

LAW OPINION

Why Bangladesh’s abstention from the UN resolution on the Ukraine war is justified



The western allies of Ukraine have been supplying massive arms and ammunitions, imposing successive economic and financial sanctions, and confiscating private properties and bank accounts of Russian citizens. If Russia withdraws from Ukraine in compliance with the resolution, would western military support be discontinued, economic and financial strangulation be lifted, and seized property be returned? The resolution is totally silent on these issues.

M RAFIQU L ISLAM

The UN General Assembly emergency session adopted a resolution against Russia’s aggression in Ukraine on 2 March 2022. It was adopted by 141 votes of total 193 members with 5 negative votes and 35 abstentions of which Bangladesh was one. Given the highly polarised geopolitical orientation of current international relations and UN operational narratives, this write-up argues that the pragmatic decision of Bangladesh was justified.

The resolution reprimands Russia (para 2), demands ‘immediate, complete and unconditionally’ withdraw from Ukraine (para 4), and deplors Russia’s recognition of Donetsk and Luhansk regions of Ukraine as ‘inconsistent with the principles of the UN Charter’ (para 5). Its text is long with 18 preamble-proclamations and 16 paragraphs, censoring Russia as an aggressor which appears intuitively appealing due to Russia’s transgression. But the Ukraine war is not all about Russian aggression. The western allies of Ukraine have been supplying massive arms and ammunitions, imposing successive economic and financial sanctions, and confiscating private properties and bank accounts of Russian citizens. If Russia withdraws from Ukraine in compliance with the resolution, would western military support be discontinued, economic and financial strangulation be lifted, and seized property be returned? The resolution is totally silent on these issues.

The West can continue these measures even following Russian withdrawal as happened after 16 January 2016 when the International Atomic Energy Agency verified that Iran has completed the necessary steps under the Iran nuclear deal that ensures Iran’s nuclear program is and remains exclusively peaceful. Yet the US lifted only nuclear-related sanctions and continued other sanctions including economic. Half of the seized Afghan reserve in the US is allocated as compensation to US nationals victims of the 9/11 attack when millions of Afghans are destitute and starving to death.

The western arms supply to Ukraine constitutes a violation of international neutrality law and the supplying states become parties to the war justifying countermeasures by Russia. Even though Ukraine is the victim of an unlawful attack, the principle of neutrality requires third states to remain neutral regardless of the cause or illegality of the attack (1907 Hague Convention XIII, Art 6). Arms shipments to Ukraine may be regarded as the complicity in the war and subject to countermeasures. However, collective self-defence under Article 51 of the UN Charter entitles Ukraine to seek and receive military support from its western allies. Can this rearmament of Ukraine be continued after the hostility is

over? The resolution provides no answer.

National security concern has been a common vocabulary in interstate relations. The 1962 Cuban missile crisis caused by American deployments of ballistic missiles in Italy and Turkey and matched by the same deployments in Cuba by the Soviet; and Israel and its western allies’ resistance to Iran’s nuclear programme are all about security concerns. Australia has been campaigning against Chinese interference in its national security. The resolution fails to realistically address Russia’s security concern after Ukraine’s NATO membership, the central issue in this war, which had the potential of defusing the tension.

There are also issues of double standard, discrimination, and exceptionalism. Foreign nationals are allowed to enter Ukraine to fight Russian troops, Ukrainian civilians are armed, and women are making firebombs. Western media have cheered and praised these acts as valiant display of heroism determined to resist Russian troops. By contrast, western media never called the Iraqis resisting US invasion in 2003 heroes; Palestinians fighting against Israeli occupation of their land for decades are

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branded terrorists; and Yemeni civilians resisting Saudi bombing in Yemen using the British and American planes and bombs are not heroes but puppets of Iran. Putin is held guilty of war crimes by western media, which never held their leaders for committing war crimes in Iraq, Libya, and Afghanistan. While Ukrainian refugees are welcome in European countries, coloured people fleeing the Ukraine war are reportedly discriminated against. Surely Ukrainian refugees deserve coverage and compassion for their plight, which non-Ukrainian refugees deserve too. Western media convey the message that war only happens in non-white and non-European impoverished third world countries unlike Ukraine being ‘relatively civilized’ sitting ‘in the heart of Europe’

(Al-Jazeera 1/3/2022 quoting western news clips). These double standards expose western media bias for western exceptionalism with racist undertones and overtones.

Western media usually toe to their government line in non-western conflicts and become lobbyists for their government position through fake, deceptive, fabricated, and manufactured news. They reported Iraqi troops ripped Kuwaiti babies from incubators after the 1990 Kuwait invasion. A 15-year Kuwaiti girl, named ‘nurse Nayirah’ by western media, testified to the US Congress that she witnessed the murder of infant children by Iraqi soldiers in Kuwait. Nayirah was not a ‘nurse’ but the daughter of Kuwaiti Ambassador to the US (*New York Times*, 15/1/1992). Western media propaganda of the existence of WMDs in Iraq and Saddam’s collusion with *Al-Qaida* in the 9/11 attack accelerated the Iraq invasion. Amnesty International (AI) and western media claimed that Gaddafi used Black Mercenaries and rape as weapon to pacify civil unrest in 2011 but AI itself found no evidence for the claim after the NATO invasion of Libya (*Independent*, 24/6/2011). Human Rights Watch teamed up with western media pursued regime change in Syria and turned a blind eye to the US, UK, and French role in waging a proxy war by arming insurgent groups in Syria. Contrary to the claim that human rights NGOs don’t accept funding from governments, AI received millions of dollars from the US, UK, Dutch governments and European Commission during 2007-2010, compromising impartiality and credibility (*NGO Monitor* 4/6/2012). While there is tangible evidence of destruction and human miseries in Ukraine, the veracity of western media narratives may not always be taken for granted.

Nothing condones Russia’s invasion of Ukraine. This war represents the cold-war style bloc-power rivalries in which one is as interventionist and violative of international law as the other. Supporting either side means endorsing one over the other, rendering abstention preferred. The resolution, being non-binding, provides no comprehensive framework for ending the war by addressing all war-related issues in a bipartisan way. It echoes partisanism, skewing in favour of the West and fails to strike a pragmatic balance between the competing interests, casting a bleak prospect of ending the war. The reason for this failure lies not in the UN itself but in its west-centric domination. Unless the UN becomes more universal and less west-centric, the success of its peace initiatives in the Ukraine war and similar future crises will remain elusive.

The author is Emeritus Professor of Law at Macquarie University, Sydney, Australia.

RIGHTS ADVOCACY

Equilibrium within international economic and environmental laws

MD. ASHABUR RAHMAN

The implications of international economic law for transferring environment-friendly technologies and protecting non-economic values have become a major concern in governing economic relations around the world. In the last decades, the international environmental laws have had noteworthy influence on international economic law. It is vitally important that the industrialised countries actively play their role to decrease carbon footprints on the planet.

The world’s surface temperature is rapidly increasing due to the indiscriminate emission of carbon gas. As a result, many countries are at stake for rising sea levels. Therefore, the whole ecosystem of the earth is suffering in the long run. The industrialised and developed countries that emit carbon gas mostly have shown their concern over the environment skipping the problem of increasing carbon gas, marine pollution, and air pollution. However, some countries refuse to regulate carbon emission for economic reasons.

In the last years, international economic law has seen the integration of economic rights, environmental concerns, and sustainable development goals within its broad spectrum. The developing countries are mostly sufferers of climate change. Only ensuring economic development cannot be the main objective of international economic law. Rather, it must encompass sustainable development.

Moreover, natural resources are essential public goods that must be used sustainably. International economic law has started considering environmental issues because sustainable development is impossible without balancing business objectives with environmental concerns. Hence, the international trade and investment laws are being amended keeping in mind the need for environmental safeguard. Any kinds of productivity which are malefic for the environment are being minimised. As part of climate protection, the Vienna Convention and the Montreal Protocol have obligated their parties

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to rebuff the creation of carbon-di-oxide gas. Furthermore, the Kyoto Protocol has separated the duties of the States. Under the Paris Agreement, the developed countries have obligations to provide financial support to the developing countries suffering from climate change. On the other hand, the Convention on Biological Diversity has created a check and balance between the protection of biodiversity and the economic use of natural resources. It creates equilibrium within environmental and economic interests.

For boosting the future economy in a sustainable way, a long-term plan for making environment-friendly investment is essential where the stakeholders must work jointly. There is no doubt that the New International Economic Order (NIEO) is a better platform for attaining environmental as well as economic goals. It has provided the countries freedom over their natural resources and economic activities where it is ensured that economic development must be continued sustainably. On the other hand, the Financial Stability Board (FSB), an international body for monitoring the international financial system has formed a Task Force on Climate-related Financial Disclosures (TCFD) for reporting climate-related financial information. It helps to provide authentic and high-quality information on the effects of climate change which is essential for decision making. In the case of *Philippines v China* (South China Sea Arbitration), the Permanent Court of Arbitration (PCA) stated that large parts of the shallow reef area in the South China Sea had been permanently destroyed and the remaining areas were at stake. In the arbitration, it was revealed that the activities of China for economic purposes had violated environmental law.

The indiscriminate rising of sea levels, floods, drought, and cyclones have made Bangladesh and similar countries more vulnerable to climate change induced long-term consequences. For this reason, specifically, the fisheries sector of Bangladesh which contributes about 3.5% of the GDP is experiencing an adverse effect. Many entrepreneurs of this sector are losing their capital and laborers are losing jobs. In a report published by Statista, it is seen that Bangladesh emits only 0.56 metric tons of carbon gas per year whereas the US emits 14.24 metric tons, Australia emits 15.37 metric tons and China emits 07.41 metric tons. Although, COP-26 which was held in Glasgow made the Glasgow Climate Pact for the world that included emergency cuts of greenhouse gas emissions and assured more climate finance for the developing countries to cope with climate change. However, using green-tech solutions and transforming the existing industries to green can create the opportunity to build a greener and more sustainable global economy. So, equilibrium within the international economic and environmental laws can protect the world economy from the curse of climate change.

The writer is a specialist in International Economic Law.