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Conflict

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LIST OF ABBREVIATIONS

ABBREVIATION	FULL FORM
CFR	Council on Foreign Relations
CFSP	Common Foreign and Security Policy
EU	European Union
EUMAM	European Union Military Assistance Mission
HIMARS	High Mobility Artillery Rocket System
ICC	International Criminal Cour
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Court of Justice
ICRC	International Committee of the Red Cross
IHL	International Humanitarian Law
MLRS	Multiple Launch Rocket System
NATO	North Atlantic Treaty Organization
RSFSR	Russian Soviet Federative Socialist Republic
SFSR	Soviet Federative Socialist Republic
SOFA	Status of Forces Agreement
UNSC	United Nations Security Council
UN	United Nations
RAND	Research and Development Corporation

Research Framework and Objectives

Main research question

This research paper explores how the concept of neutrality within international law has changed with military assistance provided by the historically traditional neutral States during the on-going Russo-Ukrainian conflict. It also considers, the implications of such emerging practices on the core principles of International Humanitarian Law and the wider role of neutrality in modern armed conflicts.

Sub-Questions

1. Within the wide range of military assistance provided to Ukraine by states-both neutral and non-neutral states, this paper examines the *complex interplay between geopolitical imperatives and the legal justifications put forward for such action* in a conscious effort to explain motivations for such forms of engagement.
2. This, then, is a question that seriously looks at the degree to which military assistance by the so-called neutral states has eroded this basic precept of this principle, namely, those of *impartiality, non-participation, and non-interference*, and what could result from such an *erosion in the fires of modern combat*.
3. This research paper also examines and shares a *futuristic perspective of neutrality* (which is becoming a *guiding principle in international relations*) by discussing about the systemic consequences for the application of International Humanitarian Law and the wider topography of conflict regulation.
4. This study further explores the *growing challenges to the principle of neutrality, particularly in light of modern conflicts characterized by hybrid warfare, multifaceted interventions, and the rising role of state-sponsored military support*.

Study Motivation

The on-going Russia-Ukraine War has brought about a serious review of what neutrality means in the context of modern armed conflict. Conventionally, neutrality meant non-partisanship, non-participation, and non-interference. The way in which Ukraine has been supplied with military assistance both by neutral and non-neutral states has thus run counter to the foundational precepts of neutrality. EU and NATO Sanctions, intelligence sharing, and military assistance have blurred the lines between neutral and active non-neutral participant states,

raising critical questions as to the applicability and relevance of neutrality in contemporary conflicts.¹

This emerging practice has far-reaching consequences for IHL, including the need to safeguard civilians and end needless suffering, as well as the conflict between the sovereignty of states and their international responsibilities. While neutral states, like Austria, have hitherto clung to their position of non-participation, their involvement in the Ukraine-Russia War through the imposition of sanctions and/or indirect support invites argument on whether such acts are compatible with neutrality.² The current thesis assesses these developments for their effects on the operational and legal dimensions of neutrality. In doing so, this work attempts to answer some of the most critical lacunas in current thinking about how neutrality is or may be reconfigured in response to the challenges emerging from modern hybrid warfare and globalized conflicts.

Objectives

Historical Background: To provide a critical history of the emergence and development of neutrality, including key historical moments in neutrality's codification into international law and its articulation in state practice.

Challenges to Neutrality: This research paper critically evaluates the challenges which the ongoing Russia-Ukraine conflict presents for neutrality, particularly in respect to military aid, intelligence sharing, and sanctions.

Considerations for International Humanitarian Law: This research paper further goes on to Analyze how neutral governments' military aid affects principles of IHL such neutrality, civili an protection, and the avoidance of needless suffering.³

¹ Council Decision (CFSP) 2022/338 on an Assistance Measure Under the European Peace Facility for the Supply to the Ukrainian Armed Forces of Military Equipment, and Platforms, Designed to Deliver Lethal Force [2022] OJ L 60, article 1-9.

² Nele Verlinden, “‘Are We at War?’ State Support to Parties in Armed Conflict: Consequences under *Jus in Bello*, *Jus ad Bellum* and Neutrality Law’ (Katholieke Universiteit Leuven, Doctoral Thesis, November 2019) p. 233–234

³ ‘The United States and Allies Provide Military and Intelligence Support to Ukraine’ (2022) 116 AJIL 646

Propose Solutions: This research paper shall also Identify and suggest possible reforms to international legal frameworks to ensure that neutrality remains an effective and relevant concept in the light of the complexities of hybrid warfare and multilateral interventions.⁴

Goals

Contribute to the Scholarly Debate: Through this research paper I would like to further add to the ongoing discussion in academia on the evolving nature, resiliency, and limits of neutrality in the face of modern armed conflict.⁵

Inform Policy and Practice: This research paper also attempts to provide specific insights and recommendations to help policy actors, legal actors, and international institutions to meet the challenges neutrality poses in today's conflicts.⁶

Bridge Theory and Practice: And also, to deepen insight into how neutrality interfaces with military aid and IHL in an emerging security environment and what pathways exist for neutrality to adjust to current and future security challenges.

⁴ Minutolo, M. C., Vargas, L. G., Guiora, A. N., & Ray, M. (2022). Applying the AHP to Conflict Resolution: A Russia—NATO Case Study. *Group Decision and Negotiation*, p.1–30.

⁵ P Palchetti, 'Consequences for Third States as a Result of an Unlawful Use of Force' in M Weller (ed) *The Oxford Handbook on the Use of Force* (OUP 2015) p.1229.

⁶ P Hilpold, 'How to Construe a Myth: Neutrality Within the United Nations System under Special Consideration of the Austrian Case' (2019) 18 *Chinese J Intl L* p.247, 276.

Chapter 1: INTRODUCTION

Contextual Background

Brief introduction to the concept of neutrality in international law

The origins of neutrality as a legal concept are to be found in the development of international law relating to armed conflict. Its core is found in the complex system of obligations and rights that characterizes the standing of a state which decides to keep its distance from international conflicts.⁷ However, this complex web has developed from one that was not so clearly established by a system of rights and duties between the parties to, and those outside of, the conflict. We can look to Hohfeld's seminal work regarding fundamental legal concepts to analyse neutrality as an interrelated scheme of legal positions.⁸

The rights of belligerents against neutral governments have long comprised the very cornerstone of neutrality law. The principle of necessity was also often cited as the basis for these rights, such as the *right to visit and seize contraband on neutral vessels*, as well as the *right to blockade territories held by an enemy*. This model has created a mutual relationship between neutral duties and belligerent rights. More legal substance has emerged from the development of neutrality, consisting of an increasingly complex set of rights and obligations.⁹ Governments taking on the duty of objectivity, neutrals abstained from assisting belligerents and barred the use of their territory for hostile purposes. In turn, belligerents had to respect third states' neutrality, abstaining from invading their land.¹⁰

Neutrality as a legal position since its development has been highly debated within international legal study.¹¹ There is no agreement on neutrality, as some deem it a rightful claim, where others see it simply as a status to which third states can lawfully aspire. Whether a state no longer has a free choice but is constitutionally obliged to adopt a position of neutrality or remains free to elect to become engaged in a war, was and remains to a certain degree open to dispute among

⁷ S Neff, *The Rights and Duties of Neutrals: A General History* (Manchester UP 2000) p.218.

⁸ Hohfeld, Wesley Newcomb & Cook, Walter Wheeler (ed.): *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (Yale University Press, 1919) p.65-114

⁹ see H Kelsen, *Principles of International Law* (Rinehart & Company 1952) p.26'

¹⁰ JB Moore, *A Digest of International Law*, Vol VII (Government Printing Office 1906) p.153-154

¹¹ E Castrén, *The Present Law of War and Neutrality* (Suomalainen Tiedeakatemia 1954) p.427

scholars. Traditionally, states have most often been regarded as neutrals per se unless by their free will they join in a belligerent or are compelled thereto.¹²

Relevance of the Russia-Ukraine war as a case study for examining neutrality

The Russo-Ukrainian war has cast the traditional form of neutrality into a crucible of unparalleled intensity, which brings current consideration into critical focus.¹³ The exceptional volume of belligerent material and intelligence pouring into Ukraine-with traditionally neutral states supplying lethal weaponry, including the ¹⁴European Union via its European Peace Facility-along with the provision by others of non-lethal assistance, and the principled abstention of states such as Switzerland based on strict legal assessments, has triggered a very impassioned scholarly debate.¹⁵ This paper is set within the legal underpinnings of such diverse forms of aid, in particular with regard to the continuing principles of neutrality. Out of this complex environment comes separate threads of argument, often reflecting the stances taken by the states themselves, and reflecting the solutions put forward by scholars of the law.

On the one hand, some positions stick to the old law of neutrality, speaking of "*benevolent*" or "*qualified*" neutrality, discussing exceptions for non-lethal military equipment, or supporting undisguised refusals of military assistance.¹⁶ Theoretical approaches that are more recent have been developed, on the other hand, which lie outside the classic notion of neutrality and draw inspiration from the regime on precluding wrongfulness, including collective self-defence and countermeasures.¹⁷ Within the discourse on neutrality itself, there have been divergent understandings. *One such approaches discusses exemptions allowable within this regime of law.*

The theory, for instance, "*benevolent or qualified neutrality*" implies that factors like *ius ad bellum*-the justice of resorting to war-can be applied so a neutral state legitimately discriminates

¹² 'Introduction' in E Benvenisti and G Nolte (eds), Community Interests across International Law (OUP 2018) <https://doi.org/10.1093/oso/9780198825210.001.0001>

¹³ Johannesson, J. (2017). Russia-Ukraine War Is Not a Simple Riddle. Open Journal of Social Sciences, 5, p.139-147

¹⁴ Blockmans, S. (2014). Ukraine, Russia and the need for more flexibility in EU foreign policymaking. *CEPS Policy Brief*, 320, p. 1–9.

¹⁵ Council Decision (CFSP) 2023/577 of 13 March 2023 amending Decision (CFSP) 2021/509 establishing a European Peace Facility. Official Journal of the European Union, L 75/23. <http://data.europa.eu/eli/dec/2023/577/oj>

¹⁶ Paragraph 246 of Nicaragua vs. the United States of America, dated 27 June 1986

¹⁷ Detlev F Vagts, 'The Traditional Legal Concept of Neutrality in a Changing Environment' (1998) 14(1) *American University International Law Review* p.83, 88–95.

in favor of or against either belligerent because of failure of UNSC so to act clearly. *This view is echoed in the statements of several states, which have explicitly tied their supply of arms to the continuing aggression and Ukraine's inherent right of self-defence.*¹⁸ These positions have been voiced in various forums, ranging from debates before the UN Security Council and national parliaments to official statements by states. A discrete group of states, however - New Zealand,¹⁹ Austria, Ireland,²⁰ Israel, Japan,²¹ and South Korea²² - has preferred a far more circumscribed approach, confining their activities to providing non-lethal military supplies. To the extent that this practice tends to consolidate prior practice on the supply of such materiel, *it also serves as a potential bar to crystallization of a more open "benevolent/qualified" exception to neutrality.*²³ A telling example of such cautious behaviour is the report of the Swiss Federal Council on neutrality, which confirmed a strict view of the doctrine and rejected permission for the re-export of military material to Ukraine.²⁴

Paradoxically, most states have avoided taking explicit measures supporting or opposing any of the belligerents, including Ukraine. This reluctance to directly address the legal regime of neutrality makes it hard to attribute concrete legal significance to their behaviour. Notably, while Russia has condemned certain acts, these criticisms have not been framed explicitly within the discourse of neutrality.²⁵ What is arguably strategic silence-whether because of the irrelevance of the legal regime, constraints imposed by Russia's self-characterization of its actions as a "*special military operation*,"²⁶ or broader geopolitical considerations-remains a matter of scholarly conjecture. Apart from the realm of classical neutrality, the academics have also pursued other legal grounds for military supply to Ukraine, and the most popular among

¹⁸Remarks by Ambassador Linda Thomas-Greenfield on the Future of the United Nations on 8 September 2022. <https://usun.usmission.gov/remarks-by-ambassador-linda-thomas-greenfield-on-the-future-of-the-united-nations/>

¹⁹ New Zealand Government, press release 'NZ to Provide Non-Lethal Military Assistance to Ukraine' (21 March 2022) <https://www.beehive.govt.nz/release/nz-provide-non-lethal-military-assistance-ukraine>

²⁰ M Killeen, 'Irish PM: Non-Lethal Aid to Ukraine Not Against Military Neutrality', (1 March 1, 2022) <https://www.irishtimes.com/ireland/2023/08/18/irish-troops-to-provide-weapons-training-to-ukraine-despite-governments-non-lethal-assistance-pledge/>

²¹ The Government of Japan, 'Japan Stands with Ukraine' (24 February 2023), Press release, <https://www.gov-online.go.jp/en/prg/prg8197.html>

²² J Smith, J Lee, 'Seoul approved Poland's Export of Howitzers with S. Korean Parts to Ukraine' *Reuters* (4 March 2023) <https://www.tbsnews.net/world/seoul-approved-polands-export-howitzers-s-korean-parts-ukraine-official-says-596202>

²³ K Zhao, F Xiao, 'Aggression and Determination: Two Basic Issues of International Law in the Russia-Ukraine Conflict' (2022) *Beijing L Rev* 13 p.1-12

²⁴ Switzerland, 'Switzerland's position paper on the application of international law on military aid' (May 2021) [https://cyberlaw.ccdcoe.org/wiki/National_position_of_Switzerland_\(2021\)](https://cyberlaw.ccdcoe.org/wiki/National_position_of_Switzerland_(2021))

²⁵ Klyszcz, Ivan U. K. "Russia's Federal Subjects at War: Background and Implications." ICDS/EFPI Policy Paper, October 2022. <https://icds.ee/en/russias-federal-subjects-at-war-background-and-implications/>

²⁶ Michael N. Schmitt, Providing Arms, and Materiel to Ukraine: Neutrality, Co-belligerency, and the Use of Force <https://lieber.westpoint.edu/ukraine-neutrality-co-belligerency-use-of-force/>

those has been the ground of *collective self-defence as per Article 51 of the UN Charter*.²⁷ This latter approach has not gained much currency in state practice, with only Albania's statement at the UN Security Council being the notable exception.²⁸ Other states, like Germany, have explicitly rejected this framing.²⁹

Further theoretical explorations have suggested recourse to individual countermeasures in response to violations of the *erga omnes obligation* inherent in the prohibition of aggression.³⁰ The ongoing conflict may represent a watershed moment for the law of neutrality, potentially solidifying a trend towards prioritizing the protection of collective international interests and acknowledging the legitimate role of third states in upholding these interests. In doing so, however, neutrality as a distinct legal concept runs the risk of losing its normative force.³¹ The gulf between Switzerland's formal neutrality and the actual practice of other states reflects a far more profound and enduring tension between public and private interests within the international legal order, one to which future conflicts will undoubtedly continue to throw light. This conflict has exposed a profound division within the international legal community on the meaning and practice of neutrality in the 21st century.

Research Questions and Objectives

The on-going Russo-Ukrainian conflict has stirred a deep crisis in the established framework of neutrality in international law. Military assistance by states traditionally considered neutral has upended this doctrine in a fundamental way, by bringing up the question: *How does such assistance in this conflict irrevocably alter neutrality, and what are the cascading implications for International Humanitarian Law and the future of this principle in contemporary armed conflicts?* These principles of neutrality viewed as axioms at the Hague Conventions and customary international law—*impartiality, non-participation, and non-interference*—in this light of geopolitical maneuvering, start to show an increasingly fragile veneer.³² The events

²⁷ Charter of the United Nations, 26 June 1945, 1 UNTS XVI, art. 51

²⁸ See S/PV.8980. See also S/2022/155. Albania. <https://www.securitycouncilreport.org/un-documents/document/s-2022-155.php>

²⁹ See S/PV.8970 Germany. <https://docs.un.org/en/S/PV.8970>

³⁰ Lim C, Mitchell RM. NEUTRAL RIGHTS AND COLLECTIVE COUNTERMEASURES FOR ERGA OMNES VIOLATIONS. *International and Comparative Law Quarterly*. 2023;72(2): p.361-391.

³¹ RJ Barber, 'Cooperating through the General Assembly to End Serious Breaches of Peremptory Norms' (2022) 71(1) ICLQ 1, p.30

³² Hague Convention (XIII) concerning the Rights and Duties of Neutral Powers in Naval War (adopted 18 October 1907, entered into force 26 January 1910) art 1.

unfolding in this ongoing conflict -from sanctions to indirect military intervention-demonstrate an evident rise in disparity between *theoretical reasoning and the realistic practice of neutrality*.³³ This divergence raises foundational questions on its viability within modern conflict dynamics and has huge implications for IHL on such matters as civilian protection, the principle of distinction, and the delivery of humanitarian aid.

The first key question the study explores is: *what geopolitical imperatives and legal understandings underpin the granting of military assistance by both neutral and non-neutral states in the context of the conflict on-going Russo-Ukraine?*

There are a few such factors that exist inter alia. Geopolitical imperatives, including alignment with alliances like *NATO*³⁴ and the *EU* in response to perceived Russian aggression, exert considerable influence, driving a unified front against violations of the international order.³⁵ The framing of support for Ukraine as a *Défense* against breaches of territorial sovereignty and international law (e.g., Article 2(4) of the UN Charter) adds a powerful moral dimension, resonating with public sentiment and justifying intervention.³⁶ In addition, it is also fanned by strategic calculations regarding the containment of Russian influence in both regional and global contexts. Legally, the sanctions are justified under Article 41 of the UN Charter as non-forcible measures that apply pressure without military intervention.³⁷

The humanitarian interventions are legitimized through the use of International Humanitarian Law, in particular the Geneva Conventions; *however, given the occasion-an active conflict zone-the provision of such interventions inevitably raises complex questions of impartiality*.³⁸ Even less clear-cut legally is the situation when self-defence, Article 51 of the UN Charter, is invoked and UN-authorized collective action is called, as in the case under discussion, thus further muddying the legal waters by stretching accepted interpretations of these articles.³⁹

³³ Roger N. McDermott and Charles K. Bartles, 'An Assessment of the Initial Period of War: Russia-Ukraine 2022. Part one', *FMSO Foreign Perspectives Briefs* (June 2023) <https://community.apan.org/wg/tradoc-g2/fmso/m/fmso-monographs/440066>

³⁴ Larsen, Jeffrey A. 2017. "NATO's responses to Russian belligerence: an overview." In *NATO and Collective Defence in the 21st Century*, by Karsten Friis, p.8-15.

³⁵ European Council official site (2022d), EU support to Ukraine: Council agrees on further increase of support under the European Peace Facility, Consilium (europa.eu), 1.07.2022.

³⁶ https://www.eeas.europa.eu/delegations/ukraine/european-peace-facility-eu-support-ukraine-increased-%E2%82%AC25-billion_en?s=232

³⁷ Charter of the United Nations, 26 June 1945, 1 UNTS XVI, art. 2(4)

³⁸ Charter of the United Nations, 26 June 1945, 1 UNTS XVI, art. 41.

³⁹ Geneva Conventions of 12 August 1949, 75 UNTS art 31, 85, 135, 287

⁴⁰ Charter of the United Nations, 26 June 1945, 1 UNTS XVI, art. 51

The motivations for aid having been reviewed, we focus on the primary factor: *To what extent has the military assistance of states claiming neutrality compromised the foundational elements of the doctrine of neutrality?*

Military assistance has strained the traditional understanding of neutrality. Sanctions and punitive measures against Russia are ipso facto favourable to Ukraine and thus constitute a departure from impartiality.⁴⁰ But such erosion is compounded by the selective interpretations of neutrality obligations by the assisting states themselves, weakening the principle's normative force and fostering the perception of partiality. Indirect military assistance, intelligence sharing, and logistical support directly confront non-participation by blurring the line separating neutral status from de facto belligerency through lowering the threshold of *what constitutes direct involvement in conflict*.⁴¹ Finally, by their very nature, economic measures like trade restrictions interfere with the internal affairs of a belligerent state and further weaken the principle of non-interference.

This leads to the following critical question: *What does this erosion of neutrality mean for the effectiveness of International Humanitarian Law and the future of conflict regulation?*

The lost neutrality of states purporting to be neutral directly affects their ability to contribute to effective humanitarian action and guarantee impartial civilian assistance.⁴² This ambiguity in neutrality, as a result, weakens accountability for violations of IHL and may foster a culture of impunity. The ongoing Russo-Ukrainian conflict also establishes the meaning of neutrality in hybrid warfare, in which economic and cyber means have been militarized, thus complicating any distinction between military action and other forms of statecraft.⁴³ Making neutrality increasingly optional creates incentives for proxy warfare that could escalate conflicts and destabilizes the international order by removing traditional constraints on state behaviour.

This brings us to the last, and most forward-looking question: *How does neutrality need to be reimagined in light of the challenges thrown up by hybrid warfare and multilateral interventions?*

⁴⁰ "Russian Sanctions: The Helpful, the Harmful, and the Pointless". 11 March 2022 <https://reason.com/2022/03/11/russian-sanctions-the-helpful-the-harmful-and-the-pointless/>

⁴¹ "EU-Russia sanctions exchange has had important economic and political consequences (news article)". Retrieved 18 May 2023. <https://wiiw.ac.at/eu-russia-sanctions-exchange-has-had-important-economic-and-political-consequences-n-365.html>

⁴² Weller, Marc. "The Relativity of Humanitarian Neutrality and Impartiality." *Proceedings of the Annual Meeting (American Society of International Law)* 91 (1997): p.441-450.

⁴³ D Gioe, "Cyber operations and useful fools: the approach of Russian hybrid intelligence," *Intelligence and National Security*, vol. 33, no. 7, p. 954–973, 2019.

Neutrality needs to be reimagined in light of the challenges thrown up by modern warfare. This will involve setting clear legal boundaries on "hybrid neutrality," such as the legality of economic sanctions, cyberattacks, disinformation campaigns, and indirect support, while articulating the balance between neutrality and UN Charter obligations of collective security.⁴⁴ Existing legal frameworks, such as the Hague and Geneva Conventions, are in need of an update in order to clearly spell out indirect participation and its implications on neutrality, *including clarification on neutrality obligations within conflicts involving non-state actors and asymmetric warfare*. Lastly, the role of the UN and the ICRC should be furthered by deepening international cooperation on neutrality questions with a view to setting common practices to avoid arbitrary interpretations undermining the very purport of the doctrine.

In the final analysis, the on-going Russo-Ukrainian War has highlighted core deficiencies in conventional understandings of neutrality. State practices of so-called neutral states have called into question the foundational premise, and the legitimacy, of neutrality. The systemic repercussions for IHL and future conflict regulation, thus, necessitate a root re-evaluation of this essential legal doctrine in its operation during the 21st century.

Thesis Structure - Overview of chapter organization.

The war in Russia and Ukraine has brought these challenges into sharp focus, where military aid, economic sanctions, and humanitarian obligations test the limits of neutrality. In this thesis the first chapter explores the historical evolution of neutrality, the legal frameworks underpinning it, and the ways in which neutrality is being redefined in the context of the Russia-Ukraine conflict.⁴⁵ By addressing the research questions on how neutrality has evolved and adapted, particularly in the context of this war—this thesis also provides insights into the relevance of neutrality in contemporary international relations and its implications for international law.

This thesis introduces neutrality as a mechanism for de-escalating conflicts, maintaining peace, and ensuring impartiality in international relations. The introduction also frames the research question, focusing on how the ongoing Russia-Ukraine War has tested neutrality and examining

⁴⁴ Frank G. Hoffman, Hybrid Warfare and Challenges, JOINT FORCE Q., 1st Quarter 2009, at, p.34-39

⁴⁵ J. Upcher, *Neutrality in Contemporary International Law* (Oxford: Oxford University Press, 2020), p. 3.

the implications of military aid and assistance from traditionally neutral states.⁴⁶ The first chapter further penlights clearly on the scope of the thesis with its objective regarding the transformation of neutrality in modern warfare and international law. In the second chapter carves out as a backgrounder to how neutrality has been challenged today. It does so by tracing the use of neutrality from Ancient Greece and Rome, showing that it has undergone many faces through the centuries. Through many countries codification of neutrality in international treaties like the 1907 Hague Conventions⁴⁷ and the Geneva Conventions that marked a milestone in formalizing the rights and responsibilities of neutral states during conflicts.

The provisions for neutrality under the law are discussed in this second chapter, as well as the cardinal duties the legal theory of neutrality enunciates, such as refraining from supplying armaments to belligerents and safeguarding neutral territories.⁴⁸ Nevertheless, the second chapter critically reviews how these historical frameworks are being tested during modern conflicts when hybrid warfare, cyber threats, and economic sanctions are pushing the traditional boundaries of neutrality. This historical and legal context forms a sound basis for the analysis of the applicability of neutrality in the Russia-Ukraine War, addressing directly the research question and meeting the scope of the thesis. The third chapter of this thesis deals with the Russia-Ukraine War and how this war has blurred the distinction between neutrality and belligerency.⁴⁹

It gives an extensive background on the ongoing Russia and Ukraine conflict, including milestones like the annexation of Crimea⁵⁰ and the conflict in Donbas.⁵¹ The discussion is completely made on the unprecedented levels of military aid provided to Ukraine by states that have traditionally maintained neutral positions. The hybrid nature of the conflict in Russia and Ukraine-involving a combination of conventional and unconventional methods-underscores

⁴⁶ *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v. Russian Federation)*, Provisional Measures, Order of 16 March 2022, ICJ Reports 2022. <https://www.icj-cij.org/case/182/orders>

⁴⁷ Hague Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, and Hague Convention (XIII) concerning the Rights and Duties of Neutral Powers in Naval War, 18 October 1907, 205 CTS 299 and 205 CTS 395.

⁴⁸ Antezza, Arianna, André Frank, Pascal Frank, Lukas Franz, Ekaterina Rebinskaya, and Christoph Trebesch. 2022. *Which Countries Help Ukraine and How? Introducing the Ukraine Support Tracker*. Kiel Working Paper, No. 2218. Kiel: Kiel Institute for the World Economy. <https://www.econstor.eu/bitstream/10419/253672/1/KWP2218v1.pdf>

⁴⁹ A Gioia, 'Neutrality and Non-Belligerency' in H Post (ed), *International Economic Law and Armed Conflict 1995 Nova et vetera iuris gentium- Series A, Modern international law*, pg.215; N Ronzitti, *Diritto internazionale dei conflitti armati* (6th edn, Giappichelli 2017) p.342.

⁵⁰ Assessments after the first year, see Amanda Paul, *Crimea One Year after Russian Annexation*, EUR. POL'Y CTR. (Mar. 24, 2015), <https://www.epc.eu/en/Publications/Crimea-one-year-after-Russian-annexati-on~215cf8>

⁵¹ *Donbas in Flames: Guide to the Conflict Zone* (Lviv, 2017), p.7–16

some of the difficulties faced by neutral states. This chapter furthermore links these developments to the scope of the thesis, showing how the war has challenged the applicability and relevance of neutrality in the 21st century.

The chapter four of the thesis reveals the tension between neutrality and collective security frameworks, especially under the UN Charter.⁵² For example, neutrality requires impartiality, and whereas collective security frameworks do call for active involvement in the enforcement of peace, and that creates some sort of principle conflict. By linking this into broader legal and ethical debates, the scope of the thesis puts into perspective the evolving role of neutrality within international law.

Neutrality applied to practice and some of its challenges are brought into perspective in case studies. The historical application of neutrality is captured in the case of *Military and paramilitary activities in Nicaragua v. United States*, which typifies how states went to great extents trying to adhere to the demands of neutrality during conflicting situations.⁵³ It also draws an analogy with the case of the Russia-Ukraine war in terms of how third parties, like the United States and the European Union, have been seen as breaching neutrality through their actions.

This chapter also furthermore examines the behaviour of neutral states, such as Austria, during the Russia-Ukraine war.⁵⁴ Conventionally neutral states have faced difficulties in maintaining a balance between military neutrality and humanitarian obligations. The analysis of these cases would, therefore, answer the research question through linking theoretical aspects of neutrality to real-life cases that deepen the challenges of neutrality as understood by the reader. The penultimate chapter synthesizes the main findings of the thesis on how neutrality has evolved over time and is tested in modern-day conflicts. Based on this, the historical, legal, and contemporary perspectives set out in the preceding chapters are brought together to provide an overall answer to the research question.

The thesis thus concludes with reflections on the applicability of neutrality within contemporary international relations. It says that, even as neutrality in modern times forms one of its

⁵² Adebajo, Adekeye et al., *UN Security Council Reform: What the World Thinks*, ed. Stewart Patrick, Carnegie Endowment for International Peace, June 28, 2023, <https://carnegieendowment.org/research/2023/06/un-security-council-reform-what-the-world-thinks?lang=en#singapore>

⁵³ *Nicaragua v. United States of America*, I.e.J. Reports, :1984, p. 169 (provisional measures), p. 215, (declaration of intervention) and p. 392 (jurisdiction and admissibility).

⁵⁴ P Hilpold, 'Das Neutralitätsrecht Österreichs und der Schweiz im "weiten Feld" des internationalen Rechts Aktuelle Entwicklungen im Vergleich' (2022) 60 *Archiv des Völkerrecht* pg.268.

fundamental principles, it must adapt to ever-changing demands. Recommendations concerning the reinforcement of international legal frameworks, the balancing between military neutrality and humanitarian obligations, and the role of international organizations for neutrality feature in the discussions.⁵⁵ These recommendations also provide actionable insights for policymakers and scholars on how to ensure that neutrality continues to play a meaningful role in promoting peace and security.⁵⁶ The thesis has effectively linked its analysis to the stated scope, which focuses on the evolution of neutrality and its challenges in the context of the Russia-Ukraine War, with an emphasis on military aid and assistance from neutral states.

Each chapter builds on this scope by, Setting the historical and legal framework of neutrality; analysing certain specific challenges brought about by the War between Russia and Ukraine; discussing how neutrality intersects with humanitarian principles and collective security; providing concrete examples of case studies to bridge the gap between theory and practice; and finally, looking ahead to the future of neutrality in international law.⁵⁷

Conclusion for Chapter 1

The structure of examining the development of neutrality in international law, specifically in the context of the Russia-Ukraine war, has been set in this chapter. It has presented the legal and historical origins of neutrality, and how it evolved into a code of obligations and rights between neutral governments and belligerents. Because governments have diverged in their understanding and implementation of neutrality norms, the war in Ukraine has put traditional neutrality to record strains. The research questions are the implications of neutral-state military assistance for neutrality, the legal and geopolitical underpinnings for such assistance, and implications for international humanitarian law and conflict management. Unravelling the evolution of the concept of neutrality, its deployment during the Russia-Ukraine conflict, and the overall conflicts between collective security and neutrality, the framework of the thesis is put methodical in form.

⁵⁵ RECOMMENDATIONS AND CONCLUSION. (2015). In *FRONTLINE ALLIES: WAR AND CHANGE IN CENTRAL EUROPE* (p. 129–133). Centre for a New American Security.
<http://www.jstor.org/stable/resrep06281.15>

⁵⁶ A. Wess Mitchell, "A Deterrence by Denial Strategy for the Baltic Porcupine: Quills and Bitter Pills," in *Frontline Allies: War and Change in Central Europe*, Centre for a New American Security, 2015,
<https://www.jstor.org/stable/resrep06281.14>.

⁵⁷ Neutrality and Neutrality of Humanitarian Assistance, 1996, D.Platter, ICRC. International Review of the Red Cross, No. 311. <https://international-review.icrc.org/sites/default/files/S0020860400084072a.pdf>

Chapter 2: Neutrality in International Law

Historical Evolution

Neutral in international law is derived from the Latin word *neutralitas*,⁵⁸ which means "neutral state" or "neutrality status."⁵⁹ The neutrality treaties concluded between Burgundy and France in 1522 were the oldest and most important in those periods ever recorded.⁶⁰ These treaties allowed the contracting states to avoid *involvement in war and were considered a precondition for the legal status of neutrality*. From the sixteenth to eighteenth centuries, neutrality treaties were considered a way to guarantee security for small states surrounded by larger belligerent states.⁶¹ In the eighteenth century, scholars such as Cornelius van Bynkershoek, Christian Wolff, Emer de Vattel, and Martin Hübner advanced *a theory that even States which had not concluded neutrality treaties with belligerents could become neutrals*.⁶²

They generally supported the just war doctrine, stating that all just causes of war relate to offense or positive refusal of an unquestionable perfect right. *To become a neutral, states must fulfil the following conditions: abstention from giving assistance to any belligerents and impartiality towards all belligerents*.⁶³ *Neutrality conditions in war treaties include not aiding where an obligation does not exist, not willingly giving soldiers, guns, and ammunition, and not refusing what is provided*.

As a result, in the eighteenth century, academics argued that belligerents were banned from declaring war on neutral nations if the neutral governments refused to lend any help and remained impartial.⁶⁴ However, recent academics contend that neutrality cannot coexist with the just war philosophy since belligerents are classified as right or unjust. Neutral states can still make separate decisions concerning war justice.⁶⁵

The law of neutrality, as laid down by the writers of the eighteenth century, *allowed third states to remain neutral without concluding neutrality treaties with belligerents provided they*

⁵⁸ See Taoka, "Meaning of the Term Neutrality", pg.46–48 [in Japanese].

⁵⁹ Steiger und Schweitzer, "Neutralität", pg.315.

⁶⁰ A full and entire neutrality (*bonne et vraie Neutralité*) during the war between Louis XI and Maximilian of Burgundy in 1477–8.

⁶¹ Knight, "Neutrality and Neutralisation in the Sixteenth Century", p.99–100.

⁶² Convention or Act of Neutrality between France and the Netherlands, signed at The Hague, 24 November 1733, CTS 34: p139–142.

⁶³ Neutrality Convention between Austria–Hungary and France, signed at Versailles, 1 May 1756, CTS 40: p.331–334.

⁶⁴ Du Mont, *Corps universel*, 6(1): p 29.

⁶⁵ Order in Council as to Enemy Goods in Friends' Ships, and Friends' Goods in Enemy Ships, in Marsden, *Documents*, 1: p165–166.

abstained from assisting either. This theory was accepted from the end of the eighteenth century up to the nineteenth century and it became common for third states to remain neutral without concluding neutrality treaties.⁶⁶ The principle of the "*right to remain neutral*" is the foundational principle in traditional law of neutrality.⁶⁷

Likewise, the American Neutrality Act, 1794, had been passed to prevent private individuals from committing hostilities against belligerents.⁶⁸ Similarly, the Foreign Enlistment Act, 1819 prohibited the private individuals from committing any act within the United Kingdom or British Dominions beyond the seas.⁶⁹ The concept of neutrality in civil wars is often observed and said to have evolved during the Spanish-American⁷⁰ and Greek wars of independence.⁷¹ In the second half of the nineteenth century, the concept of recognition of belligerency emerged, *deemed warranted by the existence of an armed conflict*, by insurgents occupying and administering territory, and by circumstances making it necessary for third States to define their attitude through recognition of belligerency.⁷²

The opponents also argued during this House of Commons debate that the actions of the British Navy involved in the Terceira Affair were in accord with international law.⁷³ The majority in the House voted down the resolution on the grounds that military expeditions are "*acts of private warfare*" and *if a neutral state does not prevent such acts from being prepared within its territory, it may become involved in the war by the belligerent.* The government of the United States acknowledged the rebellion as a civil war and undertook measures to arrest and punish those who violated its neutrality.⁷⁴

The principle of neutrality in international relations is that a *neutral state is obliged to prevent the organization of military expeditions within its territory.*⁷⁵ Under the Washington Treaty, there are three rules which must be observed by neutral governments in preventing the fitting out, arming, or equipping of vessels intended to cruise or carry on war against a peace-keeping

⁶⁶ Onuma, "War", p57–121; Ota, *Political Thought of Hugo Grotius*, p133–163

⁶⁷ Bynkershoek, *Quaestionum juris publici*, p.69 terms as *medius, non- hostes, amici* and *communem amicum* is the conception that a third State avoids being involved in a war by abstaining from giving assistance to either belligerent, and it is substantially the same conception as Wolff 's and Vattel's theories of neutrality.

⁶⁸ Neutrality Act of 1794, Pub L No 1-50, 1 Stat 381 (US)

⁶⁹ Foreign Enlistment Act 1819, 59 Geo III, c 69 (UK).

⁷⁰ Waddell, "British Neutrality and Spanish- American Independence", p1–18

⁷¹ Decree concerning Neutrality in the Franco–Prussian War, 26 June 1870, in Deak and Jessup, *Collection*, 2: p.934–935

⁷² Dinstein, *Non- International Armed Conflicts*, p.109–113, p.221–222

⁷³ **British Navy** involvement in the **Terceira Affair**, 1829, in *The History of the Terceira Affair*, in *The Journal of Naval History*, Vol. X, p. 123

⁷⁴ Declaration of Neutrality in the American Civil War, 10 June 1861, in Deak and Jessup, *Collection*, 1: p.590–591.

⁷⁵ Moore, *Digest of International Law*, 7: p.909–934.

power. According to the practice adopted in the 19th century, the neutral states were to avoid giving military succour to the belligerent states.

*A neutral state that provided military assistance are indirectly engaged itself in that war.*⁷⁶ Likewise, it was not binding upon the neutral states to give sympathy to the belligerent since mere sympathy is not regarded as participation in a war. Hence, some arguments for and against this concept of "*qualified neutrality*. where A neutral asylum system was developed to give troops temporary refuge, but there was no uniform practice as to how escaped soldiers, goods, and prisoners of war were to be treated.

The 1907 Hague Conventions

The 1907 Hague Conventions were adopted with the purpose of addressing issues, among others, concerning the treatment of neutral states' troops and warships in neutral territories. Conventions aimed at confirming the already established rules of international law and making new rules based on compromise among participating states.⁷⁷ The First Hague Peace Conference, dealt with the pacific settlement of disputes and the law of war, while the Second Conference, 1907, adopted two conventions relating to the law of neutrality.⁷⁸ *The conventions outlined the rights and duties of neutral powers and persons in case of war on land and naval war.* The principle of abstention from any aid, direct or indirect, in the operations of belligerent states was universally accepted and recognized.

Right to be neutral is considered one of the basic principles of international law of peace. In the right of remaining neutral, the state should not be arbitrarily deprived.⁷⁹ *A neutral state will enjoy the right of remaining neutral if it abstains from certain acts or takes some measures to this effect.* The legal status of the third states which do not fulfil neutrality conditions is debatable. A belligerent has the right to treat the state which violated its neutrality as an enemy, but this is the offending state's right. Third states can keep neutrality by abstaining from the acts equal to participation in the war. *However, states cannot assist a belligerent unless entering the war.* The idea of the right to remain neutral evolved from the doctrine of just war, dating back

⁷⁶ On the military expeditions of William Walker, see Curtis, "Hostile Military Expeditions", p.243–244.

⁷⁷ Article 9 of the Hague Convention (V) respecting the Rights and Duties of Neutral Powers and Persons in case of War on Land 1907

⁷⁸ First Hague Peace Conference, 1899, Convention with Respect to the Laws and Customs of War on Land, 29 July 1899, 32 Stat 1803

⁷⁹ Neff, *Rights and Duties of Neutrals*, p.71–72, p.75.

to the 18th century.⁸⁰ This doctrine declined from the late 19th and to the early 20th century; in its decline came a set of writers who in their view, denied the right to remain neutral. The law of neutrality was one legal mechanism through which neutral states could maintain peace and security.

It was, however, not the only option. States could also maintain peace by alliances or by the collective security system adopted by the League of Nations and the Locarno Treaty.⁸¹ Despite the changes in security policy, the law remained valid. The small European states such as Belgium, Denmark, the Netherlands, Norway, Switzerland, and Austria had adopted neutrality-based security policies before WWI but later joined the League which compelled them to take measures incompatible with neutrality.⁸²

Versailles' collapse resurrected traditional neutrality

The League of Nations collapsed in the 1930s due to criticism from Germany, Italy, and Japan, leading to the Italo-Ethiopian war and the return to traditional neutrality.⁸³ Small European states resorted to relying on the law of neutrality in future wars to protect their security. "The Second World War broke out with Germany's invasion of Poland and France and the United Kingdom's declaration of war against Germany.

Despite challenges, the law of neutrality retained legal validity, as belligerent states justified their actions by asserting neutral states had committed violations of neutrality. Neutral States like Norway, the Netherlands, and Belgium invoked neutrality to condemn belligerent states' actions, but did not invoke the Pact of Paris.⁸⁴ The United States issued the Neutrality Act of 1937 and the Lend-Lease Act to prevent Germany from declaring war.⁸⁵

The policy of Germany during the Second World War was to keep the United States out of the war. To restrain the US, Germany used isolationism and propaganda. In return, President Roosevelt tried to stop the victory of Germany and assist Great Britain, but initially, he could

⁸⁰ Erich, *Über Allianzen und Allianz verhältnisse*; Rehm, "Die völkerrechtliche Stellung des Verbundeten" p.118–152.

⁸¹ Taoka, "Permanent Neutrality in the Classification of Forms of Security", p.50–73

⁸² Treaty of Mutual Guarantee between Germany, Belgium, France, Great Britain and Italy, done at Locarno, 16 October 1925, *LNTS* 54 (1926): p.290–301.

⁸³ Graham, "Effect of the League of Nations", p.357–377

⁸⁴ The Pact of Paris (General Treaty for the Renunciation of War; The Kellogg–Briand Pact) of 1928

⁸⁵ Lend-Lease Act, Pub L No 77-11, 55 Stat 31 (US, 1941).

not do much due to the strong tide of isolationism in the US.⁸⁶ The traditional law of neutrality, which secured the right of neutral states to remain outside the war on condition of strict neutrality, kept its legal validity in the interwar period and during the Second World War. At the same time, however, such noted writers as Carl Schmitt began to argue that the classic notion of neutrality could no longer be sustained in the face of total war and the newer forms of warfare now emerging.⁸⁷ The more traditional law of neutrality, however, was stoutly defended by noted scholars such as Hersch Lauterpacht as essential to state sovereignty and independence.⁸⁸ Notwithstanding such debates, state practice in the Second World War continued to apply the traditional law of neutrality in ways which proved rather cumbersome on account of changed requirements of war time and associated political realities.⁸⁹

Neutrality and the UN Charter

Hedley Bull's article on Grotius and international society argued that collective security eliminates the right of neutrality, stating everyone has a duty to participate in the collective system.⁹⁰ The UN Charter and the law of neutrality co-exist after World War II, with the law of armed conflict applying to UN military operations. The UN acknowledges that UN forces must comply with the principles of international humanitarian law in armed conflict situations.⁹¹ The law of neutrality is modified when the Security Council acts under Chapter VII, distinguishing between non-forcible measures and UN military operations.⁹²

The UN Charter's neutrality status does not mean neutral States are extinguished, but *they must deviate from their duties to the extent required by the Security Council's decision*.⁹³ For the law of neutrality to be engaged under *Article 41*, *there must exist an international armed conflict*.⁹⁴ The taxonomy of UN military operations is complex, and the crucial question is when the UN

⁸⁶ Kennedy, David M. (1999). *Freedom From Fear: The American People in Depression and War, 1929–1945*. New York: Oxford University Press. p.336

⁸⁷ Powaski, Ronald E (1991), *Toward an Entangling Alliance: American Isolationism, Internationalism, and Europe, 1901–1950*, Westport: Greenwood, p. 72

⁸⁸ OPPENHEIM, INTERNATIONAL LAW: A TREATISE p.645-652 (HERSCH LAUTERPACHT ED. 7th ed., 1952)

⁸⁹ Hersch Lauterpacht, Neutrality and Collective Security, 2 POLITICA p.133, p.135-137, p.147-149 (1936)

⁹⁰ Filippo Costa Buranelli, 'The International Society tradition: from Hugo Grotius to Hedley Bull' and 'International Society: The English School', *International Affairs*, Volume 98, Issue 6, November 2022, p.2141–2143

⁹¹ Declaration of Acceptance of the Obligations Contained in the Charter of the United Nations, 2195 UNTS 291, 20 June 2002)

⁹² **Chapter VII of the United Nations Charter**, 24 October 1945, 59 Stat 1031, 3 Bevans 115.

⁹³ United Nations Charter, **Article 25**, 24 October 1945, 59 Stat 1031, 3 Bevans 115.

⁹⁴ United Nations Charter, **Article 41**, 24 October 1945, 59 Stat 1031, 3 Bevans 115.

becomes a party to an international armed conflict, The Security Council's ability to authorize the use of military force under Chapter VII has been widely recognized, despite criticisms of potential concessions to unilateralism and national interest.⁹⁵ The law of neutrality applies to enforcement actions authorized under Chapter VII against a State, such as the actions against North Korea in 1950⁹⁶ and Iraq in 1990.⁹⁷

Participation in military measures authorized by the Security Council is discretionary, but the obligations to assist States acting pursuant to an authorization are more complex.

The Kuwait crisis highlighted the need for neutral states to discriminate in applying neutral duties, while the Persian Gulf crisis highlighted the obligation of all nations to avoid hindrance of Coalition operations and aid Article 2(5),⁹⁸ which modifies neutrality rights, applies to UN-authorized action and preventive or enforcement actions, referring to enforcement actions under Chapter VII. State practice confirms that Article 2(5) applies to authorizations, with countries like Italy having the power to adopt measures for supporting UN-authorized actions.

The International Covenant on Civil and Political Rights (ICCPR) outlines states' duty to modify neutrality rights and duties in favour of UN-authorized action.⁹⁹ Neutral States have the absolute right to intern troops from belligerent armies, but the US advises Iran to return downed Coalition aircraft and aircrew.¹⁰⁰ They can also prohibit UN use of neutral territory, but the Gulf conflict in 1990 suggests allowing UN-authorized forces to operate there. The Security Council has authorized a wide range of permissible actions, including halting maritime shipping, inspecting cargoes, and ensuring strict implementation of resolutions.

The UN Charter initially excluded States from neutrality, but recent practices have allowed for greater flexibility. Chapter VII releases states from neutrality obligations upon the Security Council identifying them for a threat or breach of peace. Sanctions under Article 41 require States to adhere to Charter obligations. Military enforcement does not completely affect neutral duties.¹⁰¹

Case Law on Neutrality- Nicaragua v. United States

⁹⁵ R. W. Tucker, *The Law of War and Neutrality at Sea*. International Law Series (Newport, RI: US Naval War College, 1955), vol. XLX, p. 173, p.175–176

⁹⁶ **Korean War**, 25 June 1950 – 27 July 1953, UN SC Res 83, 27 June 1950, UN Doc S/RES/83 (1950).

⁹⁷ *The Kuwait Crisis – Basic Documents* (Cambridge: Grotius Publications, 1991), pp. 116–118.

⁹⁸ United Nations Charter, **Article 2(5)**, 24 October 1945, 59 Stat 1031, 3 Bevans 115.

⁹⁹ International Covenant on Civil and Political Rights (ICCPR), **Article 4**, 16 December 1966, 999 UNTS 171.

¹⁰⁰ SC Res. 660 (1990) of 2 August 1990, preamble par. 1 and operative paras. 1 and 2.

¹⁰¹ United Nations Charter, **Article 41**, 24 October 1945, 59 Stat 1031, 3 Bevans 115.

Due to the fluidity of the world, neutrality has been transformed in several ways within the concept of international relations.¹⁰² To help explain some of the confusion and hurdles regarding neutrality in modern-day international relations, this part of the section takes a critical look at the case of paramilitary activities in and on Nicaragua v. United States in 1984 against the backdrop of the current conflict between Russia and Ukraine.

The Nicaragua v. United States case of 1984 was an important turning point in the development of neutrality in international relations. This case involves the Nicaraguan government suing the United States in the International Court of Justice, alleging that the US had violated international law and the two nations' Treaty of Friendship, Commerce, and Navigation through military and paramilitary actions against Nicaragua.¹⁰³ The ICJ found in Favor of Nicaragua at the end and determined that the US had violated international law.¹⁰⁴

This case can be used as a model in tracing the evolution of neutrality in international affairs. In the Nicaraguan and Contra struggle, the US, being the world's superpower, was supposed to be impartial.¹⁰⁵ With the US supporting the contras with financial backing and military intervention, it showed bias in Favor of the group.

This is the example of the challenges and roadblocks that occur when great powers avoid neutrality in international affairs.¹⁰⁶

We can now witness an identical threat to neutrality for this present conflict between Russia and Ukraine. The case of other countries' intervention, such as the European Union and the United States, has presented a variety of challenges. Even during their time of neutrality, there have been individuals who have interpreted the actions of these actors, such as the provision of military support to Ukraine, as support for one side.¹⁰⁷

This case study continues to demonstrate how the Nicaragua v. United States case continues to bear relevance to contemporary international affairs. Similar questions regarding the definition of neutrality, the limits of state sovereignty, and the role of international law in regulating state behaviour are posed by the conflicts in Russia and Ukraine.

¹⁰² Rudolph, J.D. (ed.), Nicaragua. A country study, Foreign Areas Study, The American University, 1981. 4 See for example: "US policy toward Nicaragua", in Congressional Digest, November 1984.

¹⁰³ Nicaragua v. United States of America, I.e.J. Reports, :1984, p. 169 (provisional measures), p. 215, (declaration of intervention) and p. 392 (jurisdiction and admissibility).

¹⁰⁴ Decided by fourteen votes to one. The United States judge (Schwebel) dissenting

¹⁰⁵ Nicaragua v. United States of America, supra, pp. 434, 433

¹⁰⁶ *Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) (Intervention)*, Written Observations on the Declaration of Intervention (10 September 1984). P.4-11

¹⁰⁷ International Court of Justice, *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide (Ukraine v Russian Federation: 32 States Intervening)*, *Verbatim Record of Public Sitting* (CR 2023/13, 18 September 2023) p.34-90

The following are a few key lessons on the development of neutrality within international relations that can be gleaned from the case of *Nicaragua v. United States compared to the current conflict between Russia and Ukraine*:

- Shifting definitions of neutrality: The notion of neutrality has kept changing as the definitions and interpretations, considering changing global conditions, changed with time introduced the concept of qualified neutrality.
- Complexity of international relations: Many parties and interests are at stake in this current conflict between Russia and Ukraine, much like in the *Nicaragua v. United States* lawsuit, indicating the rise in complexity that international relations have been plunging into by defending and justifying their aid and assistance to the parties of the armed conflict.¹⁰⁸
- Blurred lines between intervention and neutrality: the behaviour of the external actors in the two cases have raised question regarding the distinction between intervention and neutrality.

The continuing conflict between Russia and Ukraine, together with the *Nicaragua v. United States* case, have really taught us a great deal about the evolution of neutrality within international relations.¹⁰⁹

A comparison of these examples shows a concept of neutrality that is constantly evolving, an increase in the complexity of international relations, and the boundaries between intervention and neutrality becoming less defined. Understanding the evolution of neutrality as the world changes will be necessary when dealing with complicated international relations to resolve conflicts peacefully.

¹⁰⁸ Kourula, E., "Peace-keeping and regional arrangements", in A. Cassese (ed.), *United Nations peacekeeping*, Sijthoff and Noordhoff, 1978, p. 107.

¹⁰⁹ "Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide, *Ukraine v Russian Federation*, Provisional measures, ICJ GL No 182, ICGJ 559 (ICJ 2022)

Qualified neutrality

It is further contended that the intervention of the US in the Russia-Ukraine conflict violates the principles of neutrality, as justified by the US Congressional Research Service using the concept of Qualified Neutrality.¹¹⁰ In modern international law, countries can support victims of unlawful wars, and states can take a non-neutral role when supporting victims of an unlawful war of aggression.

The US justified its intervention by saying that Ukraine is a victim of unlawful aggression by Russia,¹¹¹ and military aid is lawful as long as Ukraine adheres to the legal framework under the Geneva Convention and International Humanitarian Laws.¹¹² However, nowhere in the international conventions governing neutrality laws does the concept of Qualified Neutrality appear, and its definition is nowhere mentioned in the 1907 Hague conventions.

The concept of Benevolent Neutrality is a principle in customary international law rejected by international courts.¹¹³ For example, the ICJ in Nicaragua stated that the US intervention violated Article 2(4) of the UN Charter because it was aiding in military and paramilitary activities. Therefore, under international law and customary international law, the US intervention in the Russia-Ukraine conflict cannot be justified. Qualified neutrality is a principle in customary international law.

However, this has been used by some countries, such as Germany and Great Britain, to justify armed intervention, as seen in the case of the early 20th-century Benevolent Neutrality and World War I. The concept has been rejected by international courts. For example, the ICJ ruled in Nicaragua that the US violated Article 2(4) of the UN Charter by aiding in military and paramilitary activities.

The court censured US intervention as a violation of neutrality obligations. It also viewed that states' interference in the internal affairs of another state would infringe the customary law principle of non-intervention.

¹¹⁰ Michael N Schmitt, "'Strict' versus 'Qualified' Neutrality", Articles of War (Blog Post, 22 March 2023) <https://lieber.westpoint.edu/category/neutrality/>

¹¹¹ United States, Remarks by President Joe Biden, "On U.S. Support for Ukraine" (2023) <https://www.state.gov/united-with-ukraine>

¹¹² Geneva Conventions of 12 August 1949 and Additional Protocols of 8 June 1977, 1125, UNTS 3.

¹¹³ OPPENHEIM, Lassa Francis. International Law. A Treatise. War and Neutrality. Volume II (of 2), Longmans, Green and Co, 1912: pp. 370

Hence, the US's intervention in the Russia-Ukraine war cannot find any justification through international law and customary international law.¹¹⁴

Neutrality and International Humanitarian Law

The Russo-Ukrainian war has generated a host of legal and ethical questions pertaining to the supply of military aid and assistance in the context of international humanitarian law,¹¹⁵ specifically in the fields of neutrality and the role played by third-party states in an armed conflict. IHL prohibits states and international organizations from interfering in belligerent conflicts in such a way as to afford military support or assistance that increases the likelihood of one party while increasing the level of violence or prolonging the hostilities.¹¹⁶ However, the war between Russia and Ukraine—marked by their complex geopolitical contours—has resulted in very substantial military assistance provided to Ukraine, leading to critical concerns regarding its validity under international law.¹¹⁷

Military aid to Ukraine has also included heavy weapons from NATO countries and its allies, sharing of intelligence, and financial support in order to help Ukraine defend itself better against Russian aggression. While these acts of support are cast as acts of solidarity and in defense of Ukraine's sovereignty, they complicate the application of IHL with regard to the principle of neutrality.

IHL recognizes that while neutral states should not aid either party to the armed conflict, they may, of course, provide humanitarian assistance to civilian populations in need. However, military assistance cannot be classified under this provision since it seeks to and directly affects the military balance in the prosecution of the armed conflict.¹¹⁸

¹¹⁴ 'International Neutrality Law and US Military Assistance to Ukraine' (Legal Sidebar No LSB10735, Congressional Research Service, United States Congress, 26 April 2022) <https://crsreports.congress.gov/product/pdf/LSB/LSB10735>

¹¹⁵ 'The United States and Allies Provide Military and Intelligence Support to Ukraine' (2022) 116(3) *American Journal of International Law* p.646.

¹¹⁶ Lim and Ryan Martínez Mitchell, 'Neutral Rights and Collective Countermeasures for Erga Omnes Violations' (2023) 72(2) *International and Comparative Law Quarterly* p.361

¹¹⁷ Kai Ambos, 'Will a State Supplying Weapons to Ukraine Become a Party to the Conflict and Thus Be Exposed to Countermeasures?', *European Journal of International Law: Talk!* (Blog Post, 2 March 2022) <https://www.ejiltalk.org/will-a-state-supplying-weapons-to-ukraine-become-a-party-to-the-conflict-and-thus-be-exposed-to-countermeasures/>

¹¹⁸ *Law of Armed Conflict Manual* (2013) Ch.3, Ch.4, Ch.5, Ch.6, Ch.10, Ch.14, Ch.15 <https://assets.publishing.service.gov.uk/media/5a7952bfe5274a2acd18bda5/JSP3832004Edition.pdf>

This gives rise to several legal issues so far as IHL is concerned, concerning military assistance to Ukraine: Under the Geneva Conventions,¹¹⁹ and Additional Protocols, it is the civilians and civilian infrastructure that are to be protected.¹²⁰

The further escalation of conflict with more advanced weaponry and military equipment increases the danger to the civilian population when such weapons are used in urban areas or near civilian infrastructure. For instance, under the principle of distinction in IHL, military operations should distinguish between combatants and non-combatants; hence, military aid that would probably cause an increase in civilian casualties or destruction of civilian property could be seen as increasing the breach of this principle.¹²¹

Moreover, the fact that the military aid provided by third-party states to Ukraine increases the legal complexity in respect to non-intervention. Military aid challenges the principle of proportionality, where the military advantage gained by an attack must be weighed against the harm caused to civilian life and infrastructure.¹²²

The current inflow of military assistance to Ukraine, especially in the form of high-tech weapons systems and leading-edge military training, may tip the scales in Favor of increased military operations that could inadvertently violate the principle of proportionality.¹²³

In the final analysis, there are significant challenges to providing military assistance to Ukraine under international humanitarian law, especially in matters of neutrality, non-intervention, and the protection of civilians.

The international community, including the United Nations, must therefore tread these legal minefields carefully to ensure that efforts to support Ukraine do not inadvertently work to further violate IHL or exacerbate the humanitarian crisis.¹²⁴

¹¹⁹ Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Articles 13–26.

¹²⁰ Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125, UNTS 3, Articles 48, 51, and 52.

¹²¹ Ibid 27.

¹²² Schmitt, 'Providing Arms and Materiel to Ukraine' Neutrality, Co-belligerency, and the Use of Force (n 3); Pedrozo (n 3) <https://lieber.westpoint.edu/ukraine-neutrality-co-belligerency-use-of-force/>

¹²³ Law of Armed Conflict Manual (2013) Ch.3, Ch.4, Ch.5, Ch.6, Ch.10, Ch.14, Ch.15 <https://assets.publishing.service.gov.uk/media/5a7952bfe5274a2acd18bda5/JSP3832004Edition.pdf>

¹²⁴ Furtherance of Remedy and Reparation for Aggression against Ukraine, GA Res ES-11/5, UN Doc A/RES/ES-11/5 <https://digitallibrary.un.org/record/3994481?v=pdf>

Conclusion for Chapter 2

Neutrality, formerly a cornerstone of international law, is facing unprecedented challenge. The Hague Conventions, while seminal, cannot fully account for the realities of contemporary warfare. The evolution of collective security and the complexity of modern conflict, as evidenced by the Ukraine crisis, have complicated the borders of neutrality.

Separating humanitarian assistance from military assistance, and balancing the shifting meanings of IHL, is very challenging for states that are keen to stay neutral. The shifting landscape makes it necessary for a fresh evaluation of the utility of neutrality and whether it can still be called for in the 21st century.

Chapter 3: The Russia-Ukraine War and Neutrality

Background and Context

The causes of the Russia-Ukraine conflict are rooted in the complex interaction of shared and contested histories, coupled with political, cultural, and geopolitical pressures. Centuries ago, Ukraine stood at a crossroads of clashing influences from both Russia and Western Europe.¹²⁵ When the Cold War was finally over, Ukraine became a pinpoint of geopolitical rivalry—the gradually declared ambition of Ukraine to become closely integrated with the European Union increasingly contradicted the politics of Russia aimed at saving its area of privileged influence in Eastern Europe.¹²⁶

But internally, the country of Ukraine also has long been divided by allegiance between those who lean towards Russia and those who lean towards the European Union. Specifically, it was only last *March 2014 when Ukraine sealed a deal on an association agreement with the European Union—an event very strongly opposed by Russia.*¹²⁷

This has further emphasized by the fact that Russia is powerfully opposing Ukraine's shift to west, as well as the loss of governmental control over the area. The strategic importance to Russia and Ukraine goes beyond politics, given that some of the most important naval bases for the Russians are on the Crimean Peninsula—a very important military and regional power projection.¹²⁸

Overall, it has been a means of marking out the ground for peaceful relations between these two countries with a range of important agreements.¹²⁹ *The Almaty Declaration signed in Kyiv in 1991 confirmed principles of territorial integrity and inviolability of borders as cornerstones for the newly formed independent states of the former Soviet Union. With this declaration,*

¹²⁵ Mälksoo, M. (2022). The Postcolonial Moment in Russia's War Against Ukraine. *Journal of Genocide Research*, 25(3–4), p.471–481. <https://doi.org/10.1080/14623528.2022.2074947>

¹²⁶ Arbab, E. & Rahim, G. H. (2022). Russia-Ukraine Conflict: A Global Crisis. *Spotlight on Regional Affairs*, 40(7), p.1–4

¹²⁷ Council Decision (EU) 2017/1248 of 11 July 2017 on the conclusion, on behalf of the European Union, of the Association Agreement between the European Union and Ukraine (OJ L 181, 12.7.2017, p. 3)

¹²⁸ Butryn, Y. (2022) “Russian Ukrainian wars as a clash of civilizations: historical and legal perspective” *Actual Jurisprudence* p.7 <https://www.legalactivity.coni.ua/index.php?option=coni_content&view=article&id=2321%3A14122022&catid=300%3A7102022&Itemid=369&lang=ni>

¹²⁹ Declaration of the Heads of State of the Republics of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan, 21 December 1991, confirming principles of territorial integrity and inviolability of borders, available at UN Doc. A/47/60-S/23329 (1992). <https://www.bits.de/NRANEU/START/documents/alma-ata91.htm>

mutual recognition of sovereignty, non-interference in internal affairs, and resolving all disputed issues by peaceful means were established.

These principles, repeated in succeeding agreements such as the *1991 Agreement of the Councils of Heads of State and Government*, were underlined with the accent that *respect for human rights and territorial integrity must be the basis for interstate relations*.¹³⁰

Yet despite all these commitments, tensions never vanished. In 1993, the Russian Supreme Soviet tried to declare Sevastopol-a strategically valuable port in Crimea-as a Russian city, setting off Ukrainian alarms about the possibility of future territorial disputes.¹³¹

On such a concern, Ukraine sought international guarantees for its territorial integrity, including intervention on the part of the Security Council in concert with numerous bilateral arrangements with Russia.¹³² The most relevant one was the *1992 agreement on the Black Sea Fleet status that provided both parties with an ability to respect each other's territorial integrity and sovereignty based on the partition decision vis-à-vis by the same fleet*.¹³³

These previous agreements support the continuous effort of Ukraine to protect its territorial integrity and sovereignty against Russian claims, but they also *demonstrate how fragile these guarantees are in view of the annexation of Crimea by Russia in 2014* and further aggression in Ukraine.¹³⁴ This protracted conflict underlines the continuing regional security threats and the consequences for international law and principles of state sovereignty.

Key events and milestones (annexation of Crimea, Donbas conflict, etc.)

The Crimean Peninsula has played a vital role in international relations, with Russia's invasion in 2014 marking a watershed moment in current international law and security. The events in

¹³⁰ Agreement of the Councils of Heads of State and Government of the Commonwealth of Independent States, 8 December 1991, establishing principles of cooperation among former Soviet states, available at UN Doc. A/47/60-S/23329 (1992) <https://www.bits.de/NRANEU/START/documents/alma-ata91.htm>

¹³¹ Russian Supreme Soviet, Resolution Declaring Sevastopol a Part of the Russian Federation, 9 July 1993, cited in UN Doc. A/48/452-S/26559 (1993).

¹³² Sven Daniel Wolfe. (2024) Geopolitics and the geographer: ethics and the everyday in times of global existential crisis. *Eurasian Geography and Economics* 65:8, p.885-903.

¹³³ V. Zaborsky, 'Crimea and the Black Sea Fleet in Russian Ukrainian Relations', Centre for Science and International Affairs (CSIA) Discussion Paper 95-11, Kennedy School of Government, Harvard University, September 1995

¹³⁴ O. Zadorozhnii, 'Russia's Annexation of Crimea in the Light of Russian Ukrainian Agreements on the Black Sea Fleet, 3 Ukraine Analytica p.5 (2016)

the past like, the Crimean War of 1853–56,¹³⁵ and the Yalta Conference of 1945,¹³⁶ ***emphasizes the region's long-term geopolitical importance.*** The annexation of Crimea is a clear breach of international law and territorial integrity, calling into question the post-Cold War international order.¹³⁷ This historical moment warrants a critical analysis of the changing idea of neutrality in the context of the Russia-Ukraine conflict, with an eye toward the ramifications for international law and the future of global security.

Examining Crimea's changing legal position considering the fall of the Soviet Union it is crucial in comprehending the legal ramifications of this conduct. The *Soviet Union was a federation of sovereign republics*, not a unified state as per Russian philosophy.¹³⁸ The USSR had some degree of central authority, but its member states continued to *enjoy considerable independence and international legal personality*.¹³⁹ Their ability to leave the federation and their membership in international organizations like the United Nations serve as proof of this.

Given the historical, cultural, and physical circumstances, *the 1954 transfer of Crimea to Ukraine was a lawful use of Soviet constitutional authority*.¹⁴⁰ Historical evidence contradicts Russia's claim that the Russian SFSR did not consent to this transfer. A 1954 RSFSR Constitutional amendment that was approved by the Supreme Council of the RSFSR clearly stated that *Russia recognized Crimea as a part of Ukraine*.¹⁴¹

The annexation of Crimea in 2014 constituted a flagrant transgression of international law and a direct subversion of the UN Charter's tenets. This act has broad ramifications for the future of international relations and marks a substantial divergence from the accepted norms controlling the territorial integrity of sovereign states.¹⁴²

¹³⁵ A. W. Kinglake, *The Invasion of the Crimea: Its Origin and an Account of Its Progress Down to the Death of Lord Raglan*, 8 vols. (London: William Blackwood and Sons, 1863–1887) pp. 318 – 333

¹³⁶ United States Department of State, *Foreign Relations of the United States: The Conferences at Malta and Yalta, 1945*, U.S. Government Printing Office, 1955. <https://history.state.gov/historicaldocuments/frus1945Malta>

¹³⁷ A. W. Kinglake, *The Invasion of the Crimea: Its Origin and an Account of Its Progress Down to the Death of Lord Raglan*, 8 vols. (London: William Blackwood and Sons, 1863–1887) pp. 318 – 333

¹³⁸ Treaty between the Ukrainian Soviet Socialist Republic and the Russian Soviet Federal Socialist Republic, 19.11.1990, article 1-20 <https://www.doctorscommons.com/wp-content/uploads/2022/03/1990-11-19-Ukraine-Russia-Treaty.pdf>

¹³⁹ Ivan Bakalov. (2024) Explaining the Russian invasion in Ukraine: between geopolitics, civilisational choice, and dead-end capitalist transition. *Globalizations* 21:7, p.1215-1232.

¹⁴⁰ USSR Supreme Soviet, *Decree of the Presidium of the Supreme Soviet of the USSR on the Transfer of the Crimean Oblast from the RSFSR to the Ukrainian SSR*, 19 February 1954 <https://www.jmhum.org/en/news-list/932-this-day-february-19-1954-a-decree-transferring-the-crimean-peninsula-from-the-russian-soviet-federative-socialist-republic-to-the-ukrainian-ssr>

¹⁴¹ United Nations General Assembly Resolution 68/262, *Territorial Integrity of Ukraine*, UN Doc A/RES/68/262 (27 March 2014).

¹⁴² Crawford E. United Nations General Assembly Resolution on the Territorial Integrity of Ukraine. *International Legal Materials*. 2014;53(5): p.927-932. doi:10.5305/intelegamate.53.5.0927

The discussion on the status of Crimea in the context of the "Big Treaty" between Ukraine and Russia on 31 May 1997 was primarily focused on Sevastopol, which was considered a Ukrainian city.¹⁴³ *The treaty concluded that Russia had no legal opportunity to challenge the territorial integrity of Ukraine.* The treaty stipulated that the High Contracting Parties would respect each other's territorial integrity and confirm the inviolability of existing borders between them.

In 2014, Ukraine faced internal conflict that led to Crimea's incorporation into Russian territory. Crimean and Russian authorities used this to declare Crimea's independence, which was later recognized by Russia. The Crimean parliament requested Russia to admit Crimea to the Russian Federation, and the accession treaty was signed. However, most states reject these claims, raising questions about the legality of Crimea's secession, Russia's violation of international law, and its status.¹⁴⁴

This article provides a comprehensive analysis of these issues. The current crisis between Russia and Ukraine was triggered by internal protests the then Ukrainian President Yanukovich and his decision to refrain from signing an association agreement with the EU.¹⁴⁵ Pro-Russian troops took control of Crimea and initiated an incremental accession of Crimea to the Russian Federation. On 1 March 2014, the Russian Federation Council authorized the use of armed forces on the territory of Ukraine. After Crimea declared its independence, Russian troops acted openly in Crimea, including by forcing Ukrainian military units to surrender and leave the peninsula.¹⁴⁶

Russia has justified its military intervention in Crimea on three grounds: *protection of nationals abroad*, enforcement of an alleged *right to self-determination*, and *intervention by invitation*.¹⁴⁷

Russia has argued that its intervention was justified to protect Russian citizens living on Ukrainian territory, especially its military personnel stationed in Crimea.

Legal obligations between Russia and Ukraine regarding territorial integrity and the prohibition against the use of force are contained in bi- and multilateral agreements, such as the 1994

¹⁴³ Agreement on Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation, signed 31 May 1997, [1997] UNTS 37

¹⁴⁴ Resolution 74/17 (2019) "Problem of the militarization of the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, as well as parts of the Black Sea and the Sea of Azov".
<<https://digitallibrary.un.org/record/3841716?ln=en>>.

¹⁴⁵ Council Decision (EU) 2017/1248 of 11 July 2017 on the conclusion, on behalf of the European Union, of the Association Agreement between the European Union and Ukraine (OJ L 181, 12.7.2017, p. 3)

¹⁴⁶ Buchyn, M. and M. Hasiak (2015) "Peculiarities and trends of militarization/demilitarization of modern world in the context of Russia's aggressive foreign policy". Bulletin of Dnipropetrovs'k University 5, p. 37–45

¹⁴⁷ S. V. Chernichenko (note 28), 174 et seq., 184

*Budapest memorandum,*¹⁴⁸ *the 1997 Treaty on Friendship, Cooperation, and Partnership,*¹⁴⁹ *and the Black Sea Fleet Status of Forces Agreement (SOFA).*¹⁵⁰

Russian President Putin has argued that the bi-lateral treaties between Ukraine and Russia are no longer binding, claiming that Ukraine's regime change was a revolution and Russia had not concluded any agreements with it.¹⁵¹

This argument is political and has no basis in current international law. Russia has also argued that the use of force was necessary to help Crimean citizens realize their alleged right to self-determination. President Putin stated that his actions were aimed at providing people with a comfortable environment to express their will, but even if the Crimean population had a right to self-determination, it would not justify Russia's military intervention on Ukrainian territory.¹⁵²

Forms of Military Assistance by Neutral States

Types of assistance: weapons aid, indirect support, and intelligence sharing

The invasion of Ukraine by the Russian Federation in February 2022 has elicited a very complex international reaction, one that has fundamentally affected traditional notions of neutrality, especially regarding military assistance and aid.¹⁵³ This section of the paper addresses the categories of assistance channelled to Ukraine—weapons aid, indirect support, intelligence sharing—and their implications for the evolution of neutrality.

Since February 2022, a group of states banded together: the European Union, the United States, the United Kingdom, and Canada have been responding with a three-pronged approach—imposing strong economic sanctions on Russia and massive assistance to Ukraine. The aid provided by the EU includes military aid worth €5.6 billion and financial assistance in excess

¹⁴⁸ "Memorandum on Security Assurances, 1994," signed 5 December 1994
https://policymemos.hks.harvard.edu/files/policymemos/files/2-23-22_ukraine_the_budapest_memo.pdf?m=1645824948

¹⁴⁹ Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation (signed 31 May 1997, entered into force 1 April 1999)
<https://treaties.un.org/doc/Publication/UNTS/Volume%203007/Part/volume-3007-I-52240.pdf>

¹⁵⁰ Agreement Between Ukraine and the Russian Federation on the Status and Conditions of the Black Sea Fleet in Ukraine," 28 May 1997 <https://ericposner.com/the-1997-black-sea-fleet-agreement-between-russia-and-ukraine/>

¹⁵¹ V. Putin, Address by President of the Russian Federation, 18.3.2014, <https://www.prlib.ru/en/node/354501>

¹⁵² Ibid V. Putin (note 55)

¹⁵³ HATHAWAY, Oona and SHAPIRO, Scott. Supplying Arms to Ukraine is Not an Act of War? Lawfare Blog, 12 March 2022 <https://www.justsecurity.org/80661/supplying-arms-to-ukraine-is-not-an-act-of-war/>

of €24.26 billion.¹⁵⁴ The EU Military Assistance Mission in support of Ukraine—EUMAM Ukraine—has played a central role in providing training to the armed forces of Ukraine in order to shore up their resistance to Russian aggression.¹⁵⁵ While not directly participating in EU-member-state military engagement, this type of training impels a kind of indirect military assistance that plays with traditional conceptions of neutrality. Directly speaking, military aid is the supplying of deadly weapons.¹⁵⁶

The European Union has paid for the delivering of those arms to Ukraine using the European Partnership for Defence budget.¹⁵⁷ The direct supplying of arms like modern main battle tanks—supplying, for example, Ukraine by the United States with Leopard 2—raises doubts as to the conformity of such a kind of action with the policy of neutrality and its principle of non-participation.

Beyond direct weapons transfers, states have engaged in various forms of indirect support. This includes intelligence sharing, which provides Ukraine with critical information for strategic planning and targeting.¹⁵⁸ The United States has been especially active in this domain, providing intelligence that has demonstrably affected Ukraine's operational capabilities. Logistical support, such as allowing the transport of weapons across countries' territories, like Romania and Poland, is a kind of tacit backing or indirect support, but it also troubles the existing conceptions regarding the norms of neutral responsibilities.

Moreover, the establishment of coordinating mechanisms, such as the Ukraine Defence Contact Group,¹⁵⁹ the International Donor Coordination Centre,¹⁶⁰ and the International Fund for

¹⁵⁴ European Union, Military Support to Ukraine, European Council, updated December 2024, <https://www.consilium.europa.eu/en/policies/military-support-ukraine/>

¹⁵⁵ European External Action Service, "EU Military Assistance Mission in support of Ukraine," European Union, https://www.eeas.europa.eu/eumam-ukraine_en

¹⁵⁶ European Peace Facility: Council greenlights further funding for training of the Ukrainian Armed Forces under EUMAM Ukraine (press release, 28 November 2023) <https://www.consilium.europa.eu/en/press/press-releases/2023/11/28/european-peace-facility-council-greenlights-further-funding-for-training-of-the-ukrainian-armed-forces-under-eumam-ukraine/>

¹⁵⁷ EU joint procurement of ammunition and missiles for Ukraine: Council agrees €1 billion support under the European Peace Facility (press release, 5 May 2023) <https://www.consilium.europa.eu/en/press/press-releases/2023/05/05/eu-joint-procurement-of-ammunition-and-missiles-for-ukraine-council-agrees-1-billion-support-under-the-european-peace-facility/>

¹⁵⁸ Ukraine: Council extends the mandate of the EU Military Assistance Mission for two years (press release, 8 November 2024) <https://www.consilium.europa.eu/en/press/press-releases/2024/11/08/ukraine-council-extends-the-mandate-of-the-eu-military-assistance-mission-for-two-years/>

¹⁵⁹ U.S. Department of Defense, "Fact Sheet on Efforts of Ukraine Defense Contact Group," *Defense.gov*, <https://www.defense.gov/News/Releases/Release/Article/4026238/fact-sheet-on-efforts-of-ukraine-defense-contact-group-national-armaments-direc>

¹⁶⁰ U.S. Department of Defense, "Donor Nations Providing Security Assistance, Training for Ukraine," *Defense.gov*, <https://www.defense.gov/News/News-Stories/Article/Article/3428002/donor-nations-providing-security-assistance-training-for-ukraine>.

Ukraine, with leading roles for the US and the UK, imply a kind of organizational and strategic support that goes even further to blur the lines of neutrality.¹⁶¹ Financial assistance may not be directly military, but it is very important in pursuing the war by Ukraine. The EU has been the largest institutional provider of financial assistance, with a commitment of €77.1 billion.

This financial support allows Ukraine to continue its military spending and acquire basic supplies, thereby indirectly supporting its ability to engage in armed conflict. This begs the question whether such extensive financial assistance to a belligerent, even if not directly related to the purchase of weapons, is consistent with a claim of neutrality. The diverse kinds of aid provided to Ukraine have raised controversy regarding their legality and consequences for the principle of neutrality.¹⁶²

There is concern that such aid, especially the supply of weapons and training of military personnel, will only intensify the conflict and destroy any chance of a negotiated settlement. The legal implications of such actions, in particular the distinction between providing support and becoming a party to the conflict, continue to be much debated among scholars. The so-called Tallinn Pledge signed in January 2023 by a number of EU countries only flags the ongoing nature of this commitment in practice and how state positions on this matter continue to evolve.¹⁶³ While some states, such as Hungary and Cyprus, have expressed reservations or outright opposition to military aid, either because of security concerns or adherence to neutrality, the majority of states supporting frame their actions as necessary to uphold international law and the UN Charter.¹⁶⁴

The changing positions of states, especially the first hesitation of some to provide offensive weapons, shows even more the complexity in navigating neutrality in this conflict. Such an analysis of the types of assistance provided to Ukraine shows a great departure from the traditional understanding of neutrality.¹⁶⁵ That is, combining direct weapons transfers with indirect military support, including intelligence sharing and logistical facilitation, and huge financial aid has brought about a situation in which it is increasingly blurred whether a state is

¹⁶¹ Coordination Platform Ukraine, "International Fund for Ukraine," *Coordinationplatformukraine.com* <https://www.gov.uk/guidance/international-fund-for-ukraine-ifu>

¹⁶² Zamparini, L., & Villani-Lubelli, U. (Eds.). (2019). Features and challenges of the EU budget: A multidisciplinary analysis. Edward Elgar 2019, p.1-8

¹⁶³ Support for Ukraine Joint Statement, *The Tallinn Pledge*, 20 January 2023. <https://www.gov.uk/government/news/joint-statement-the-tallinn-pledge>

¹⁶⁴ Next Generation EU: Member states approve national plan of Hungary [Press Release]. <https://www.consilium.europa.eu/en/press/press-releases/2022/12/12/next-generationeu-member-states-approve-national-plan-of-hungary>

¹⁶⁵ BBC (2024), Ukraine weapons: What military equipment is the world giving <https://www.bbc.com/news/world-europe-62002218>

neutral or belligerent.¹⁶⁶ This raises more fundamental questions as to the future of neutrality as a viable principle in contemporary armed conflict and requires re-evaluation of its core tenets in the light of the complexities of modern warfare.

Legal analysis of how these actions align with or breach of neutrality principles

While the International Court of Justice has underscored the boundary between indirect use of force and other acts, states do not have any definitive criteria to distinguish between indirect acts and those less injurious. One suggested methodology is to list those factors that states consider significant in deciding whether to characterize support as indirect force, akin to the "International Groups of Experts" approach.¹⁶⁷

Intent

A critical factor in determining whether aid and assistance rise to the level of a separate act of indirect force is the issue of mens rea—that is, whether an aiding state has the necessary intention to induce the assisted state to use force directly. International law approaches the notion of intention as intrinsically complex and generally not easily defined.¹⁶⁸ Although not specifically defined in the context of a treaty in relation to the use of force, it is nevertheless understood to embrace reasonableness of expectation or foreseeability of the consequences of a state's actions, whatever may be motivating it to perform these acts.¹⁶⁹

In other cases, the intention is clearer, such as in the supplying by NATO member states of lethal military equipment to Ukraine—the purpose for which those weapons are bound to be used is obvious, namely, combat.

However, discerning the intention of a supporting state is not an easy task since the aid or assistance provided will often have little probative value in establishing with sufficient clarity a direct causal link between the use of force.¹⁷⁰ Yet, states will be able to infer an indirect use of force by a supporting state when there is not explicit or declared intention. For instance,

¹⁶⁶ Walter L. Williams Jr., *Neutrality in Modern Armed Conflicts: A Survey of the Developing Law*, 90 MIL. L. REV. 9, p.32-33 (1980)

¹⁶⁷ U.S. Department of State's calculation as of March 20, 2023. Fact Sheet, U.S. Dep't of State, Bureau of Political-Military Aff., U.S. Security Cooperation with Ukraine (Mar. 20, 2023), <https://media.defense.gov/2023/Mar/23/2003184868/-1/-1/1/20230320-UKRAINE-FACT-SHEET.PDF>

¹⁶⁸ Michael Wood et al., *Use of Force*, INTERNATIONAL LAW ASSOCIATION REPORTS OF CONFERENCES p.648, 652 (2014) https://legal.un.org/avl/pdf/ls/Wood_article.pdf

¹⁶⁹ Ibid 36.

¹⁷⁰ Sofaer, Abraham D. "International Law and the Use of Force." *The National Interest*, no. 13, 1988, pp. 53–64. *JSTOR*, <http://www.jstor.org/stable/42894592>

though not target-specific in their distribution, US intelligence sharing within the context of the Ukraine-Russia conflict will predictably contribute to Ukraine's targeting process, thus raising difficult legal questions regarding the threshold of indirect involvement.¹⁷¹

Nature of the Aid or Assistance

The type of support provided, such as war material and intangible help, also determines the use of indirect force evaluations. Some types of aid directly contribute to force application, while others support war operations or build military capabilities.¹⁷² The causal relationship is also influenced by the degree of conflict, which might be tactical, operational, or strategic.¹⁷³ In tactical settings, real-time intelligence is increasingly important.¹⁷⁴

Geopolitical Context

The geopolitical environment in which military aid is provided critically influences the prospect of a recipient state using force. It is a function of a host of factors that include geographic proximity, economic relations, demographic facts, historical relations, and overreaching security considerations.¹⁷⁵ Because this geopolitical landscape is inherently complex, dynamic, and context-dependent, its influence on whether military assistance is considered an indirect use of force will always be context-dependent and will necessarily vary depending on the specific conflict situation.¹⁷⁶ Geopolitical relations can be categorized generally along a spectrum running from cooperation to competition to outright conflict. The more closely state interactions are to the conflict end of this spectrum, the more likely it will be that states will

¹⁷¹ Isabelle Khurshudyan et al., Ukraine's Rocket Campaign Reliant on U.S. Precision Targeting, Officials Say, WASHINGTON POST (Feb. 9, 2023),

¹⁷² Leigh, Monroe. "Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America) 1986 ICJ Rep. 14." *The American Journal of International Law*, vol. 81, no. 1, 1987, pp. 206–11. JSTOR, <https://doi.org/10.2307/2202153>.

¹⁷³ Government Accountability Office, 'What's the Status of U.S. Assistance to Ukraine? Our First Reports on Oversight Efforts' (blog post, 28 March 2024) <https://www.gao.gov/blog/whats-status-u-s-assistance-ukraine-our-first-reports-oversight-efforts>

¹⁷⁴ Dr. Frederic Lemieux, "Intelligence Miscalculations & Opportunities in the Ukraine War," Faculty, Industry Trends, Opinion, 29 October 2024, <https://scs.georgetown.edu/news-and-events/article/9814/intelligence-miscalculations-opportunities-ukraine-war>

¹⁷⁵ Frederic S. Pearson, 1974. "Geographic Proximity and Foreign Military Intervention," *Journal of Conflict Resolution*, Peace Science Society (International), vol. 18(3), pages 432-460, DOI: [10.1177/002200277401800304](https://doi.org/10.1177/002200277401800304)

¹⁷⁶ Ibid 37.

interpret the aid or assistance as an indirect act of aggression.¹⁷⁷ The current tense competition between NATO allies and Russia provides a clear example of how this geopolitical context can powerfully influence how states characterize the provision of aid during periods of armed conflict.¹⁷⁸

Impact

Military aid does make a difference in the use of force by a supported State, and the United States is the leading supporter. The quality of the aid, however, may affect the state's use of force more than its quantity.¹⁷⁹ The West's aid to Ukraine has helped mitigate vulnerabilities and capability gaps, countering Russia's strengths and exploiting its weaknesses.¹⁸⁰ The US and UK have equipped Ukraine with multi-round long-range precision weapons like HIMARS,¹⁸¹ and MLRS that have compromised Russian long-range missiles and Iranian-made suicide drones.¹⁸² The committed support thwarted the strategic shift of Russia. The UAVs repulsed by Ukraine exceed five hundred in number, successfully done through the munitions supplied by the West: the weight of impact in the indirect use of force assessment will always come on a case-by-case basis. The gravity of the threat is a function of whether the threshold of an armed attack has been met and how the aid has contributed to the use of force.¹⁸³

Case Study

Austria: Neutrality and non-lethal aid to Ukraine.

This analysis looks at how Austrian neutrality has evolved in the context of the Russo-Ukrainian War, with a particular focus on the complications created by military aid and assistance to Ukraine. Austria's permanent neutrality, established in 1955, has been a cornerstone of its

¹⁷⁷ Annalena Baerbock, German Foreign Minister, quoted in Germany Says It Is Not a Warring Party in Ukraine, DEUTSCHE WELLE (Jan. 27, 2023), <https://www.politico.eu/article/annalena-baerbock-germany-war-in-ukraine-aid-election-security-defense/>

¹⁷⁸ Lisa Ferdinando, NATO Unified, Resolute in Face of Russia's "Illegal" Ukraine Invasion, Austin Says, DOD NEWS (Oct. 13, 2022) <https://www.defense.gov/News/News-Stories/Article/Article/3188194/nato-unified-resolute-in-face-of-russias-illegal-ukraine-invasion-austin-says/>

¹⁷⁹ Zoya Sheftalovich, Russia Has Mobilized. What Happens Now?, POLITICO (Sept. 21, 2022), <https://www.politico.eu/article/putin-mobilizes-russia-ukraine-war-options/>

¹⁸⁰ Press Release, NATO, Brussels Summit Communiqué, 32 (June 14, 2021) https://www.nato.int/cps/en/natohq/news_185000.htm

¹⁸¹ HIMARS (High Mobility Artillery Rocket System) *Est.* 2005

¹⁸² MLRS (Multiple Launch Rocket System) *Est.* 1983

¹⁸³ Paul B. Larsen, International Regulation of Global Navigation Satellite Systems, 80 J. AIR L. & COM. p.365- 375 (2015)

national identity and foreign policy for decades.¹⁸⁴ However, accession to the EU in 1995, and more importantly, the development of the so-called CFSP, have brought into play new dynamics that put this neutrality in question, at least in some respects, when considering the war currently unfolding.¹⁸⁵

After the invasion of Ukraine in 2022 by the Russian Federation, the Austrian government, through public statements by high-ranking officials, condemned the acts of Russia, focusing on the rule of international law.

Austria has pledged a lot in financial aid, which is then to be used, if not specifically for reconstruction efforts, as a balancing act of solidarity while attempting to remain neutral.¹⁸⁶ This distinction is muddled in terms of fungibility: money earmarked for civilians and thus permitted indirectly frees up Ukrainian resources for military purposes.¹⁸⁷

Especially important was Austria's decision to allow the transportation of weapons and military equipment through its territory, including its airspace.¹⁸⁸ In the context of EU Council decisions and amendments to Austrian internal law in terms of the implementation of EU directives, this decision represents a shift from at least more traditional notions of neutrality, such as those reflected in Hague Convention V of 1907.¹⁸⁹

This implies that the future of Austrian neutrality has been debated in that country and should be reviewed in connection with modern conflict and changing international legal and political circumstances. This case study contributes to a broader understanding of the way neutrality is being reconstituted in the 21st century.

¹⁸⁴ Austria, *State Treaty of 1955*, Permanent Neutrality, 15 May 1955, Federal Law Gazette No. 152/1955. <https://20012009.state.gov/r/pa/ho/time/tw/107185.htm#:~:text=The%20Austrian%20State%20Treaty%20was%20the%20only%20treaty,The%20Austrian%20situation%20was%20unique%20in%20postwar%20Europe.>

¹⁸⁵ Austria, *Accession Treaty to the European Union*, 12 June 1994, Official Journal of the European Union, L 1/1, 1 January 1995 Document JOC 1994 241 R 0005 01

¹⁸⁶ Bundeskanzleramt, 'Lieferung von Ausrüstung an die Ukraine und weitere Sanktionen', 27 February 2022 accessed 17 October 2022. See also the interview with Walter Obwexer in the Austrian daily Die Presse, 'Wie leicht man die Neutralität aufheben kann' (2 March 2022) p.9.

¹⁸⁷ Austria (PV.77, 21)

¹⁸⁸ 'Rendi-Wagner: Die Neutralität stärkt unsere Sicherheit' (SPÖ, 7 März 2022)

https://www.ots.at/presseaussendung/OTS_20220307_OTS0080/rotes-foyer-rendi-wagner-unsere-neutralitaet-staerkt-die-sicherheit-oesterreichs

¹⁸⁹ Hague Convention (V) Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land, 18 October 1907, 36 Stat. 2277, 1 Bevans 243.

liability of aiding/assisting

The fact that the UN Security Council was unable to adopt a condemning resolution, authoritatively determining the aggression against Ukraine due to the Russian veto,¹⁹⁰ combined with the almost-universal condemnation of the invasion as illegal, created a unique legal and political landscape.¹⁹¹

Such a context arguably provided a basis for states to furnish Ukraine, the victim of an act of aggression, with military aid for self-defence without necessarily breaching established principles of neutrality. But the apparent volte-face of some actors, on erstwhile rejected arguments on distinguishing between belligerents, deserves closer examination.¹⁹² This is more puzzling in view of earlier warnings about the escalation inherent in such a differentiation—exactly the opposite of what neutrality seeks to avoid.

The doctrine of benevolent neutrality, allowing for some types of non-belligerent assistance to a victim of aggression, provides a possible framework through which to understand the practice of states assisting Ukraine and could contribute to the gradual emergence of a new norm in international law.¹⁹³ However, it is axiomatic that any such normative change requires substantiation through consistent state practice accompanied by *opinio juris*—a widespread acceptance among states that such practice is legally obligatory. Several states, including France, the Baltic and Nordic states, the United States, Germany, Greece, Luxembourg, and Romania, have explicitly linked their support for Ukraine to the principle of collective self-defence, thus lending credence to the concept of qualified neutrality.¹⁹⁴ Yet, the picture is complicated by the fact that no other state has come out with an explicit invocation of the doctrine of qualified or benevolent neutrality.

The prevailing controversy over the issue and possible political unpopularity of neutrality within those states actively supporting Ukraine should not, however, lead to the conclusion that

¹⁹⁰ The Russian Veto was cast on 8 July 2022, in 9087th meeting of the Security Council under agenda item ‘The situation in Middle East’ (UN Doc. S/PV.9087) on the Security Council draft resolution sponsored by Ireland and Norway (UN Doc. S/2022/538) of 8 July 2022.

¹⁹¹ Draft resolution of the Security Council proposed by the US on 26 May 2022 (UN Doc S/2022/431); vetoes by Russia and China (UN SC, 9048th meeting, 26 May 2022, S/PV.9048, 3).

¹⁹² Ariela Blätter and Paul D. Williams, ‘The Responsibility Not to Veto’, *Global Responsibility to Protect* 3 (2011), 301-322; Jean-Baptiste Jeangène Vilmer, ‘The Responsibility Not to Veto: A Genealogy’, *Global Governance* 24 (2018), p.331-349.

¹⁹³ OPPENHEIM, Lassa Francis. *International Law. A Treatise. War and Neutrality. Volume II (of 2)*, Longmans, Green and Co, 1912 PART-2- chapter-1, chapter 2, chapter 3, chapter 5, chapter 7 PART-3- Chapter-1, Chapter 2 <https://www.gutenberg.org/cache/epub/41047/pg41047-images.html>

¹⁹⁴ Schmitt, ‘Strict versus Qualified Neutrality’ (n 3); Clancy (n 3) p.539–540

the doctrine is devoid of meaning or irrelevant to the wider international community. The granting of military assistance and aid, specifically on the level witnessed in the Russo-Ukrainian conflict, is a straightforward deviation from the conventional understanding of neutrality and, based on the traditional interpretations of international law, constitutes a violation thereof.¹⁹⁵ The European Union, as the main financial supporter of Ukraine's war effort, occupies a very special place in this respect, once again emphasizing the complexities involved in navigating the legal and political dimensions of neutrality in contemporary armed conflict.

Article 2(4) of the Charter uses the term "force" without qualification,¹⁹⁶ as is the rule of interpretation expressed in Article 31(2) of the Vienna Convention on the Law of Treaties.¹⁹⁷ The Friendly Relations Declaration discusses threats or use of force in terms of indirect and non-kinetic acts. The principle of State aggression also counsels a liberal interpretation of the use of force. Article 1(1) of the UN Charter states that it is the purpose of the United Nations to suppress acts of aggression or other breaches of peace.¹⁹⁸ The procedure for doing so is provided in Chapter VII, whereby the Security Council makes the finding as to the existence of such acts and the action appropriate to "maintain or restore international peace and security."¹⁹⁹

There is no authoritative definition of aggression, but subsequent practice by States can help define its scope. The Friendly Relations Declaration and the Definition of Aggression reflect a hospitable approach by States to including indirect force within the use of force framework.²⁰⁰ The International Court of Justice has adopted a similar interpretation of force, albeit based upon customary international law, that also includes indirect mechanisms.²⁰¹ Both decisions attributed responsibility for a violation of the prohibition based on attribution of non-State actors' conduct under secondary rules of State responsibility.

¹⁹⁵Alexandra Hofer, 'The EU and Its Member States at War in Ukraine? Collective Self-defence, Neutrality and Party Status in the Russo-Ukraine War' (2023)

https://www.europeanpapers.eu/en/system/files/pdf_version/EP_eJ_2023_3_SS2_5_Alexandra_Hofer_00737.pdf

¹⁹⁶ United Nations Charter, Article 2(4), 26 June 1945, 1 UNTS XVI.

¹⁹⁷ Vienna Convention on the Law of Treaties, Article 31(2), 23 May 1969, 1155, UNTS 331

¹⁹⁸ Charter of the United Nations, Article 1(1), 26 June 1945, 1 UNTS XVI.

¹⁹⁹ Charter of the United Nations, Chapter VII, 26 June 1945, 1 UNTS XVI

²⁰⁰ 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 (XXV), 24 October 1970, UNGAOR, 25th Sess., Supp. No. 28, at 121, UN Doc. A/8028.

²⁰¹ International Court of Justice (ICJ), *Armed Activities on the Territory of the Congo* (Democratic Republic of the Congo v. Uganda), Judgment, 19 December 2005, ICJ Reports 2005, p. 168.

Geopolitical and Legal Motivations

The Russo-Ukrainian War revived the academic debate on complex geopolitical and legal motivations for state practices in modern armed conflict, most significantly the status and future of neutrality during the provision of military aid. At the very least, insofar as Russia had justified military intervention based on grounds of self-defence under international law, it created an intricately complex, even disputed legal interpretation. In the pre-invasion speech,²⁰² President Vladimir Putin framed the use of force as a "special military operation" ostensibly justified under Article 51 of the UN Charter,²⁰³ with the spectre of NATO's eastward expansion and alleged acts of "genocide" in the Donbas region being framed as existential threats that called for pre-emptive action.²⁰⁴ Furthermore, Russia invoked invitations to intervene from the so-called Donetsk and Luhansk People's Republics that it had declared independent states only weeks before its attack.²⁰⁵

Yet the Russian invoke-the-right-to-self-defence raises profoundly critical questions to the veracity of its claims under established principles of international law. The ICJ's landmark judgment in the Nicaragua case (1986) laid down an important precedent with regard to the invocation of collective self-defence, requiring there to be a prior armed attack against a state and providing aid only upon the express request of the victim state.²⁰⁶ In the case of Ukraine, Russia's recognition of the Donetsk and Luhansk regions as independent entities was met with widespread international rejection, as their purported statehood demonstrably failed to meet the established criteria under international law.²⁰⁷

This lack of international recognition critically undermines Russia's argument for collective self-defence, exposing its legal rationale as tenuous and lacking in solid foundation. From a realist perspective in international relations theory, Russia's action could be argued to reflect a deep-seated geopolitical anxiety, at the forefront of which has been the perceived encroachment

²⁰² Putin, Vladimir. "Special Military Operation in Ukraine." *Russian Government Official Statement*, 24 February 2022. <https://www.nytimes.com/2022/02/24/world/europe/putin-ukraine-speech.html>

²⁰³ United Nations, *Charter of the United Nations*, 24 October 1945, Article 51.

²⁰⁴ *Situation in Ukraine*, International Criminal Court, ICC-01/22 <https://www.icc-cpi.int/situations/ukraine>

²⁰⁵ European External Action Service, *Disinformation about Russia's Invasion of Ukraine: Debunking Seven Myths Spread by Russia*, EEAS, 2022 https://www.eeas.europa.eu/delegations/china/disinformation-about-russias-invasion-ukraine-debunking-seven-myths-spread-russia_en?s=166

²⁰⁶ *Military and Paramilitary Activities in and Against Nicaragua (Nicaragua v. United States of America)*, Judgment, International Court of Justice, ICJ Reports 1986, p. 14.

²⁰⁷ Russian Federation's Recognition of the Donetsk and Luhansk Regions as Independent," *Presidential Decree No. 71 and No. 72*, February 21, 2022.

of NATO,²⁰⁸ and into its traditionally perceived sphere of influence in Eastern Europe. Realist scholars would say that NATO's expanding military presence near Russia's borders created a classic "security dilemma" that forced Moscow to take pre-emptive action in defence of perceived security interests.²⁰⁹

This story has elements of the prophetic warnings given by policy makers and scholars who previously warned that western expansionism was likely to produce a violent Russian backlash. However, liberal versions of this war tend to root this invasion into the nature of the authoritarian regime and a perceived need felt by the leading team to curtail an already developing democracy as one likely to challenge domestic political order.

These divergent geopolitical motivations directly influence the legal and moral claims of neutrality. In this respect, states claiming neutrality while providing military aid to Ukraine raise questions about their legality, which needs to be critically considered within such a contested and multidimensional landscape. While international law, as a general rule, prohibits the use of force except in self-defence or when mandated by the UN Security Council, military assistance to Ukraine creates complicated legal issues of whether such behaviour is a violation of the principle of non-interference or an indirect participation in the armed conflict.²¹⁰

Neutral states also have more difficulties in passing through these complex legal and political processes. For instance, while Austria has been acting in concert with the constitutional principle of neutrality, providing non-lethal assistance to Ukraine, it has underlined that such steps are in tune with humanitarian principles but not with military involvement directly.²¹¹ Other historically neutral states, such as Switzerland, have joined sanctions against Russia-what some international lawyers consider could undermine their previous status as neutral.²¹²

These diverging approaches underpin the intrinsic tension between adherence to a strict interpretation of neutrality and the moral imperative to act in support of a state whose situation was the object of a formal act of aggression widely condemned as in violation of international

²⁰⁸ NATO's response to Russia's invasion of Ukraine https://www.nato.int/cps/en/natohq/topics_192648.htm

²⁰⁹ NATO webpage (2022), Relations with Ukraine https://www.nato.int/cps/en/natohq/topics_37750.htm?selectedLocale=us

²¹⁰ Council of the EU. (2022e). Council Decision (CFSP) 2022/1285 of 21 July 2022 amending Decision (CFSP) 2022/338 on an assistance measure under the European Peace Facility for the supply to the Ukrainian Armed Forces of military equipment, and platforms, designed to deliver lethal force. Official Journal of the European Union, L 195/93.

²¹¹ J Upcher, *Neutrality in Contemporary International Law* (OUP 2020); C Antonopoulos, *Non-Participation in Armed Conflicts* (CUP 2022). p.9-37

²¹² Swiss Federal Council, 'Switzerland adopts EU sanctions against Russia' (28 February 2022) <https://www.admin.ch/gov/en/start/documentation/media-releases.msg-id-87386.html>

law. These entwined geopolitical and legal motives for the Russo-Ukrainian conflict,²¹³ create a complex interplay that helps explain the great difficulties neutral states face in maintaining traditional notions of neutrality while at the same time responding to the various realities of modern international conflict.

The dynamic play between realist security concerns, liberal ideological commitments, and established international legal frameworks creates an acutely precarious environment in which the very meaning and application of neutrality are continually tested and subject to reinterpretation.

Conclusion to chapter 3

The Russia-Ukraine conflict is a complicated dance of shared histories, political, geo-political, and cultural tensions. The occupation of Crimea and Donbas conflict both impacted international relations and the exercise of neutrality dramatically. Military assistance to Ukraine offered by states and intergovernmental and international institutions have challenged conventional neutrality rules, subjecting them to criticism both for non-interference and impartiality. The Russo-Ukrainian War is especially remarkable in demonstrating the dynamic expansion of neutrality in contemporary armed conflict, where interests and perceptions of law also bear some influence. The different positions occupied by states, especially the hesitation initially to provide offensive weapons, show how difficult it has proved to balance neutrality in the conflict. The diverse forms of aid provided to Ukraine have muddled the line between neutrality and belligerence and posed deep questions about the future of neutrality as a viable principle in modern warfare. The doctrine of benevolent neutrality presents a possible framework for describing those states which are assisting Ukraine, but any evolution in normative terms requires consistent state practice as well as widespread acceptance. The conflict underscores that the principles of neutrality must be revisited to address the realities of contemporary armed conflicts, bearing in mind the shifting geopolitical landscape and the position of international law in the future of neutrality.

²¹³ M Krajewski, 'Neither Neutral nor Party to the Conflict? On the Legal Assessment of Arms Supplies to Ukraine', Völkerrechtsblog (9 March 3, 2022) <https://voelkerrechtsblog.org/neither-neutral-nor-party-to-the-conflict/>

Chapter 4: Implications for Neutrality law

Impact on Neutrality Principles

The war between Russia and Ukraine reflects the tension that has been building between neutrality as a legal and ethical principle and the realities of military assistance in modern conflicts. As noted by RAND's analysis, the military aid that NATO and its allies are providing to Ukraine—such as training, intelligence sharing, and advanced weapons—runs directly counter to traditional principles of neutrality.²¹⁴ The result is that neutral states are increasingly being pulled into the geopolitical fray, making it more difficult to maintain impartiality, non-participation, and non-interference.²¹⁵

The U.S. and European allies' commitment to Ukraine reflects a significant shift in the global security dynamics: instead of remaining equidistant, traditionally neutral states such as Austria and Switzerland are under pressure to align with broader Western strategies, even if it includes imposing sanctions or providing indirect military aid.²¹⁶ It erodes the principle of non-participation since such actions are guided by the logic of supporting one party against the other. Neutrality also has the onerous challenge of dealing with modern security dilemmas, to some extent hybrid war and new generation weapons.²¹⁷ As recognized by the RAND report, lethal assistance and real-time intelligence sharing constitute a fundamental departure from the original conflict dynamics established between direct and indirect involvement.²¹⁸ They seriously indicate that this confusion will have deeper implications for future neutrality, thereby turning neutral countries into de facto parties to the conflict.

Systemic Implications for Future Conflicts

²¹⁴ Black, J., Paillé, P., Kleberg, C., Ellis, C., & Sommerfeld Antoniou, M. (2024). *Russia's war in Ukraine: Emerging insights for UK and NATO joint doctrine*. RAND Corporation.
<https://www.rand.org/randeurope/research/projects/2024/russias-war-in-ukraine-insights-for-uk-and-nato.html#:~:text=Following%20Russia%E2%80%99s%20invasion%20of%20Ukraine%20on%2024%20February,supposed%20implications%20for%20the%20changing%20character%20of%20warfare>

²¹⁵ Journal on the use of force and international law 2023, vol. 10, no. 2, p.173–200
<https://doi.org/10.1080/20531702.2023.2249347>

²¹⁶ Ibid.43

²¹⁷ Colin Robertson, 'Backstory for a World in Turmoil: David Sanger's "New Cold Wars"' (Policy Magazine, 14 August 2024) <https://www.policymagazine.ca/backstory-for-a-world-in-turmoil-david-sangers-new-cold-wars/>

²¹⁸ Ibid.42

The conflict between Russia and Ukraine well illustrates how military assistance challenges the systemic application of neutrality in international law.²¹⁹ As the CFR report outlines, the erosion of the cooperative security framework in Europe coupled with increasing militarization diminishes the role of neutrality in future conflicts.²²⁰ The war shows how difficult it is for neutral states to remain impartial while balancing their obligations under international law with their geopolitical interests.²²¹ Military aid, as that given to Ukraine, sets a precedent for future conflicts in which neutrality will be increasingly optional or selective.²²² The CFR report highlights that the strategic pivot of Russia away from Europe and toward China and the Global South diminishes Europe's economic leverage, rendering neutrality a less effective tool for mediation or influence. As sanctions and military aid take centre stage in international responses to aggression, neutral states must grapple with what the strategies mean for their legal and ethical obligations.

Moreover, deepening alliances like NATO further complicates the conventional understanding of neutrality. Those neutral states which allow logistic support or their territory to be used for the passage of military supplies from other states risk being seen as biased players and eroding the credibility of neutrality even further.²²³ The following CFR report shows how in situations of conflict, neutral states align themselves with one of the power blocs, thus undermining their potential role of mediation or peacekeeping—one traditionally associated with neutrality in international law.²²⁴

Conclusion to the chapter 4

In short, the war in Russia and Ukraine has greatly impacted the concept of neutrality in international law. NATO and other allied nation's military aid to Ukraine in terms of training, intelligence sharing, and advanced weapons is in direct contradiction to traditional theories of neutrality. This aid makes it almost impossible for neutral nations to remain impartial, non-

²¹⁹ Journal of Foreign Affairs at Carolina, 'The Reality of Neutrality' (blog post, 2024) <https://jfacunc.org/blog/the-reality-of-neutrality>

²²⁰ Congressional Research Service, *International Neutrality Law and U.S. Military Assistance to Ukraine*, LSB10735 (2022), <https://crsreports.congress.gov/product/pdf/LSB/LSB10735/3>

²²¹ Bradley P. Current Neutrality Problems—Some Precedents, an Appraisal, and a Draft Statute. *American Political Science Review*. 1935;29(6): p.1022-1041. doi:10.2307/1947317

²²² Council on Foreign Relations, *Neutrality: An Alternative to Ukraine's Membership in NATO* (2025) <https://www.cfr.org/article/neutrality-alternative-ukraines-membership-nato#:~:text=While%20Ukraine%E2%80%99s%20acceptance%20into%20the%20North%20Atlantic%20Treaty,best%20option%20to%20protect%20against%20future%20Russian%20aggression.>

²²³ Geneva Centre for Security Policy, 'The Future of Neutrality' (Policy Brief No. 4, March 2023) <https://dam.gcsp.ch/files/doc/policy-brief-4-future-of-neutrality>

²²⁴ Ibid.44

aligned, and non-interventionist, and pulls them into geopolitics. RAND's report stresses that this form of military aid de-legitimizes the doctrine of non-participation because long-neutral countries like Austria and Switzerland are being compelled to the side of larger Western interests. This shift represents a fundamental shift in international security dynamics, as neutral states are being drawn into the support of one against the other.

The complexity brought by modern security challenges like hybrid war and new generation weaponry makes it ever more challenging to apply neutrality. The CFR report outlines the systemic implications for future wars, quoting that the collapse of the cooperative security order in Europe, as well as the increasing militarization, discredits the function of neutrality. The war demonstrates the difficulty for neutral nations to balance geopolitical interests with international legal obligations. Military aid to Ukraine sets a precedent for future wars where neutrality will be less and less a matter of choice or more and more selective. Moreover, Russia's strategic turning away from Europe and towards China and the Global South reduces Europe's economic power, rendering neutrality less of an attractive tool for mediation or influence. With sanctions and military aid as the central points of international responses to aggression, neutral states will need to navigate the legal and ethical aspects of these measures. Strengthening such alliances as NATO also makes it difficult to maintain the traditional concept of neutrality. States that are neutral providing logistic supplies or allowing their nation to be used in the transit of military materials risk being termed as being biased and hence weaken the credibility of being neutral. CFR says the report shows in periods of war, neutral countries may align with one of the blocs of power, which eliminates their potential role in peacekeeping or mediation, historically associated with neutrality under international law. Generally, the Russian Ukrainian conflict is a reminder to rethink doctrines of neutrality in order to counterbalance the sophistication of modern war and international law. The rethinking should consider new world geopolitics and how future international law shall define the notion of neutrality. The future may require a non-dogmatic and situational understanding of the concept of neutrality for it to remain useful and practical to modern warfare.

Chapter 5: Redefining Neutrality for the 21st Century

Recommendations for Reform

The Russo-Ukrainian War has tested not only the boundaries of neutrality but also the need for revaluation of its principles in light of modern security challenges.²²⁵ A strategic approach to redefining neutrality especially through how states navigate military assistance in keeping their impartiality and adhering to international law will be guided by this new context.²²⁶ In line with such thinking, reforms should address the proper weighting between neutrality and collective security obligations dominating contemporary international relations.²²⁷

Strengthening Multilateral Cooperation and Legal Clarity

One of the central lessons from the war must be to strengthen the multilateral frameworks that provide for neutrality in a greater security paradigm.²²⁸ In view of the geopolitical consequences of the conflict, neutrality will need to be adapted in such a manner that it can function in harmony with collective defence arrangements like NATO,²²⁹ and the European Union.²³⁰ These alliances, while necessarily non-neutral, should be sensitive to the rights of neutral states, ensuring that neutrality is not rebuffed but included in broader security strategies.²³¹ That will require deeper cooperation between neutral and allied states in developing mechanisms for mediating their roles in supporting conflict resolution without undermining impartiality.

²²⁵ Giulio Bartolini, "The Ukrainian Russian Armed Conflict and the Law of Neutrality: Continuity, Discontinuity, or Irrelevance?" (2024) Vol 71 Netherlands International Law Review p.281–298 <https://doi.org/10.1007/s40802-024-00262-8>

²²⁶ ROBERT KOLB, INTERNATIONAL LAW ON THE MAINTENANCE OF PEACE: JUS CONTRA BELLUM (2018) p.9-30.

²²⁷ Patrick M. Norton, Between the Ideology and the Reality: The Shadow of the Law of Neutrality, 17 HARV. INT'L L.J. p.249, p.257-306 (1976)

²²⁸ Hersch Lauterpacht, Neutrality and Collective Security, 2 POLITICA p.133, p.135-137, p.147-149 (1936) (explaining why the system of collective security established under the League of Nations did not wholly abolish the law of neutrality).

²²⁹ Heath JB. Neutrality and Governance in a Weaponized World. *American Journal of International Law*. 2024;118(3):566-585. doi:10.1017/ajil.2024.28

²³⁰ Neff, Stephen C., Disrupting a Delicate Balance: The Allied Blockade Policy and the Law of Maritime Neutrality during the Great War, 29 EUR. J. INT'L L. p.459, p.460–63 (2018)

²³¹ Cottey, A. (2013). The European Neutrals and NATO: Ambiguous Partnership. *Contemporary Security Policy*, 34(3), 446–472. <https://doi.org/10.1080/13523260.2013.842295>

Reform should also aim at clarity in the laws governing the obligations and rights of neutral states when providing military assistance. Current frameworks under the Hague and Geneva Conventions inadequately address modern hybrid conflicts, where economic sanctions, cyber operations, and indirect military aid blur traditional lines.²³² International organizations, especially the United Nations, should take a lead role in elaborating these frameworks with clear guidelines on what constitutes permissible military assistance for neutral states.²³³ Clear thresholds for action, such as intelligence sharing or logistical support, need to be set in order not to let the principles of neutrality erode.

Regional Stability and Long-Term Peacebuilding

This article is an attempt to put emphasis on reimagining European security, whereby sustainable peace would require a new strategic vision for the region. In such a vision, neutrality could play an important role in stabilizing regions where there is an increase in geopolitical tension.²³⁴ For this to work, neutrality needs to be operationalized not as a passive non-involvement but as an active commitment to the principles of conflict mediation and humanitarianism.²³⁵ This would entail reforms that would empower neutral states to act as credible mediators, underpinned by international guarantees of their impartiality and security.²³⁶

The ²³⁷state and non-state actors should integrate neutrality as a tool for bridging divisions between conflicting parties within post-conflict reconstruction and reconciliation efforts. For example, creating neutral zones or conducting neutral mediation in the process of ceasefire negotiations may become a norm under a redefined neutrality framework. ²³⁸This will agree with the greater goals of collective security while preserving the essence of neutrality as a stabilizing force.

²³² Cheney Hyde C. The Hague Convention Respecting the Rights and Duties of Neutral Powers in Naval War. *American Journal of International Law*. 1908;2(3):507-527. doi:10.2307/2186328

²³³ United Nations General Assembly, 'A/RES/5/377 - Uniting for Peace' (resolution, 3 November 1950) <http://un-documents.net/a5r377.htm>

²³⁴ Kristina Roepstorff and Kristoffer Lidén, 'Humanitarian Mediation: Conceptual and Ethical Explorations' (Peace Research Institute Oslo (PRIO), 2023) <https://www.humanitarianstudies.no/resource/humanitarian-mediation-conceptual-and-ethical-explorations/>

²³⁵ Ibid 43.

²³⁶ Sticher, V. (2021). Healing Stalemates: The Role of Ceasefires in Ripening Conflict. *Ethnopolitics*, 21(2), 149–162. <https://doi.org/10.1080/17449057.2022.2004776>

²³⁷ United Nations, 'With 143 Votes in Favour, 5 Against, General Assembly Adopts Resolution Condemning Russian Federation's Annexation of Four Eastern Ukraine Regions' (Press Release GA/12458, 12 October 2022) <https://press.un.org/en/2022/ga12458.doc.htm>

²³⁸ United Nations, 'Ukraine: General Assembly resumes emergency special session, taking up new text to end war' (2023) <https://news.un.org/en/story/2023/02/1133797>

Integration of Neutrality into Hybrid Warfare Contexts

Neutrality is where it should adapt to the complexity of hybrid warfare. The war in Ukraine has proven that traditional ways of conducting warfare need to be supplemented with non-traditional forms, including cyberattacks and economic coercion.²³⁹ Neutral states must be equipped with clear protocols on how to respond to such challenges without compromising their status. This will need international treaties to afford neutrality's legal protections to the expanded protection of cyber domains and economic warfare, so as not to bring neutral states into the fray unwittingly.²⁴⁰

Thirdly, reinforcement of such neutral states and their independence from outward pressure—economic and political—ought to be assisted.²⁴¹ That would require further development of institutional capacities that can defend the principle of neutrality, including independent supervisory mechanisms ensuring adherence to international law. In this respect, regional organizations such as the EU could make a substantial contribution by providing both the means and the expertise that these tasks imply.²⁴²

Role of International Organizations

The ongoing conflict between Russia and Ukraine serves as a background to how important international organizations are in preserving and redefining neutrality during contemporary armed conflicts. Because the United Nations is the most appropriate world forum to discuss matters of peace and security, it is singularly placed to ensure that neutrality continues to become a functional and effective principle of law.²⁴³ However, the war exposed some critical weaknesses in the existing system, where neutrality could easily be interpreted or even bent where aggressors receive military supplies from member states.²⁴⁴

²³⁹ Lara Seligman and Paul McLeary, 'The little-known group that's saving Ukraine' (Politico, 1 May 2023) <https://www.politico.com/news/2023/05/01/austin-defense-meetings-weapons-ukraine-00089946>

²⁴⁰ Mačák, K. (2021). Unblurring the lines: military cyber operations and international law. *Journal of Cyber Policy*, 6(3), 411–428. <https://doi.org/10.1080/23738871.2021.2014919>

²⁴¹ van der Steenhoven R (2019) Conduct and subsequent practice by states in the application of the requirement to report under UN Charter Article 51. *J Use Force Int Law* 6(2): p.242–272

²⁴² Batory, A., & Svensson, S. (2019). Regulating Collaboration: The Legal Framework of Collaborative Governance in Ten European Countries. *International Journal of Public Administration*, 43(9), p.780–789. <https://doi.org/10.1080/01900692.2019.1658771>

²⁴³ Zubyska, L. (2024). The Challenges and Efficacy of International Organizations in the Context of Russia's War in Ukraine. *Peace Review*, 36(1), p. 99–114. <https://doi.org/10.1080/10402659.2024.2321953>

²⁴⁴ Trilateral Contact Group, 'Protocol on the results of consultations of the Trilateral Contact Group with respect to the joint steps aimed at the implementation of the Peace Plan of the President of Ukraine, P. Poroshenko, and

The UN Charter, especially its articles 2(4) and 51, very clearly indicates the principles on sovereignty and territorial integrity, the latter mentioning the inherent right to self-defence.²⁴⁵ However, political divisions, especially the veto power exercised by Russia as a permanent member, have held back the ability of the Security Council to act decisively in the conflict in Ukraine. This has given Russia the opportunity to use the Council as a platform for spreading disinformation and shielding itself from accountability.²⁴⁶ In this regard, strengthening the procedural and operational frameworks of the Security Council is very important for countering such misuse and ensuring neutrality.

Despite such challenges, the General Assembly has scored highly on the potential of multilateralism in defending international law.²⁴⁷ Resolutions, calling for Russia to end its aggression and return control over key territories to Ukraine—the Zaporizhzhia Nuclear Power Plant—are examples of collective action in reinforcing principles of neutrality and sovereignty protection. For the same reason, the international consensus, resulting from such an action, is considerable in dealing with neutrality violations.²⁴⁸

International organizations, such as the UN, should take preventive measures against indirect participation in conflicts, including the supplying of military assistance to aggressors, by way of developing appropriate mechanisms for the monitoring and reporting of violations of neutrality, and imposing targeted sanctions against states that provide unlawful military assistance, and enhancing transparency in the transfer of arms and defence cooperation agreements.²⁴⁹ The ICC plays a complementary role in investigating and prosecuting war crimes and other violations of international law, hence solidifying the principle of neutrality and accountability.²⁵⁰

the initiatives of the President of Russia, V. Putin' (2014) p.1
<https://www.peaceagreements.org/viewmasterdocument/1363>

²⁴⁵ United Nations, *Charter of the United Nations* (24 October 1945), Articles 2(4) and 51, 1 UNTS XVI,

²⁴⁶ OSCE, 'Ukraine crisis tops agenda of OSCE annual conference in Vienna' (24 June 2014)
<https://www.osce.org/cio/120121>

²⁴⁷ United Nations, 'Statement attributable to the Spokesman for the Secretary-General on the situation in Ukraine' (Press Release, 2 May 2014) <https://www.un.org/sg/en/content/sg/statement/2014-05-02/statement-attributable-the-spokesman-for-the-secretary-general-the-situation-ukraine>

²⁴⁸ IAEA governors resolution on Zaporizhzhia criticised by Russia, World Nuclear News, 13 March 2024,
<https://www.world-nuclear-news.org/Articles/IAEA-governors-resolution-on-Zaporizhzhia-rejected>

²⁴⁹ UN Security Council, meeting 7125 (note 11) https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_pv_7125.pdf

²⁵⁰ Rome Statute of the International Criminal Court, adopted 17 July 1998, entered into force 1 July 2002, 2187, UNTS 3,

Regional organizations, such as the European Union and NATO, also played a very significant role in responses to the conflict in Ukraine. Not neutral themselves,²⁵¹ their collective actions in support of Ukraine again demonstrate the complexity of neutrality in relation to alliances.²⁵² These organizations must work with the UN to make sure their actions are within the broader international legal frameworks and that the principle of neutrality is not inadvertently eroded.

To maintain its neutrality in the 21st century, international organizations need to adapt to changed nature of warfare, including hybrid conflicts and indirect aggression. This requires not only strengthening the legal and institutional framework but also deepening dialogue and cooperation among the member states with a view to finding solutions to the underlying causes of conflicts and building sustainable peace.²⁵³ In this way, these organizations can be sure that neutrality will remain a valid and meaningful concept in international law.

Conclusion and Final Recommendations

The concept of neutrality, long considered a cornerstone of international law, has evolved in response to shifting political, economic, and technological landscapes. From its roots in ancient diplomacy to the codifications in the Hague and Geneva Conventions, neutrality has been an essential tool in managing international conflicts. Yet, the Russia-Ukraine war has provided one of the most significant challenges to the traditional understanding and practice of neutrality.²⁵⁴ Hybrid warfare, economic sanctions, and unprecedented military aid to Ukraine by states traditionally considered neutral raise pressing questions about the feasibility and adaptability of neutrality in the 21st century.²⁵⁵

The findings of this research show that neutrality is increasingly under strain. Historical legal frameworks, while foundational, are often ill-equipped to deal with the complexities of modern conflicts, where the boundaries between belligerency and non-belligerency are blurred. International organizations, such as the United Nations, while committed to impartiality, often

²⁵¹ Declaration on the Principles of International Law Concerning Friendly Relation and Cooperation among States in Accordance with the Charter of the United Nations [A/RES/25/2625](#) of 24.10.1970.

²⁵² Schmid E. Optional but not qualified: Neutrality, the UN Charter and humanitarian objectives. *International Review of the Red Cross*. Published online 2024:1-21. [doi:10.1017/S1816383124000183](#)

²⁵³ Stöcklin D. Redefining the neutral intermediary role: Balancing theoretical ideas with practical realities through the ICRC's experience in Yemen. *International Review of the Red Cross*. Published online 2024:1-23. [doi:10.1017/S1816383124000493](#)

²⁵⁴ Fix, L. (2023). The Future Is Now: Security Guarantees for Ukraine. *Survival*, 65(3), 67–72. [https://doi.org/10.1080/00396338.2023.2218697](#)

²⁵⁵ Robert Person, Isak Kulalic, John Mayle, Back to the future: the persistent problems of hybrid war, *International Affairs*, Volume 100, Issue 4, July 2024, Pages 1749–1761, [https://doi.org/10.1093/ia/iaae131](#)

find their principles of neutrality tested by political pressures and evolving humanitarian needs.²⁵⁶

Moreover, this research also brings out the increasing divergence between the legal obligations of neutrality and political realities that neutral states must go through. Traditional neutrals like Switzerland and Austria find themselves in uncharted waters while balancing their military neutrality with humanitarian obligations on one side and their roles within international institutions on the other. The war between Russia and Ukraine brought this tension into spotlight mode, therefore implying that neutrality might not be a fixed doctrine but rather a fluid concept open to interpretation and negotiation.²⁵⁷

This thesis therefore underscores the urgent need for a revaluation of neutrality in light of contemporary global conflicts. Neutrality must adapt to survive, retaining its core principles of impartiality and non-interference but accommodating the demands of a multipolar world characterized by hybrid threats and collective security frameworks.

Conclusion to chapter 5

Overall, the principle of neutrality, being a pillar of international law, is being redefined on its very foundational levels to be able to accommodate changing geopolitics. The Russo-Ukrainian War has created unforeseen tests for traditional concepts of neutrality, and a correction must be made to be able to accommodate today's needs of security. Overhaul of multilateral cooperation and legal clarity are seen in this study as the keyway ahead for hybrid war and indirect aggression matters. Institutions such as the European Union and NATO must be sustained without compromising on neutrality. The international institution's process and functional frameworks, and more notably the United Nations, must their pillars of strength be bolstered to be able to combat misuse and codify neutrality as a working principle. The report suggests that neutrality is not dogma, but a live principle, and must be malleable if it must endure under a multipolar order. The recasting of this principle must be made for the very pillars of neutrality and non-intervention to be sustained and collective security and changing threats accommodated.

²⁵⁶ Lanoszka, A., & Becker, J. (2023). The art of partial commitment: the politics of military assistance to Ukraine. *Post-Soviet Affairs*, 39(3), p.173–194. <https://doi.org/10.1080/1060586X.2022.2162758>

²⁵⁷ Lowe, Vaughan, and others (eds), *The United Nations Security Council And War: The Evolution Of Thought And Practice Since 1945* (Oxford, 2008; online edn, Oxford Academic, 31 Oct. 2023), <https://doi.org/10.1093/oso/9780199533435.001.0001>,

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ANNEX- ABSTRACT -(ENGLISH)

The independence and effectiveness of the United Nations depend on the achievement and maintenance of the trust and cooperation of all parties, particularly in politically sensitive situations. *Neutrality: that is, a state's withdrawal from involvement in the conflict between other states, impartiality toward the conflicting parties, and acknowledgment by the parties to the conflict of this withdrawal and impartiality, remains an important doctrine of international law.*²⁵⁸ Nonetheless the on-going conflict between Russia and Ukraine, has, re-ignited discussions around the true essence and implementation of neutrality. International legal principles like neutrality, as often exploited by autocrats such as Vladimir Putin for pushing their agendas, compel a re-evaluation and modernization of global commitments to strengthen legal frameworks and thwart manipulation.

Since February 2022, some traditionally neutral states have been providing Ukraine with weapons, munitions, and war resources showing a clear departure from abandoning their neutrality.²⁵⁹ This Military aid has sparked a debate on the question of *whether arms transfer to a party to an international armed conflict entail legal repercussions*. Meanwhile, some international organizations such as the United Nations, the International Committee of the Red Cross, have continued to provide humanitarian aid and relief to the affected populations adding more complexity on the distinction between neutrality and engagement in the conflict.

This paper shall examine the requirements of neutrality within the scope of the ongoing Russia-Ukraine War: Areas on how neutrality is pursued or sacrificed in relations involving such conflicts. It shall analyse the legal repercussions of breaches of neutrality: the observance of weapons supply by states, and the arguments for or against the legal responsibility of neutral states.

Finally, this paper shall also try an attempt in addressing the role of international organizations as agencies in the delivery of humanitarian aid, military assistance and how such actions align with principles of neutrality and international humanitarian law.

²⁵⁸ Norton, Between the Ideology and the Reality: The Shadow of the Law of Neutrality, 17 Harv. Int'l L.J. p. 249 (1976)

²⁵⁹ S Talmon, 'The Provision of Arms to the Victim of Armed Aggression: The Case of Ukraine' Bonn Research Papers on Public International Law 20/2022, p.21

This research only attempts to illuminate a better understanding of neutrality's role in contemporary conflicts by relating profound analysis of international law, state practices, and scholarly debates. Beyond these considerations, the research concerns with the implication that neutrality brings for international law and problems with which neutral states are faced during humanitarian aid and military assistance amid armed conflict situations.²⁶⁰

²⁶⁰ UN Doc S/PV.9127 (8 September 2022) 18: 'military assistance will continue for so long as the Russian armed aggression persists'. p.11-19

ANNEX- ABSTRACT- (DEUTSCH)

Insbesondere in politisch sensiblen Situationen sind das Vertrauen und die Zusammenarbeit aller Beteiligten entscheidend für die Unabhängigkeit und Wirksamkeit der Vereinten Nationen. Neutralität, die den Rückzug eines Staates aus einem Konflikt zwischen anderen Staaten, Unparteilichkeit gegenüber den Konfliktparteien und die Anerkennung dieses Rückzugs und der Unparteilichkeit durch die beteiligten Parteien umfasst, bleibt eine zentrale Doktrin des Völkerrechts.²⁶¹

Dennoch hat der anhaltende Konflikt zwischen Russland und der Ukraine die Diskussionen über das Wesen und die Umsetzung der Neutralität neu entfacht. Völkerrechtliche Grundsätze wie die Neutralität, die oft von Autokraten wie Wladimir Putin zur Durchsetzung eigener Agenden instrumentalisiert werden, erfordern eine Neubewertung und Modernisierung globaler Verpflichtungen, um rechtliche Rahmenbedingungen zu stärken und Missbrauch zu verhindern.

Einige Staaten, die traditionell neutral waren, haben seit Februar 2022 Waffen, Munition und Kriegsressourcen an die Ukraine geliefert – dies stellt einen klaren Bruch mit ihrer bisherigen Neutralität dar.²⁶² Diese militärische Unterstützung hat eine Diskussion darüber entfacht, ob die Lieferung von Waffen an eine Konfliktpartei völkerrechtliche Folgen hat. Gleichzeitig leisten internationale Organisationen wie die Vereinten Nationen oder das Internationale Komitee vom Roten Kreuz weiterhin humanitäre Hilfe für die betroffenen Bevölkerungen, was die Unterscheidung zwischen Neutralität und Konfliktbeteiligung zusätzlich erschwert.

Diese Arbeit untersucht die Anforderungen der Neutralität im Kontext des anhaltenden Krieges zwischen Russland und der Ukraine: In welchen Bereichen wird Neutralität gewahrt oder geopfert?

Des Weiteren erfolgt eine Untersuchung der völkerrechtlichen Konsequenzen von Verletzungen der Neutralität, wobei insbesondere auf die Problematik von Waffenlieferungen durch Staaten sowie auf die Argumente für und gegen eine rechtliche Verantwortung neutraler Staaten eingegangen wird. abschließend behandelt die Arbeit auch die Rolle internationaler Organisationen als Akteure bei der Bereitstellung humanitärer Hilfe und militärischer

²⁶¹ Norton, *Between the Ideology and the Reality: The Shadow of the Law of Neutrality*, 17 Harv. Int'l L.J. p. 249 (1976)

²⁶² S Talmon, 'The Provision of Arms to the Victim of Armed Aggression: The Case of Ukraine' Bonn Research Papers on Public International Law 20/2022, p.21

Unterstützung. Sie untersucht dabei, in welchem Maß solche Maßnahmen mit den Grundsätzen der Neutralität und des humanitären Völkerrechts vereinbar sind.

Diese Forschung zielt darauf ab, die Rolle der Neutralität in modernen Konflikten durch eine gründliche Untersuchung des Völkerrechts, staatlicher Praktiken und wissenschaftlicher Debatten besser zu verstehen. Zusätzlich werden die Folgen der Neutralität für das Völkerrecht sowie die Schwierigkeiten, mit denen neutrale Staaten bei der Bereitstellung humanitärer Hilfe und militärischer Unterstützung in bewaffneten Konflikten konfrontiert sind, untersucht.²⁶³

²⁶³ UN Doc S/PV.9127 (8 September 2022) 18: ‘military assistance will continue for so long as the Russian armed aggression persists’. p.11-19

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