international law and have been cooperating to bring to an end said breach through lawful means.

Even if – although it has been a subject of a two-decades-long debate – the ARSIWA in this part is not the codification of customary international law, the obligations set in Article 41 are the reflection of existing rules stemming from the 20th-century states' practice. The obligation of non-recognition is established well enough since its expression as the so-called Stimson's doctrine,¹⁵ and the obligation of cooperation to bring to an end the unlawful situation of violation of *jus cogens* norm, including prohibition of aid or assistance to the perpetrator state, is confirmed, for example, in the UNSC resolutions prohibiting any aid or assistance in maintaining the illegal apartheid regime in South Africa or Portuguese colonial rule.¹⁶

¹³ It must also be borne in mind that some of the peremptory norms in question, most notably the prohibitions of aggression and genocide, by their very nature require an intentional violation on a large scale. Cf. ARSIWA Commentary, para. 40(8).

¹⁴ Cf. e.g., various statements of Vladimir Putin and Sergiei Lavrow from the beginning of the invasion in 2022.

¹⁵ Named after then US Secretary of State, Henry Stimson, who, during the Manchurian crisis of 1931–1932, declared that the United States of America and large majority of members of the League of Nations would not admit the legality of any situation *de facto* nor recognise any treaty or agreement which may impair the sovereignty, the independence, or the territorial and administrative integrity of the Republic of China, nor recognise any situation, treaty or agreement which may be brought about by means contrary to the covenants and obligations of the Kellogg-Briand Pact of Paris, 1928. Cf. Secretary of State's note to the Chinese and Japanese Governments, in: Hackworth (1940, 334).

¹⁶ Cf. UNSC resolutions 218 (1965) on the Portuguese colonies, and 418 (1977) and 569 (1985) on South Africa.

5. CONCLUSIONS

The act of aggression is today acknowledged as the most serious form of illicit recourse to force. Within the international order that has prevailed since the Treaty of Westphalia of 1648 and the affirmation of state sovereignty, aggression appears to be the most serious crime that can be perpetrated, undermining the very existence of the state, its territorial integrity, and, as such, the fundamental principles of international law. Thereby, every state, by virtue of its membership in the international community, has a legal interest in the protection of certain basic rights and the fulfilment of certain essential obligations. Mindful of atrocities of two world wars, the international community is especially interested in maintaining international peace and security. In this light, the general prohibition of aggression and very strictly limited right to use force are core elements of the contemporary system of international security as enshrined in the UN Charter.

The competence of the UNSC to determine whether a violation of, or just a threat to international peace and security exists is nothing more than contemporary analogy of medieval competence of a Pope to decide whether war was just and holy. With the Charter, the just war doctrine had returned in a secular form and states are legally obliged to support the decision of that body and refrain from actions that might assist states that are using force unlawfully, legal obligations that mirror their just war moral duties (Schmitt 2023). This analogy is further strengthened by obvious observation that, both under the UN Charter and customary international law is only possible for the victims of unlawful conduct to receive assistance in collective, lawful response to aggression. Moreover, it is recognised widely that only the victim state of aggression is afforded the right to support from neutral states, and the aggressor state is not released from the protection that neutrals enjoy *vis-à-vis* its operations. That is the main alteration of the traditional concept of neutrality – the neutral states are not obliged to formally declare their neutrality and the duty of impartiality is no longer required, and, what is more, to aid or assist the aggressor would still undoubtedly violate the tenets of neutrality law. The case of the Russo-Ukrainian war is a very good example here.

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